

AGREEMENT FOR ONE-STOP OPERATOR SERVICES

THIS AGREEMENT FOR ONE-STOP OPERATOR SERVICES (“Agreement”) is entered into as of this 1st day of July, 2017, by and between the **ORANGE COUNTY WORKFORCE DEVELOPMENT BOARD**, a board established under the federal Workforce Innovation and Opportunity Act and certified by the Governor of the State of New York, having an office at 18 Seward Avenue, Middletown, New York 10940 (“OCWDB”), the **COUNTY OF ORANGE**, a municipal corporation and one of the Counties of the State of New York, with principal offices at 255-275 Main Street, Goshen, New York 10940 (“COUNTY”), and the **ONE STOP CONSORTIUM consisting of the following organizations: ORANGE COUNTY EMPLOYMENT & TRAINING ADMINISTRATION**, with its principal place of business at 18 Seward Avenue, Suite 103, Middletown, New York 10940, **SUNY ORANGE**, with its principal place of business at 115 South Street, Middletown, New York 10940, **ORANGE-ULSTER BOCES**, with its principal place of business at 53 Gibson Road, Goshen, New York 10924, and **NEW YORK STATE DEPARTMENT OF LABOR**, with its principal place of business in Middletown at 33 Fulton Street, Middletown, NY 10940 and in Newburgh at 3 Washington Center, 4th Floor, Newburgh, NY 12550 (“ONE-STOP OPERATOR”). OCWDB, COUNTY, and ONE-STOP OPERATOR may be referred to herein individually as a “Party” or collectively as the “Parties.”

RECITALS

WHEREAS, the federal Workforce Innovation and Opportunity Act and its implementing regulations (all as may be amended from time to time and collectively referred to herein as “WIOA”) retained the nationwide one-stop career center service delivery system created under the federal Workforce Investment Act of 1998 (“WIA”), branding it the “American Job Center” network;

WHEREAS, WIOA’s objective is to eliminate fragmentation among the various employment, training, and education programs by requiring the one-stop career centers established under WIA to partner with certain federally-funded employment and training programs (referred to in WIOA as “Required Partners”) to promote the coordination of employment, education, training, and support services;

WHEREAS, WIOA requires that OCWDB competitively procure an operator for the one-stop service delivery system in COUNTY, which system is referred to as “Orange Works,” to coordinate the delivery of employment, education, training, and support services by Required Partners and service providers within Orange Works;

WHEREAS, OCWDB issued a request seeking proposals for the provision of one-stop operator services for Orange Works, and ONE-STOP OPERATOR submitted a proposal in response thereto that was reviewed and selected by OCWDB;

WHEREAS, OCWDB, as the strategic planning, policy, and oversight body for COUNTY (which is the local workforce development area under WIOA), does not directly handle any WIOA grant funds; and

WHEREAS, the County Executive of COUNTY, as the grant recipient, with the assistance of the Orange County Employment and Training Administration, as the designated local governmental grant recipient, administers the WIOA grant funds and disburses same at the direction of OCWDB for activities under WIOA, which includes the services to be provided by ONE-STOP OPERATOR under this Agreement.

NOW, THEREFORE, the Parties hereto agree as follows:

ARTICLE 1. RECITALS AND SCOPE OF WORK

The Recitals set forth above are true and correct, and are hereby incorporated into this Agreement as if set forth at length herein.

ONE-STOP OPERATOR agrees to perform the

services identified on the annexed Schedule A (“Services”), which is made part of this Agreement. ONE-STOP OPERATOR acknowledges and agrees that it will not be compensated for any services not within the scope of Services specifically identified on the annexed Schedule A without prior authorization of OCWDB as evidenced only by a written addendum or amendment to this Agreement executed

by all of the Parties hereto.

ARTICLE 2. TERM OF AGREEMENT

ONE-STOP OPERATOR agrees to perform the Services beginning July 1, 2017, and ending June 30, 2018. This Agreement may be renewed and extended, at the option of OCWDB, for two (2) additional periods of one (1) year each upon the same terms and conditions as set forth in this Agreement.

ARTICLE 3. COMPENSATION

For satisfactory performance of the Services, OCWDB shall direct COUNTY to compensate ONE-STOP OPERATOR in accordance with the fees and expenses as stated on the annexed Schedule B which is made part of this Agreement. ONE-STOP OPERATOR shall submit to OCWDB and COUNTY a monthly-itemized invoice for Services rendered during the prior month, or as otherwise set forth in the annexed Schedule B, and prepared in such form and supported by such documents as the OCWDB and COUNTY may reasonably require. COUNTY will, at the direction of OCWDB, pay the proper amounts due ONE-STOP OPERATOR within sixty (60) days after receipt of the invoice and any other required documentation, and OCWDB will notify ONE-STOP OPERATOR in writing of the reasons for objecting to all or any portion of the invoice submitted by ONE-STOP OPERATOR.

ARTICLE 4. FEE GUARANTEE

The fees and the necessary and proper expenses, if applicable, as stated on the annexed Schedule B shall apply to all Services rendered by ONE-STOP OPERATOR pursuant to this Agreement. Said compensation constitutes the total compensation (subject to authorized adjustment) payable to ONE-STOP OPERATOR for performing the Services. All duties, responsibilities and obligations assigned to, or undertaken by ONE-STOP OPERATOR shall be at ONE-STOP OPERATOR's expense without change in the said compensation. A not-to-exceed cost of Ten Thousand and 00/100 (\$10,000.00) Dollars has been established for the scope of Services rendered by ONE-STOP OPERATOR. Costs in excess of such not-to-exceed costs, if any, may not be incurred without prior written authorization of OCWDB and COUNTY, only by a written addendum or amendment to this Agreement executed by all of the Parties hereto. It is specifically agreed to by ONE-STOP OPERATOR that neither OCWDB nor COUNTY will be responsible for any additional costs, or costs in excess of the above-noted not-to-

exceed cost, if prior written authorization is not given by OCWDB and COUNTY prior to the performance of the Services giving rise to such excess or additional costs.

ARTICLE 5. EXECUTORY CLAUSE

Neither OCWDB nor COUNTY shall have any liability under this Agreement to ONE-STOP OPERATOR or to anyone else beyond funds appropriated and available for this Agreement.

ARTICLE 6. PERFORMANCE

In performing the Services, ONE-STOP OPERATOR shall assign qualified personnel (including any approved subcontractors) and perform such Services in accordance with the standards, skills, diligence and quality control/quality assurance measures expected of the profession when performing services of this nature. ONE-STOP OPERATOR is hereby given notice that the OCWDB and COUNTY will be relying upon the accuracy, competence, and completeness of ONE-STOP OPERATOR's Services. ONE-STOP OPERATOR shall at all times comply with all applicable laws, ordinances, statutes, rules, and regulations, as may be amended from time to time during the term of this Agreement, including but not limited to WIOA.

ARTICLE 7. ONE-STOP OPERATOR'S REPRESENTATIONS

ONE-STOP OPERATOR represents that it is fully licensed (to the extent required by law), experienced and properly qualified to perform the Services as provided under this Agreement and that it is properly permitted, equipped, organized and financed to perform such Services.

ONE-STOP OPERATOR understands that it may become necessary for OCWDB and/or COUNTY to submit to governmental agencies or to a court of law part or all of the data, analyses and/or conclusions developed as a result of the performance of these Services. ONE-STOP OPERATOR is aware that there are significant penalties for submitting false information to governmental agencies, including the possibility of fines and imprisonment. ONE-STOP OPERATOR is responsible for such penalties if a result of false information submitted to OCWDB or COUNTY by ONE-STOP OPERATOR.

ARTICLE 8. PROCUREMENT OF AGREEMENT

ONE-STOP OPERATOR represents and warrants that no person or selling agent has been employed or retained by ONE-STOP OPERATOR to solicit or secure this Agreement upon an agreement or upon an understanding for a commission, percentage, a brokerage fee, contingent fee or any other compensation. ONE-STOP OPERATOR further represents and warrants that no payment, gift or thing of value has been made, given or promised to obtain this or any other agreement between the Parties. ONE-STOP OPERATOR makes such representations and warranties to induce OCWDB and COUNTY to enter into this Agreement and OCWDB and COUNTY rely upon such representations and warranties in the execution hereof.

For a breach or violation of such representations or warranties, OCWDB and COUNTY shall have the right to annul this Agreement without liability, entitling COUNTY to recover all monies paid hereunder and ONE-STOP OPERATOR shall not make claim for or be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if effected, shall not constitute the sole remedy afforded OCWDB and COUNTY for such falsity or breach, not shall it constitute a waiver of the OCWDB's or COUNTY's right to claim damages or otherwise refuse payment or to take any other action provided for by law or pursuant to this Agreement.

ARTICLE 9. CONFLICT OF INTEREST

ONE-STOP OPERATOR represents and warrants that neither it nor any of its officers, partners, employees, agents, contractors, assignees or other representatives, have any interest nor shall they acquire any interest, directly or indirectly, which would or may conflict in any manner or degree with the performance or rendering of the Services. ONE-STOP OPERATOR further represents and warrants that in the performance of this Agreement no person having such interest or possible interest shall be employed by it and that no elected official or other officer or employee of OCWDB or COUNTY, nor any person whose salary is payable, in whole or in part, by OCWDB or COUNTY, or any corporation, partnership or association in which such official, officer or employee shall have any such interest, direct or indirect, in this Agreement or in the proceeds thereof, unless such person (1) if required by the Orange County Ethics Law as amended from time to time, to submit a Disclosure Form to the

Orange County Board of Ethics, amends such Disclosure Form to include their interest in this Agreement, or (2) if not required to complete and submit such a Disclosure Form said person must either voluntarily complete and submit said Disclosure Form disclosing their interest in this Agreement or seek a formal opinion from the Orange County Ethics Board as to whether or not a conflict of interest exists.

For a breach or violation of such representations or warranties, OCWDB shall have the right to annul this Agreement without liability entitling the COUNTY to recover all monies paid hereunder and ONE-STOP OPERATOR shall not make claim for, or be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if elected, shall not constitute the sole remedy afforded OCWDB and COUNTY for such falsity or breach, nor shall it constitute a waiver of OCWDB's or COUNTY'S right to claim damages or otherwise refuse payment or to take any other action provided for by law or pursuant to this Agreement.

ARTICLE 10. FAIR PRACTICES

ONE-STOP OPERATOR and each person signing on behalf of ONE-STOP OPERATOR represents, warrants and certifies under penalty of perjury, that to the best of their knowledge and belief:

A. The prices in this Agreement have been arrived at independently by ONE-STOP OPERATOR without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other offeror or with any competitor;

B. Unless otherwise required by law, the prices which were quoted in the proposal submitted by ONE-STOP OPERATOR have not been knowingly disclosed by ONE-STOP OPERATOR prior to the proposal opening or due date, directly or indirectly, to any other offeror or to any competitor; and

C. No attempt was made by ONE-STOP OPERATOR to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition.

The fact that ONE-STOP OPERATOR (i) has published price lists, rates, or tariffs covering items being procured (ii) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (iii) has

provided the same items to the other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of this Article 10.

ARTICLE 11. INDEPENDENT CONTRACTOR

In performing the Services and incurring expenses under this Agreement, ONE-STOP OPERATOR shall operate as, and have the status of, an independent contractor and shall not act as agent of, or be an agent for, OCWDB. As an independent contractor, ONE-STOP OPERATOR shall be solely responsible for determining the means and methods of performing the Services and shall have complete charge and responsibility for ONE-STOP OPERATOR's personnel engaged in the performance of the same.

ARTICLE 12. ASSIGNMENT

ONE-STOP OPERATOR shall not assign any of its rights, interests or obligations under this Agreement, or subcontract any of the Services to be performed by it under this Agreement, without the prior express written consent of OCWDB and COUNTY. Any such subcontract, assignment, transfer, conveyance or other disposition without such prior consent shall be void and any services provided thereunder will not be compensated. Any subcontract or assignment properly consented to by OCWDB and COUNTY shall be subject to all of the terms and conditions of this Agreement.

Failure of ONE-STOP OPERATOR to obtain any required consent to any assignment, shall be grounds for termination for cause, at the option of OCWDB and COUNTY and if so terminated, OCWDB and COUNTY shall thereupon be relieved and discharged from any further liability and obligation to ONE-STOP OPERATOR, its assignees or transferees, and all monies that may become due under this Agreement shall be forfeited to COUNTY except so much thereof as may be necessary to pay ONE-STOP OPERATOR's employees for past services.

The provisions of this Article 12 shall not hinder, prevent, or affect any assignment by ONE-STOP OPERATOR for the benefit of its creditors made pursuant to the laws of the State of New York.

This Agreement may be assigned by OCWDB and COUNTY to any corporation, agency, municipality or instrumentality having authority to accept such assignment.

ARTICLE 13. SUBCONTRACTING

ONE-STOP OPERATOR agrees not to enter into any subcontracts for the performance of its obligations, in whole or in part under this Agreement without the prior written approval of OCWDB and COUNTY. Two (2) copies of each such proposed subcontract shall be submitted to OCWDB with the ONE-STOP OPERATOR's written request for approval. The subcontractor approval is required in all cases other than individual employer-employee contracts. All such subcontracts shall contain provisions specifying:

A. That the work performed by the subcontractor must be in accordance with the terms of this Agreement;

B. That nothing contained in the subcontract shall impair the rights of OCWDB and/or COUNTY;

C. That nothing contained in the subcontract or under this Agreement shall create any contractual relation in law or equity, between the subcontractor and OCWDB and COUNTY, and;

D. That the subcontractor specifically agrees to be bound by the confidentiality provision as set forth in Article 14 hereof.

ONE-STOP OPERATOR agrees that it is fully responsible to OCWDB and COUNTY for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, to the same extent as it is for the acts and omissions of persons employed by ONE-STOP OPERATOR.

ONE-STOP OPERATOR shall not in any way be relieved of any responsibility under this Agreement by any subcontract.

ARTICLE 14. CONFIDENTIALITY

For purposes of this Article 14:

A. The term "Confidential Information" means all material and information, whether written or oral, received by ONE-STOP OPERATOR from or through OCWDB or any other person connected with OCWDB, or developed, produced, or obtained by ONE-STOP OPERATOR in connection with the performance of Services under this Agreement. Confidential Information shall include, but not be limited to, samples, substances and other materials, conversations, correspondence, records, notes, reports, plans, drawings, specifications and other

documents in draft or final form, including any documentation or data relating to the results of any investigation, testing, sampling in laboratory or other analysis, and all conclusions, interpretations, recommendations and/or comments relating thereto.

B. The term "ONE-STOP OPERATOR" as used in this Article 14 includes all officers, partners, employees, agents, contractors, assignees or other representatives of ONE-STOP OPERATOR.

ONE-STOP OPERATOR shall keep all Confidential Information in a secure location within ONE-STOP OPERATOR's offices. OCWDB and COUNTY shall have the right, but not the obligation, to enter ONE-STOP OPERATOR's offices in order to inspect the arrangements of ONE-STOP OPERATOR for keeping Confidential Information secure. No inspection or failure to inspect by OCWDB and/or COUNTY shall relieve ONE-STOP OPERATOR of the responsibility for the performance of its obligations under this Agreement.

ONE-STOP OPERATOR shall hold Confidential Information in trust and confidence, shall not disclose Confidential Information, or any portion thereof, to anyone other than OCWDB or COUNTY without the prior written consent of OCWDB, and shall not use Confidential Information, or any portion thereof, for any purpose whatsoever except in connection with the performance of the Services under this Agreement.

ONE-STOP OPERATOR shall notify OCWDB and COUNTY immediately upon receipt by ONE-STOP OPERATOR of any request by anyone other than the OCWDB or COUNTY for, or any inquiry related to, Confidential Information. ONE-STOP OPERATOR is not prohibited from disclosing portions of Confidential Information if, and to the extent that, (i) such portions have become generally available to the public other than by an act or omission of ONE-STOP OPERATOR, or (ii) disclosure of such portions is required by subpoena, warrant or court order; **provided**, however, that in the event anyone other than OCWDB or COUNTY requests all or a portion of Confidential Information, ONE-STOP OPERATOR shall oppose such request and cooperate with OCWDB in obtaining a protective order or other appropriate remedy unless and until the COUNTY in writing waives compliance with the provisions of this Article 14 or determines that disclosure is legally required. In the event that such protective order or other remedy is not obtained, or the COUNTY waives compliance with this Article 14 or determines disclosure is legally required, ONE-STOP

OPERATOR shall disclose only such portions of Confidential Information that, in the opinion of the COUNTY, ONE-STOP OPERATOR is legally required to disclose. ONE-STOP OPERATOR shall use its best effort to obtain from the Party to whom Confidential Information is disclosed, written assurance that confidential treatment will be given to any Confidential Information disclosed, to the extent permitted by law.

ONE-STOP OPERATOR shall obtain from each subcontractor of ONE-STOP OPERATOR a confidentiality agreement running to the benefit of the COUNTY, substantively identical to this Article, prior to the performance of any of the Services in connection with this Agreement by each subcontractor, and at any time if requested by the COUNTY, from the officers, directors, agents or employees of ONE-STOP OPERATOR or any subcontractor.

Notwithstanding any other provision herein to the contrary:

A. All Confidential Information, including all copies thereof, is the exclusive property of OCWDB and COUNTY regardless of whether it is delivered to OCWDB and COUNTY. ONE-STOP OPERATOR shall deliver Confidential Information and all copies thereof to OCWDB and COUNTY upon request.

B. To the extent that copies of Confidential Information are authorized by OCWDB and COUNTY to be retained by ONE-STOP OPERATOR, they shall be retained in a secure location in ONE-STOP OPERATOR's office for a period of six (6) years after completion of the Services or termination of this Agreement, whichever later occurs, and thereafter disposed of at the direction of OCWDB and COUNTY.

ARTICLE 15. PUBLICITY

The prior written approval of OCWDB and COUNTY is required before ONE-STOP OPERATOR, or any of its officers, partners, employees, agents, contractors, assignees or other representatives, may, at any time, either during or after completion or termination of this Agreement, make any statement to the media or issue any material for publication bearing on the Services performed or data collected in connection with this Agreement.

ARTICLE 16. BOOKS AND RECORDS

ONE-STOP OPERATOR agrees to maintain separate and accurate books, records, documents and other evidence and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement.

ARTICLE 17. RETENTION OF RECORDS

ONE-STOP OPERATOR agrees to retain all books, records and other documents relevant to this Agreement for six (6) years after the final payment or termination of this Agreement, whichever later occurs. OCWDB, COUNTY, or any state and/or federal auditors, and any other persons duly authorized by OCWDB and COUNTY, shall have full access and the right to examine any of said materials during the retention period.

ARTICLE 18. AUDIT BY THE COUNTY AND OTHERS

All vouchers or invoices presented for payment to be made hereunder, and the books, records and accounts upon which said vouchers or invoices are based are subject to audit by OCWDB and COUNTY. ONE-STOP OPERATOR shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by OCWDB and COUNTY so that it may evaluate the reasonableness of the charges, and ONE-STOP OPERATOR shall make its records available to OCWDB and COUNTY upon request. All books vouchers, records, reports, cancelled checks and any and all similar material may be subject to periodic inspection, review and audit by OCWDB and COUNTY, the State of New York, the federal government, and/or other persons duly authorized by OCWDB and COUNTY. Such audits may include examination and review of the source and application of all funds whether from OCWDB and COUNTY and state, the federal government, private sources, or otherwise. ONE-STOP OPERATOR shall not be entitled to any interim or final payment under this Agreement if any audit requirements and/or requests have not been satisfactorily met.

ARTICLE 19. INSURANCE

For all of the Services provided hereunder, ONE-STOP OPERATOR shall maintain or cause to be maintained, in full force and effect during the term of this Agreement, at its expense, Worker's

Compensation, disability, and liability insurance covering personal injury and property damage, and other insurance with stated minimum coverages, all as listed below. Such policies are to be in the broadest form available on usual commercial terms and shall be written by insurers of recognized financial standing satisfactory to OCWDB and COUNTY who have been fully informed as to the nature of the Services to be performed. Except for Worker's Compensation, disability, and professional liability insurance, OCWDB and COUNTY shall be additional insureds on all such policies with the understanding that any obligations imposed upon the insured (including, without limitation, the liability to pay premiums) shall be the sole obligation of ONE-STOP OPERATOR and not those of OCWDB or COUNTY. Notwithstanding anything to the contrary in this Agreement, ONE-STOP OPERATOR irrevocably waives all claims against OCWDB and COUNTY for all losses, damages, claims or expenses resulting from risks commercially insurable. The provisions of insurance by ONE-STOP OPERATOR shall not in any way limit ONE-STOP OPERATOR's liability under this Agreement.

Type of Coverage	Limits of coverage
Workers' Compensation	Statutory
Disability	Statutory
Employer's liability	\$500,000 ea accident \$500,000 disease ea employee \$500,000 disease policy limit
Automobile Liability (incl. bodily injury & property damage)	\$1,000,000 per occurrence \$1,000,000 aggregate
Comprehensive General Liability (incl. bodily injury & property damage)	\$1,000,000 per occurrence \$1,000,000 aggregate
Professional Liability	\$1,000,000 per claim \$1,000,000 aggregate

ONE-STOP OPERATOR shall provide to OCWDB and COUNTY, as a condition to execution of this Agreement by OCWDB and COUNTY, certificates of insurance evidencing ONE-STOP OPERATOR's compliance with these requirements and, if applicable, current New York State forms evidencing exemption from Workers' Compensation and/or

disability. ONE-STOP OPERATOR shall provide OCWDB and COUNTY with updated certificates as policies expire or are modified over the term of this Agreement.

Each policy of insurance shall contain clauses to the effect that (i) such insurance shall be primary without right of contribution of any other insurance carried by or on behalf of OCWDB and COUNTY with respect to its interests, (ii) it shall not be cancelled, including, without limitation, for non-payment of premium, or materially amended, without fifteen (15) days prior written notice to OCWDB (directed to the Chairperson of the OCWDB) and COUNTY (directed to COUNTY’S Risk Management Division) and OCWDB and COUNTY shall have the option to pay any necessary premiums to keep such insurance in effect and charge the cost back to ONE-STOP OPERATOR.

To the extent it is commercially available, each policy of insurance shall be provided on an “occurrence” basis. If any insurance is not so commercially available on an “occurrence” basis it shall be provided on a “claims made” basis, and all such “claims made” policies shall provide that:

A. Policy retroactive dates coincide with or precede ONE-STOP OPERATOR’s start of the performance of the Services (including subsequent policies purchased as renewals or replacements);

B. To ensure prior acts coverage, if the insurance is terminated for any reason and/or for at least three (3) years following final acceptance of the Services, ONE-STOP OPERATOR will maintain an extended reporting provision and/or similar insurance with extended reporting, covering the performance of this Agreement.

C. Immediate notice shall be given to the OCWDB (through its Chairperson) and COUNTY (through its Risk Management Division), of circumstances or incidents that might give rise to future claims with respect to the Services performed under this Agreement.

ARTICLE 20. INDEMNIFICATION

To the fullest extent permitted by law, ONE-STOP OPERATOR agrees to defend, indemnify and hold harmless OCWDB and COUNTY, including its officials, employees and agents, against all claims, losses, damages, liabilities, costs or expenses (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement), arising

out of any negligence, fault, act or omission of ONE-STOP OPERATOR, its officers, partners, employees, agents, contractors, assignees or other representatives in performance of the Services pursuant to this Agreement.

In the event that any claim is made or any action is brought against OCWDB and/or COUNTY arising out of the negligence, fault, act or omission of any officer, employee, subcontractor, assignee, agent or other representative of ONE-STOP OPERATOR; either within or without the duties of officers or scope of employment, subcontract, assignment, agency, or other representation; then OCWDB and COUNTY shall have the right to withhold payments for the purpose of set-off in sufficient sums to cover the claim or action. These rights and remedies of the OCWDB and COUNTY shall not be exclusive and are in addition to any other rights and remedies provided by law, equity, or this Agreement.

ARTICLE 21. RESPONSIBILITY TO CORRECT DEFICIENCIES

It shall be ONE-STOP OPERATOR’s responsibility to correct, in a timely fashion and at ONE-STOP OPERATOR’s sole expense any deficiencies in its Services resulting from ONE-STOP OPERATOR’s failure to act in accordance with the standards set forth in Article 6 hereof, provided such deficiencies are reported to ONE-STOP OPERATOR within one hundred and twenty (120) days after completion of the Services. If ONE-STOP OPERATOR fails to correct such deficiencies in a timely and proper manner, OCWDB and COUNTY may elect to have others perform such corrections and OCWDB and COUNTY may charge any related cost of such corrections to ONE-STOP OPERATOR and/or set-off such amount against any sums otherwise due ONE-STOP OPERATOR. This remedy, if effected, shall not constitute the sole or exclusive remedy afforded OCWDB and COUNTY for such deficiencies, nor shall it constitute a waiver of the rights of OCWDB and COUNTY to claim damages or otherwise refuse payment or to take any other action provided for by law or pursuant to this Agreement.

ARTICLE 22. PROTECTION OF PROPERTY

ONE-STOP OPERATOR assumes the risk of and defend, indemnify and hold OCWDB and COUNTY harmless from any loss or damage to COUNTY property, including property and equipment leased by OCWDB and/or COUNTY, used in the performance of this Agreement and caused, either directly or

indirectly, by the acts, conduct, omissions or lack of good faith of ONE-STOP OPERATOR, its officers, partners, employees, agents, contractors, assignees or other representatives.

In the event that any OCWDB or COUNTY property is lost or damaged, except for normal wear and tear, then OCWDB and COUNTY shall have the right to withhold further payments for the purposes of set-off in sufficient sums to cover such loss or damage.

These rights and remedies of OCWDB and COUNTY shall not be exclusive and are in addition to any other rights and remedies provided by law or by this Agreement.

ARTICLE 23. FORCE MAJEURE

None of the Parties hereto shall be considered in default in the performance of its obligations to the extent that performance of any such obligation is prevented and/or delayed by any cause, existing or future, which is beyond the control of such Party, and which by that Party's exercise of due diligence and foresight, could not reasonably have been avoided.

Upon removal of such cause, the Party affected shall resume its performance as soon as reasonably possible. ONE-STOP OPERATOR's financial inability to perform shall not be deemed to be an event of force majeure regardless of the source causing such financial inability.

If ONE-STOP OPERATOR is delayed by force majeure in the timely performance of the Services, ONE-STOP OPERATOR's sole and exclusive remedy is to request that an or addendum or amendment permitting an extension of time to perform the Services in an amount equal to the time lost due to such delay. Such request shall be based on written notice only, delivered to the Chairperson of the OCWDB promptly, but in no event later than thirty (30) days after the initial occurrence of the event giving rise to such claim and stating the specific nature of the claim. An extension of time to perform the Services may only be granted by a written addendum or amendment to this Agreement signed by all the Parties hereto. In no event shall OCWDB or COUNTY be liable to ONE-STOP OPERATOR or its subcontractors, agents, or assignees, or any other person or entity, for damages arising out of or resulting from any such delays.

ARTICLE 24. TERMINATION

OCWDB and COUNTY may, by written notice to

ONE-STOP OPERATOR effective upon mailing, terminate this Agreement in whole or in part at any time (1) for the convenience of OCWDB and COUNTY, (2) upon the failure of ONE-STOP OPERATOR to comply with any of the terms or conditions of this Agreement, or (3) upon the ONE-STOP OPERATOR becoming insolvent or bankrupt.

Upon termination of this Agreement, the ONE-STOP OPERATOR shall comply with any and all OCWDB and COUNTY closeout procedures, including, but not limited to:

A. Accounting for and refunding to the COUNTY within thirty (30) days, any unexpended funds which have been paid to ONE-STOP OPERATOR pursuant to this agreement; and

B. Furnishing within thirty (30) days an inventory to OCWDB and COUNTY of all equipment, appurtenances and property purchased by ONE-STOP OPERATOR through or provided under this Agreement, and carrying out any OCWDB and COUNTY directives concerning the disposition thereof.

In the event OCWDB and COUNTY terminate this Agreement, in whole or in part, as provided in this Article 24, OCWDB may procure upon such terms and in such manner as deemed appropriate, services similar to those so terminated, and the ONE-STOP OPERATOR shall continue the performance of this Agreement to the extent not terminated hereby. If this Agreement is terminated in whole or in part for other than the convenience of OCWDB and COUNTY, any services procured by OCWDB to complete the Services herein will be charged to ONE-STOP OPERATOR and/or set off against any sums due ONE-STOP OPERATOR.

Notwithstanding any other provisions of this Agreement, ONE-STOP OPERATOR shall not be relieved of liability to OCWDB and COUNTY for damages sustained by OCWDB and COUNTY by virtue of ONE-STOP OPERATOR's breach of this Agreement or failure to perform in accordance with applicable standards, and OCWDB and COUNTY may withhold payments to ONE-STOP OPERATOR for the purposes of set-off until such time as the exact amount of damages due to OCWDB and COUNTY from ONE-STOP OPERATOR is determined.

The rights and remedies of OCWDB and COUNTY provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or by this Agreement.

ARTICLE 25. SURVIVING OBLIGATIONS

ONE-STOP OPERATOR’s obligations, and those of ONE-STOP OPERATOR’s employees, agents, subcontractors, successors and assignees, assumed pursuant to Articles 6, 7, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 26, 27, 28, 29, 30, 31, and 32 shall survive completion of Services, or the expiration or termination of this Agreement.

ARTICLE 26. WAIVER AND SEVERABILITY

The failure of any Party to enforce, at any time, any provision of this Agreement does not constitute a waiver of such provision or waive the right of any Party at any time to avail itself to such remedies as it may have for any breach or breaches of such provision. None of the conditions of this Agreement shall be considered waived by OCWDB and COUNTY unless such waiver is explicitly given in writing by the Chairperson of OCWDB and County Executive of COUNTY. No such waiver shall be a waiver of any past or future default, breach or modification of any of the terms or conditions of this Agreement unless expressly stipulated in such waiver as executed by the Chairperson of OCWDB and County Executive of COUNTY.

The invalidity or invalid application of one provision of this Agreement shall not affect the validity of any other provision, or any other application of any provision of this Agreement.

ARTICLE 27. GENERAL RELEASE

The acceptance by ONE-STOP OPERATOR or its assignees of the final payment under this Agreement, whether by voucher, judgment of any court of competent jurisdiction, or administrative means shall constitute and operate as a general release to OCWDB and COUNTY from any and all claims of ONE-STOP OPERATOR arising out of the performance of this Agreement.

ARTICLE 28. NO CLAIM AGAINST OFFICERS, AGENTS OR EMPLOYEES

No claim whatsoever shall be made by ONE-STOP OPERATOR against any officer, agent or employee of OCWDB or COUNTY for or on account of, anything done or omitted in connection with this Agreement.

ARTICLE 29. SET-OFF RIGHTS

Each of OCWDB and COUNTY shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but are not limited to, the right to withhold for the purposes of set-off any monies otherwise due to ONE-STOP OPERATOR (i) under this Agreement, (ii) under any other agreement or contract with OCWDB or COUNTY, including any agreement or contract for a term commencing prior to or after the term of this Agreement, or (iii) from OCWDB or COUNTY by operation of law. OCWDB and COUNTY also have the right to withhold any monies otherwise due under this Agreement for the purposes of set-off as to any amounts due and owing to OCWDB or COUNTY for any reason whatsoever including, without limitation, tax delinquencies, fee delinquencies or monetary penalties or interest relative thereto.

ARTICLE 30. CERTIFICATIONS AND ASSURANCES

By executing this Agreement, ONE-STOP OPERATOR makes the following certifications and assurances:

A. It possesses the legal authority to execute all of the provisions of this Agreement.

B. If applicable, a resolution, motion, or similar action has been approved as an official act of ONE-STOP OPERATOR’s governing body authorizing the acceptance signing of this Agreement, including all understandings and assurances contained herein.

C. It has reviewed and is familiar with WIOA.

D. It will comply with the federal Civil Rights Act of 1964, as amended and as may be further amended from time to time during the term of this Agreement, which prohibits denial of benefits, exclusion from participation, or discrimination on the basis of race, sex, color, or national origin.

E. It prohibits, and will continue to prohibit, discrimination, and that no person, otherwise qualified, is denied employment, services, or other benefits on the basis of: (1) political or religious opinion or affiliation, marital status, sexual orientation, gender, gender identification and/or expression, race, color, creed, or national origin; (2) sex or age, except when age or sex constitutes a bona

vide occupational qualification; or (3) the physical or mental disability of a qualified individual with a disability.

F. It will fully comply with WIOA's provisions pertaining to nondiscrimination and equal opportunity; the Americans with Disabilities Act; the Non-traditional Employment for Women Act of 1991; Titles VI and VII of the Civil Rights of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1967, as amended; Title IX of the Education Amendments of 1972, as amended; and with all applicable requirements imposed by regulations issued pursuant to those laws, all as may be amended from time to time during the term of this Agreement.

G. It will adhere to Orange County Equal Employment Opportunity/Affirmative Action policies and guidelines, as required in the Orange County Affirmative Action Plan.

H. It will not use any funds received pursuant to this Agreement will to encourage, promote, or otherwise support any political candidate or party, nor shall any participant be selected or promoted based on that person's political affiliation or beliefs.

I. It will comply with federal and state laws and regulations prohibiting sectarian or religious activities in the employment or training of participants. WIOA funds shall not be used for the promotion of any religious activity or utilized for any religious purpose(s). OCWDB and COUNTY retain the exclusive right and authority to determine whether or not ONE-STOP OPERATOR is, and remains, in compliance with this provision.

J. It will ensure that any and all amendments and/or addenda required by the United States Department of Labor or the New York State Department of Labor as a result of regular monitoring or oversight activities will be incorporated herein as part of this Agreement.

K. Neither it nor any of its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Agreement by any federal department or agency. If ONE-STOP OPERATOR is unable to certify to any of the foregoing statements, it shall attach an explanation to this Agreement.

L. To the best of its knowledge and belief,

(i) No Federal appropriated funds have been paid or will be paid, by or on behalf of ONE-STOP OPERATOR, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

(ii) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, ONE-STOP OPERATOR shall complete and submit Standard Form – LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions to OCWDB and COUNTY.

(iii) ONE-STOP OPERATOR shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of facts upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

M. It will provide a Drug Free Workplace by implementing the provisions at 29 CFR 94 (as may be amended from time to time

during the term of this Agreement), pertaining to the Drug Free Workplace. In accordance with such provisions, a list of places where the performance of Services will take place must be maintained at ONE-STOP OPERATOR's office and available for federal inspection.

N. It will fully comply with all applicable provisions of the federal Office of Management and Budget Guidance, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards published at 2 CFR Parts 200 and 2900, as may be amended from time to time during the term of this Agreement.

ARTICLE 31. NO ARBITRATION

Any and all disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to arbitration unless specifically agreed to in writing by the Chairperson of OCWDB and County Executive of COUNTY, but must instead only be heard in the Supreme Court of the State of New York, with venue in Orange County or if appropriate, in the Federal District Court with venue in the Southern District of New York, White Plains division.

ARTICLE 32. GOVERNING LAW

This Agreement shall be governed by the laws of the State of New York. ONE-STOP OPERATOR shall render all services under this Agreement in accordance with applicable provisions of all federal, state and local laws, rules and regulations as are in effect at the time such Services are rendered.

ARTICLE 33. SERVICE OF PROCESS

ONE-STOP OPERATOR agrees to service of process as follows: In addition to the methods of service allowed by New York's Civil Practice Law and Rules, ONE-STOP OPERATOR consents to service of process upon it by registered or certified mail, return receipt requested, to the address indicated in this Agreement. Service shall be complete upon ONE-STOP OPERATOR's actual receipt of process, or upon receipt of the return by the United States Postal Service as refused or undeliverable by OCWDB and COUNTY. ONE-STOP OPERATOR shall immediately notify OCWDB and COUNTY, in writing, via registered or certified mail, return receipt requested, of each change or address to which service of process can be made. Service by OCWDB and COUNTY to the last

known address of ONE-STOP OPERATOR shall be sufficient.

ARTICLE 34. ENTIRE AGREEMENT

The rights and obligation of the Parties and their respective agents, successors and assignees shall be subject to and governed by this Agreement, including the annexed Schedules A and B, which supersede any other understandings or writings between or among the Parties.

ARTICLE 35. MODIFICATION

No changes, amendments or modifications of any of the terms and/or conditions of this Agreement shall be valid unless reduced to writing and signed by the Party to be bound. Changes in the scope of Services in this Agreement shall not be binding, and no payment shall be due in connection therewith, unless prior to the performance of any such services, all the Parties hereto County Executive have executed an addendum or amendment to this Agreement, which addendum or amendment shall specifically set forth the scope of such extra or additional services and the amount of compensation and the extension of the time for performance, if any, for any such services. Unless otherwise specifically provided for therein, the provisions of this Agreement shall apply with all force and effect to the terms and conditions contained in such addendum or amendment.

ARTICLE 36. PAY-TO-PLAY

Pursuant to Section 10 of the County of Orange "Pay-to-Play Local Law," the regulatory and penalty provisions of such Law are incorporated into and made part of this Agreement by reference. A copy of the Law may be requested from the COUNTY's Department of General Services.

ARTICLE 37. NOTICE

Except as otherwise provided herein, any notice, demand or communication required or permitted to be given by one Party to another shall be in writing and addressed to OCWDB at the address set forth in the opening paragraph of this Agreement (or at such other address as OCWDB may designate in writing to the other Parties hereto and delivered in accordance with the provisions of this Article 37), or to COUNTY at the address set forth in the opening paragraph of this Agreement (or at such other address as COUNTY may designate in writing to the other Parties hereto and delivered in accordance with the provisions of this Article 37), or to ONE-STOP

OPERATOR at the address set forth in the opening paragraph of this Agreement (or at such other address as ONE-STOP OPERATOR may designate in writing to the other Parties hereto and delivered in accordance with the provisions of this Article 37) and/or to such other parties as one Party hereto may from time-to-time reasonably designate in writing to the other Parties hereto (delivered in accordance with the provisions of this Article 37), and shall be (a) personally served, (b) deposited in the United States mail, duly registered or certified with postage fully prepaid thereon or (c) delivered by an overnight courier service that confirms delivery. Notice shall be effective and deemed delivered and received upon receipt or refusal to receive, in the event of personal service; or on the fifth (5th) day following the date of

depositing the notice in the United States mails; or on the day following presentment of the notice to an overnight courier service for delivery.

ARTICLE 38. SIGNATURES AND E-DELIVERY

A manually signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal force and effect as delivery of an original signed copy of this Agreement.

IN WITNESS THEREOF, the parties hereto have executed this Agreement as of the date last set forth below to be effective as of the date first set forth above.

ORANGE COUNTY WORKFORCE DEVELOPMENT BOARD

BY: _____
Mary DeFreitas
Chairperson

Dated: _____

COUNTY OF ORANGE

BY: _____
Stefan (Steven) M. Neuhaus
County Executive

Dated: _____

**ONE STOP CONSORTIUM:
ORANGE COUNTY EMPLOYMENT & TRAINING**

BY: _____
Name: _____
Title: _____

Dated: _____

SUNY ORANGE

BY: _____
Name: _____
Title: _____

Dated: _____

ORANGE-ULSTER BOCES

BY: _____
Name: _____
Title: _____

Dated: _____

NEW YORK STATE DEPARTMENT OF LABOR

BY: _____
Name: _____
Title: _____

Dated: _____

SCHEDULE A
SCOPE OF SERVICES

1. The Services that ONE-STOP OPERATOR has agreed to perform in exchange for the fees set forth on the annexed Schedule B are set forth in the following documents, annexed hereto, the terms and conditions of which are hereby incorporated into, and made part hereof:

(a) OCWDB's Request for Proposals for One-Stop Operator issued on May 23, 2017 and consisting of twenty-four (24) pages exclusive of the Appendix thereto (consisting of the Appeal or Protest Procedure, Supplier Forms, and Pay-to-Play Forms) which has been intentionally omitted upon agreement of the parties hereto ("RFP-WDB01-17"); and

(b) ONE-STOP OPERATOR's proposal submitted in response to RFP-WDB01-17, dated June 5, 2017 and consisting of seventeen (17) pages ("Proposal").

2. In the event of any conflict or inconsistency among or between the main body of the Agreement (which consists of Article 1 through Article 38) and this Schedule A (which includes the documents annexed hereto and made part hereof), the terms and conditions of the main body of the Agreement, as may be amended from time to time, shall prevail. In the event of any conflict or inconsistency among any of the documents annexed to and incorporated into this Schedule A, precedence will be given in the following order:

(a) RFP-WDB01-17; then

(b) the Proposal.

In no event shall the provisions of the Proposal ever control, or take precedence over the provisions of the main body of the Agreement, as may be amended from time to time, or RFP-WDB01-17.

SCHEDULE B

ONE STOP OPERATOR BUDGET
JULY 1, 2017 – JUNE 30, 2018

One Stop Operator Salary =	\$30.00/hour	
Fringe	= 40%	
4 One Stop meetings		\$ 360
3 hours/meeting		
Prep for meetings		\$ 600
5 hours/meeting x 4		
4 Operator Reports – 5 hours/Report		\$ 600
Meetings with each One Stop Partner		\$1,440
4 hours/meeting x 12 meetings		
6 meetings with One Stop Coordinator		\$ 540
6 meetings x 3 hours/meeting		
4 meetings with WDB Director and		\$ 360
4 meetings x 3 hours		
Total Salary		\$3,900.00
40% Fringe		<u>\$1,560.00</u>
Total Personnel and Fringe		\$5,460.00

SCHEDULE B
FEES AND EXPENSES

1. For the satisfactory performance of the Services during the one (1) year initial term of the Agreement (July 1, 2017 – June 30, 2018), ONE-STOP OPERATOR shall receive compensation as set forth on the annexed document submitted by ONE STOP OPERATOR as part of the Proposal, which is incorporated herein and made part hereof:

(a) One Stop Operator Budget, July 1, 2017 – June 30, 2018, consisting of one (1) page.

2. The maximum amount of compensation to be paid to ONE STOP OPERATOR for the satisfactory performance of the Services during the one (1) year initial term of the Agreement shall not exceed Five Thousand Four Hundred Sixty and 00/100 (\$5,460.00) Dollars.

3. ONE-STOP OPERATOR shall submit detailed monthly invoices to OCWDB and COUNTY in accordance with the terms and conditions set forth in the Agreement and RFP-WDB01-17, which is incorporated and made part hereof through the annexed Schedule A.

