

**INTERGOVERNMENTAL AGREEMENT FOR THE
GREATER OREGON FLEET COOPERATIVE PROCUREMENT GROUP**

THIS AGREEMENT ("Agreement") is entered into by and between the undersigned Oregon public agencies (each a "Member" under this Agreement) to establish and operate a cooperative procurement group named the Greater Oregon Fleet Cooperative ("Group").

RECITALS

- A. ORS 190.010 provides that units of local government may enter into agreements for the performance of any and all functions and activities that any party to the agreement, its officers or agents have the authority to perform.
- B. ORS 279A.205(1) authorizes Oregon public agencies to participate in, sponsor, conduct or administer a joint cooperative procurement for the procurement of any goods or services.
- C. Pursuant to ORS 279A.210, Joint cooperative procurements are valid only if:
 - (1) The administering contracting agency's solicitation and award process for the original contract is an open and impartial competitive process and uses source selection methods substantially equivalent to those specified in ORS 279B.055, 279B.060 or 279B.085 or uses a competitive bidding process substantially equivalent to the competitive bidding process in ORS chapter 279C;
 - (2) The administering contracting agency's solicitation and the original contract or price agreement identifies the cooperative procurement group or each participating purchasing contracting agency and specifies the estimated contract requirements; and
 - (3) No material change is made in the terms, conditions or prices of the contract between the contractor and the purchasing contracting agency from the terms, conditions and prices of the original contract between the contractor and the administering contracting agency.
- D. This Agreement forms, defines, and authorizes the original and potential additional Members of the Group.
- E. The purpose of the Group is to foster intergovernmental cooperative procurement opportunities.
- F. The Members intend that this Group may include any Oregon contracting agency meeting the requirements of ORS 279A.010(1)(b), ORS 190.003, and ORS 291.002(8).

AGREEMENT

Now, therefore, based upon the foregoing recitals, which are fully incorporated herein, the parties agree as follows:

1. COOPERATIVE PROCUREMENT GROUP

The Members collectively constitute the Group. The Group is established as a cooperative procurement group as defined in ORS 279A.200(1)(c) and authorized by ORS 279A.205 to conduct cooperative procurements in accordance with ORS 279A.200 through 279A.210. The Members agree to conduct and administer the Group in accordance with the requirements of ORS Chapter 190 and Oregon Public Contracting Code.

2. MEMBERS

- a. Any agency, as defined by ORS 279A.010(1)(b), that is also a "unit of local government" as defined in ORS 190.003, or a State agency as defined in ORS 291.002(8), may become a Member of the Group.
- b. The initial Members of the Group are those listed on the Roster dated May 31, 2016, which is attached and incorporated hereto as Exhibit A.

- c. A prospective member will become a Member of the Group when that Member executes a copy of this Agreement, in its then-current form, without exception to any of its terms and conditions, and submits the executed Agreement to the Administrator defined in Section 4 and identified in the Roster.

3. DUTIES OF CREATING A JOINT COOPERATIVE PROCUREMENT

- a. A Member that desires to conduct a joint cooperative procurement as the administering contracting agency (the "administering agency" – see ORS 279A.200(1)(a)) shall notify all other Group Members not less than 15 business days prior to procurement's solicitation date. Administering agency reserves the right to adjust its solicitation date to accommodate another Member's desire to join procurement. Such notice shall include the nature and scope of the planned procurement. Notice shall be given by electronic mail to the entire Group and include a copy of the complete solicitation and legal advertisement.
- b. Any Member wishing to participate in such procurement as a purchasing agency must inform the administering agency not less than 10 business days prior to the intended advertisement date stated in the notice, and include the participating Member's estimated requirements for the planned procurement.
- c. The administering agency shall identify in the solicitation and contract or price agreement that the solicitation is for a joint cooperative procurement on behalf of the Group and include in the specification of contract requirements the sum of all estimated contract requirements of which the administering agency has been informed by Members.
- d. In conducting a procurement under this Agreement, each Member acting as an administering agency agrees to comply with all federal, state, and local laws applicable to the solicitation and contracting under this Agreement, and with all regulations and administrative rules established pursuant to those laws. All persons authorized by a Member to conduct a procurement on the contracting agency's behalf must be employees of that Member.

4. ADMINISTRATION

- a. Administrator. By mutual agreement of the Members, one Member shall be designated as the Administrator under this Agreement. The designation of an Administrator may be changed at any time by mutual consent of the current and new administrator, and of the Members. The current designated Administrator must be recorded on the roster.
- b. Agreement. The Administrator shall maintain a complete, current copy of this Agreement and shall coordinate the execution of all amendments thereto. The Administrator shall provide a complete copy of the current Agreement to any unit of local government or other party upon request.
- c. Roster. The Administrator shall retain a copy of each Agreement executed by a Member, and shall maintain a current Roster of Members to the Agreement, a copy which must be provided to any Member, contracting agency, vendor, or prospective vendor upon request. The Administrator may, if it chooses, make the Roster available on a website.
- d. Powers. The Administrator shall have no power to enforce the terms of this Agreement, except such authority as it has as a Member.

5. TERM

The term of this Agreement shall be perpetual, so long as at least two Members remain,, unless terminated earlier under Section 7b.

6. EFFECTIVE DATE

The effective date of this Agreement shall be the date when two or more Members have signed the Agreement and submitted the executed Agreements to the Administrator.

7. TERMINATION

- a. A Member may terminate its membership at any time by providing 30 days' written notice to all other Members. Upon the effective date of termination, the terminating Member must cease purchasing under a joint cooperative agreement entered into under this Agreement. If that Member terminating its Group membership is also the administering agency of a Group joint cooperative procurement then that Member shall offer to transfer its administering authority to another Group Member who upon accepting such authority shall then become the new administering agency. If no other Member assumes the role as the new administering agency then that joint cooperative procurement agreement will terminate immediately upon the Member's exit from the Group.
- b. Notwithstanding the provisions of Section 5 above, this Agreement shall terminate one year after the expiration of the last joint procurement agreement entered into by a Member under this Agreement unless reaffirmed by at least two Members of the Group.

8. INTEGRATION AND MODIFICATION

This Agreement constitutes the parties' entire Agreement regarding the Group and the joint cooperative procurements to be conducted, and supersedes all prior and contemporaneous Agreements and communications regarding those subjects. This Agreement may be modified only by a written amendment signed by an authorized representative of each Member.

9. AUTHORITY OF SIGNERS

The individuals signing this Agreement each represent that he or she is duly authorized to bind the party for which he or she signs.

10. NO THIRD PARTY BENEFICIARIES

There are no third party beneficiaries to this Agreement, express or implied. Only the Members are entitled to enforce any provision of this Agreement.

11. INDEMNITY

To the extent permitted by the Oregon Constitution and by the Oregon Tort Claims Act, each Member agrees to indemnify, defend, and hold harmless the other Members from all damages, losses and expenses resulting from the indemnifying Member's acts or omissions relating to its performance under this Agreement. However, no Member will be required to indemnify or hold another Member harmless for any liability arising out of wrongful acts or omissions of the latter Member's own agents, officers, or employees.

12. DISPUTE RESOLUTION

The Parties further agree to collaborate and cooperate with one another to resolve any and all disputes, claims, misunderstanding, or other conflicts that may arise as a result of the work referenced herein. Any protest or dispute regarding the procurement process is subject to ORS 279A.225.

13. SEVERABILITY

If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular term or provision held invalid.

14. GOVERNING LAW; JURISDICTION

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Oregon. Jurisdiction of any dispute or litigation arising from or related to this Agreement shall be in the Circuit Courts of the State of Oregon.

(Public Agency's Name)

By: _____
(Signature)

Name: _____
(Print)

Its: _____
(Title)

Date: _____