

# **THIRD AMENDED AND RESTATED JOINT & COOPERATIVE AGREEMENT FOR PUBLIC SAFETY PURCHASING**

## **1. Purpose**

This Agreement is made pursuant to Minnesota Statutes 471.59 which authorizes the joint and cooperative exercise of governmental powers common to contracting parties. The intent of this Agreement is to make available joint public safety purchasing and leasing to the governmental agencies who are parties to this Agreement. The intent of this agreement is to also replace and rescind the Amended and Restated Joint & Cooperative Agreement For The Acquisition and Use of SCBA executed and approved by the parties in March, April and May, 2009, and the Second Amended and Restated Joint & Cooperative Agreement For The Acquisition and Use of Firefighting Equipment executed and approved by some or all of the parties in August and September 2010 (“Prior Agreements”).

## **2. Parties**

The initial parties to this Agreement are the cities of Bloomington, Brooklyn Park, Eden Prairie, Edina, Hopkins, Saint Louis Park, and Minnetonka, all of which are municipal corporations and subdivisions of the state of Minnesota. Additional governmental agencies may become parties to this Agreement by adopting a resolution approving this Agreement and sending an original execution page and a certified copy of the resolution to the secretary of the Operating Committee established below. The secretary of the Operating Committee must maintain a current list of the parties to this Agreement and must notify the contact person for each party whenever there is a change in the parties to this Agreement.

## **3. Operating Committee**

### **3.1. Creation.**

There will be an Operating Committee (the “Committee”) to administer this Agreement. The Committee will consist of one representative appointed by each of the parties to the Agreement. In the absence of a specific appointment, a party’s representative will be its fire chief. Each member of the Committee is entitled to one vote.

### **3.2. Procedural Rules.**

The Committee must adopt procedural rules to govern its operations.

### **3.3. Officers.**

The Committee will select from its members a chair to conduct meetings, a vice-chair to act in the place of the chair, and a secretary to keep the records of the Committee.

### **3.4. Powers, Duties.**

The Committee has the authority and responsibility to administer this Agreement on behalf of the parties and to take all necessary actions allowed by law to implement its terms.

## **4. Procedures**

### **4.1. Acquisition.**

The Committee will take the necessary actions for obtaining contracts for the purchase or lease of public safety uniforms, supplies, equipment, and other items, and for contracting for services, as selected by the Committee. The Committee will comply with the Municipal Contracting Law, including the preparation of specifications and requests for proposals. The Committee will designate one of the member parties to act as the lead agency for selecting the contractor for a contract, based on the recommendation of the Committee.

### **4.2. Contract Terms.**

The contract with each selected contractor (the “Contract”) must provide that each party to this Agreement will have the option to order items directly from each selected contractor and make payments directly to the contractor. No party will have any responsibility for paying for the items ordered by any other party. When appropriate, the Contract may include an option for the contractor to maintain and certify designated equipment. The Contract must provide the terms of payment to the contractor for this service.

### **4.3. Rules for Use.**

When appropriate, the Committee will establish rules and procedures for the parties’ use of items acquired pursuant to this Agreement, including determining the responsibility for damage to, or loss of, the items.

## **5. Responsibility for Employees**

All persons engaged in the work to be performed by a party under this Agreement may not be considered employees of any other party for any purpose, including worker’s compensation and other claims that may or might arise out of the employment context on behalf of the employees. All claims made by a third party as a result of any act or omission of a party’s employees while engaged on any of the work performed under this Agreement are not the obligation or responsibility of any other party. Each party is responsible for injuries or death of its own

personnel. Each party will maintain workers' compensation insurance or self-insurance coverage, covering its own personnel while they are providing services under this Agreement. Each party waives the right to sue any other party for any workers' compensation benefits paid to its own employee or volunteer or their dependants, even if the injuries were caused wholly or partially by the negligence of any other party or its officers, employees, or volunteers.

## **6. Indemnification**

Each party agrees to defend, indemnify, and hold harmless the other parties against any and all claims, liability, loss, damage, or expense arising under the provisions of this Agreement and caused by or resulting from negligent acts or omissions of the party and/or those of its employees or agents. Under no circumstances, however, may a party be required to pay on behalf of itself and another party any amounts in excess of the limits on liability established in Minnesota Statutes Chapter 466 applicable to any one party. The limits of liability for two or more parties may not be added together to determine the maximum amount of liability for one party. The intent of this paragraph is to impose on each party a limited duty to defend and indemnify each other subject to the limits of liability under Minnesota Statutes Chapter 466. The purpose of creating this duty to defend and indemnify is to simplify the defense of claims by eliminating conflicts among the parties and to permit liability claims against both parties from a single occurrence to be defended by a single attorney.

## **7. Duration**

This agreement will be in force from the date of execution by at least two parties and notification to the secretary of the Operating Committee. Any party may withdraw from this Agreement upon 30 days written notice to the other party or parties to the Agreement. Upon execution of all of the parties to the Prior Agreements, the Prior Agreements will terminate.

## **8. Execution**

A separate execution page is provided for each party.

[Signature pages follow]

**Execution Page for the  
Third Amended and Restated Joint & Cooperative Agreement  
For Public Safety Purchasing**

The party listed below has read, agreed to and executed this Agreement as of the date of attestation shown below.

**CITY OF DULUTH**

By:

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Date Attested: \_\_\_\_\_

Countersigned:

\_\_\_\_\_  
City Auditor

Approved as to form:

\_\_\_\_\_  
City Attorney