



State of Washington DEPARTMENT OF ENTERPRISE SERVICES <i>Attn: Contracts & Procurement</i> P.O. Box 41411 Olympia, WA 98504-1411	WCCUA No.: _____ Effective Date: _____
INSERT ELIGIBLE PURCHASER NAME _____ _____ Business Contact: _____ Tel: _____ Email: _____ Tax Identification No.: _____	<p style="text-align: center;">Type of Eligible Purchaser [Non-Washington governmental entities & PBNPs located outside the State of Washington]</p> <input type="checkbox"/> Another State <input type="checkbox"/> State agency in another state <input type="checkbox"/> Local governmental agency or entity (e.g., counties, cities, school districts, public utility districts, etc.) in another state <input type="checkbox"/> Qualifying Public Benefit Nonprofit corporation located outside of the State of Washington

**WASHINGTON COOPERATIVE CONTRACT USAGE AGREEMENT
 FOR
 SPECIFIED ENTITIES OUTSIDE OF THE STATE OF WASHINGTON
 TO**

UTILIZE ENTERPRISE SERVICES' DESIGNATED WASHINGTON COOPERATIVE CONTRACTS

This Washington Cooperative Contract Usage Agreement ("Agreement") is made and entered into by and between the State of Washington acting by and through the Department of Enterprise Services, a Washington State governmental agency ("Enterprise Services") and the _____, a _____ governmental agency/entity ("Eligible Purchaser") and is dated and effective as _____.

RECITALS

- A. Pursuant to Legislative authorization, Enterprise Services, on behalf of the State of Washington, is authorized to develop, solicit, and establish enterprise procurement solution contracts for goods and/or services ("Washington Cooperative Contracts") to support Washington state agencies. See RCW 39.26.050(1).
- B. The Washington State Legislature also has authorized Enterprise Services to make such Washington Cooperative Contracts available to other specified entities, including other states, state agencies in other states, local governmental agencies and entities in other states and qualifying public benefit nonprofit corporations; *Provided*, however, that any use of such Washington Cooperative Contracts must be pursuant to an agreement in which Enterprise

Services ensures full cost recovery. See RCW 39.26.050(1) & (2) and RCW 39.26.060; see also, RCW 39.34.055.

- C. To enter into a *Washington Cooperative Contract Usage Agreement* with Enterprise Services as an eligible purchaser (“Eligible Purchaser” or “Purchaser”), an entity must be one of the following:
- State – i.e., a state other than the State of Washington;
 - State Agency – i.e., any state agency outside of the State of Washington;
 - Local Government – i.e., local government agencies or political subdivisions (e.g., counties, cities, school districts, public utility districts, ports) of any state other than the State of Washington; or
 - Qualifying Public Benefit Nonprofit Corporation – i.e., a public benefit nonprofit corporation located outside of the State of Washington that currently is registered with the Washington Secretary of State and designated by the Washington Secretary of State as a public benefit nonprofit corporation and that currently is receiving local, state, or federal funds either directly or through a public agency other than an Indian tribe or a political subdivision of another state.
- D. Eligible Purchasers who execute a *Washington Cooperative Contract Usage Agreement* with Enterprise Services may utilize specified Washington Cooperative Contracts. See RCW 39.26.060.
Enterprise Services maintains a list of all such Washington Cooperative Contracts at its [Contracts Webpage](#).
- E. Eligible Purchaser desires to contract with Enterprise Services to access and use the Washington Cooperative Contracts, subject to their terms and conditions.
- F. The purpose of the Agreement is to establish the terms and conditions to authorize Eligible Purchaser to use the Washington Cooperative Contracts.

A G R E E M E N T

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the parties agree as follows:

1. **DURATION.** This Agreement is effective as of the effective date stated herein and shall continue in force unless terminated by either party upon thirty (30) calendar days prior written notice.
2. **ELIGIBLE PURCHASER’S REPRESENTATIONS AND WARRANTIES.** Eligible Purchaser makes each of the following representations and warranties as of the effective date of this Agreement and at the time any order is placed pursuant to any Washington Cooperative Contract by Eligible Purchaser. If, at the time of any such order, Eligible Purchaser cannot make such representations and warranties, Eligible Purchaser shall not place any such order and shall, within three (3) business days notify Enterprise Services, in writing, and terminate this Agreement.
 - a. **ELIGIBLE PURCHASER STATUS.** Eligible Purchaser represents and warrants that it is one of the following types or entities:
 - Another state;
 - A state agency/entity in any state other than the State of Washington; or

- A local government agency or political subdivision (e.g., counties, cities, school districts, public utility districts, ports) of any state other than the State of Washington; or
- A qualifying public benefit nonprofit corporation that is:
 - Located outside of the State of Washington;
 - Currently registered with the Washington Secretary of State and designated by the Washington Secretary of State as a public benefit nonprofit corporation; and
 - Currently is receiving local, state, or federal funds either directly or through a public agency other than an Indian tribe or a political subdivision of another state.

Eligible Purchaser further represents and warrants that, upon request from Enterprise Services, Eligible Purchaser shall provide documentation to confirm its eligibility to use the Washington Cooperative Contracts.

If Eligible Purchaser is a qualifying public benefit nonprofit corporation, Eligible Purchaser represents and warrants that it has submitted with this Agreement a current copy of its registration with the Washington Secretary of State and documentation to establish that it currently is receiving local, state, or federal funds either directly or through a public agency other than an Indian tribe or a political subdivision of another state.

- b. **CONTRACT AUDITS.** Eligible Purchaser represents and warrants that it shall cooperate with Enterprise Services, the Office of the State Auditor, federal officials, and/or any third party authorized by law or contract, in any audit conducted by such party pertaining to any Washington Cooperative Contracts that Eligible Purchaser has made purchases from pursuant to this Agreement, including providing records related to any purchases from such Washington Cooperative Contracts.
3. **AUTHORIZED USE; FINANCIAL RESPONSIBILITY.** Eligible Purchaser understands and agrees that it shall: (a) deal directly with the Washington Cooperative Contract's awarded contractor (i.e., the vendor, supplier, service supplier, etc.) for any purchases it makes under the Washington Cooperative Contract, as authorized by this Agreement; and (b) assume full and complete responsibility, financial and otherwise, for any purchases made pursuant to any Washington Cooperative Contract.
 4. **SEPARATE RESPONSIBILITY.** Each party to this Agreement shall be responsible for the acts, errors, and omissions of itself and its own officers, employees, and agents acting within the scope of the performance of this Agreement and within the scope of their authority.
 5. **RESOLVING CONTRACT PURCHASE DISPUTES.** The parties agree that, if there are any disputes between Eligible Purchaser and a Washington Cooperative Contract contractor, Eligible Purchaser shall: (a) provide Enterprise Services written notice of the nature of the dispute including the efforts undertaken to resolve the dispute; and (b) unless otherwise provided in the Washington Cooperative Contract, work in good faith with the contractor to resolve the dispute without the involvement of Enterprise Services. Enterprise Services may, upon request, review and assist in the resolution of a dispute, and, if Enterprise Services chooses to do so, Eligible Purchaser will cooperate with Enterprise Services in that resolution process. Enterprise Services, in its sole discretion, may elect to resolve disputes with a contractor on behalf of Eligible Purchaser and all other users of the applicable Washington Cooperative Contract. In such event, Enterprise Services' resolution shall be binding.

6. AGREEMENT ADMINISTRATION & NOTICES.

- a. **AGREEMENT CONTACTS.** The parties hereby designate the following agreement administrators as the respective single points of contact for purposes of this Agreement. The parties may change agreement administrators by written notice as set forth below.

Enterprise Services

Attn: [REDACTED]
Washington Dept. of Enterprise Services
PO Box 41411
Olympia, WA 98504-1411
Email: [REDACTED]

Eligible Purchaser

Attn: [REDACTED]
Address [REDACTED]

Email: [REDACTED]

- b. **ADDITIONAL AGREEMENT CONTACTS FOR ELIGIBLE PURCHASER.** If necessary or desired, Eligible Purchaser may specify alternative or additional contacts for purposes of this Agreement (e.g., Eligible Purchaser may specify alternative or additional contacts for usage of certain Washington Cooperative Contracts such as vehicle ordering); *Provided*, however, that such alternative or additional contacts must utilize email notification to facilitate computer-generated cost-effective and efficient communication between the parties. Eligible Purchaser may designate such additional contacts at any time as set forth below.
- c. **NOTICES.** Any notices required or desired shall be in writing and sent by U.S. mail (postage prepaid) or email and shall be sent to the respective addressee at the respective address or email address set forth above or to such other address or email address as the parties may specify in writing. Notices shall be deemed effective upon the earlier of receipt, if mailed, or, if emailed, upon transmission to the designated email address of said addressee.

7. GENERAL PROVISIONS.

- a. **AGREEMENT AVAILABILITY.** Prior to its entry into force, this Agreement shall be posted on the Enterprise Services' website or other electronically retrievable public source.
- b. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior negotiations, representations, and understandings between them. There are no representations or understandings of any kind not set forth herein.
- c. **AMENDMENT OR MODIFICATION.** Except as set forth herein, this Agreement may not be amended or modified except in writing and signed by a duly authorized representative of each party hereto.
- d. **AUTHORITY.** Each party to this Agreement, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this Agreement and that its execution, delivery, and performance of this Agreement has been fully authorized and approved, and that no further approvals or consents are required to bind such party.
- e. **NO AGENCY.** The parties agree that no agency, partnership, or joint venture of any kind shall be or is intended to be created by or under this Agreement. Neither party is an agent of the other party nor authorized to obligate it.
- f. **ASSIGNMENT.** Eligible Purchaser may not assign its rights under this Agreement.
- g. **GOVERNING LAW.** The validity, construction, performance, and enforcement of this Agreement shall be governed by and construed in accordance with the laws of the State of Washington,

without regard to its choice of law principles that would provide for the application of the laws of another jurisdiction.

- h. JURISDICTION & VENUE. In the event that any action is brought to enforce any provision of this Agreement, the parties agree to exclusive jurisdiction in Thurston County Superior Court for the State of Washington and agree that in any such action venue shall lie exclusively at Olympia, Washington.
- i. CAPTIONS & HEADINGS. The captions and headings in this Agreement are for convenience only and are not intended to, and shall not be construed to, limit, enlarge, or affect the scope or intent of this Agreement nor the meaning of any provisions hereof.
- j. ELECTRONIC SIGNATURES. An electronic signature or electronic record of this Agreement or any other ancillary agreement shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement or such other ancillary agreement for all purposes.
- k. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Agreement at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Agreement.

EXECUTED AND EFFECTIVE as of the day and date first above written.

A _____ GOVERNMENT AGENCY

STATE OF WASHINGTON
DEPARTMENT OF ENTERPRISE SERVICES
A GOVERNMENT AGENCY

By: _____
Name: _____
Title: _____

By: _____
Name: Rebecca Linville
Title: Washington State Chief Procurement Officer
Assistant Director
Contracts & Procurement