

**RESOLUTION NO. 1501
CITY OF PRINEVILLE, OREGON**

**A RESOLUTION APPROVING A COOPERATIVE SERVICE AGREEMENT WITH
CROOK COUNTY FAIRGROUNDS**

Whereas, the City of Prineville (“City”) and Crook County, a political subdivision of the State of Oregon, acting on behalf of the Crook County Fairgrounds, (“Fairgrounds”); each are owners of certain vehicles and equipment such as, but not limited to, tractors, backhoes, excavators, dump trucks, tractors, pumps, maintenance trucks, sewer cameras, and graders, hereinafter collectively referred to as “equipment” that City and Fairgrounds are desirous of exchanging on a temporary basis for the other’s use; and


Whereas, City and Fairgrounds wish to have an agreement that delineates the responsibilities and liabilities of each party in relation to their use of the equipment; and

Whereas, City staff and Fairgrounds staff have negotiated an Agreement regarding the equipment; and

Whereas, City staff believes it is in the best interest of the City to approve and execute this agreement.


NOW, THEREFORE, the City of Prineville resolves that the Agreement between the City and Fairgrounds attached hereto is approved and the Mayor is authorized and directed to sign the agreement.

Approved by the City Council this 27th day of July, 2021.



Rodney J. Beebe, Mayor

ATTEST:



Lisa Morgan, City Recorder

COOPERATIVE SERVICE AGREEMENT

PARTIES:

City of Prineville
387 NE Third Street
Prineville, OR 97754

(“City”)

Crook County
300 NE 3rd Street
Prineville, OR 97754

(“Fairgrounds”)

This Cooperative Service Agreement (“Agreement”) is entered into as the date set out below (the “Effective Date”) between the City of Prineville, a municipal corporation of the State of Oregon (“City”) and Crook County, a political subdivision of the State of Oregon, acting on behalf of the Crook County Fairgrounds, (“Fairgrounds”); each of City and Fairgrounds are “Party” and together the “Parties.”

RECITALS

- A. City and Fairgrounds are desirous of cooperating to provide each other with vehicles, equipment, and building space for the other’s use.
- B. The parties wish to memorialize their agreement and delineate responsibilities of each party in relation to the services provided.

AGREEMENT

NOW, THEREFORE, in consideration of the parties’ mutual obligations contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agrees as follows:

- 1. Term.** This Agreement shall commence on July 1, 2021, shall terminate on June 30, 2022, and shall automatically renew for annual one-year periods beginning on July 1st and terminating on the next subsequent June 30th, unless otherwise terminated by either party upon the giving of 30 days written notice to the other party.
- 2. Termination.** This Agreement may be terminated by either party upon written notice to the other party of its intention to terminate thirty (30) days prior to the effective date of termination.
- 3. Services.**
 - a. Each party agrees to provide the other, upon reasonable notice as defined heretoafter, certain vehicles and equipment which shall include but not be limited to the following: tractors, backhoes, excavators, dump trucks, tractors, pumps, maintenance

trucks, sewer cameras, and graders, hereinafter collectively referred to as "Equipment." Additionally, each party agrees to provide the other, upon reasonable notice as defined heretofore, access to building space owned by the other, hereinafter referred to as "Space."

- b. The Party receiving the equipment shall take proper precaution in its operation, storage and maintenance. Equipment shall be used only for its intended purpose. The Party using the equipment shall permit the equipment to be used only by properly trained, properly licensed, and supervised operators. The Party using the equipment shall be responsible for equipment repairs necessitated by misuse or negligent operation. The Party using the equipment shall not be responsible for scheduled preventive maintenance (P.M.) unless equipment hours used exceeds the P.M. schedule periods and has been agreed by the Party providing the equipment. The Party using the equipment shall perform and document required written maintenance checks prior to and after use and shall provide routine daily maintenance of equipment (i.e., fluid checks, lubricating, etc.) during the period in which the equipment is in that Party's possession.
- c. The Party providing the equipment shall endeavor to provide equipment in good working order and to inform the Party using the equipment of any information reasonably necessary for the proper operation of the equipment. The equipment is provided "as is", with no representation or warranties as to its condition or its fitness for a particular purpose. The Party using the equipment shall be solely responsible for selecting the proper equipment for its needs and inspecting equipment prior to use. It is acknowledged by the Parties that the Party providing the equipment is not in the business of selling, leasing, renting or otherwise providing equipment to others and that the Parties are acting only for their mutual convenience and efficiency.

4. Notice. Each party shall provide the other with notice of its intention to utilize the other's equipment or space. Each party shall have the right to deny the other the use of its equipment or space; however, such denial shall not be unreasonable.

5. Insurance. Each party shall maintain insurance or self-insurance sufficiently adequate to protect such party from any liability arising from or relating to such party's obligation under this agreement.

6. Responsibility for Damage or Loss/Indemnification. City is not responsible for any damages or loss not related to City's acts or omissions while a City vehicle or equipment is in the custody or control of Fairgrounds. Fairgrounds is not responsible for any damages or loss not related to Fairgrounds' acts or omissions while a Fairgrounds vehicle or equipment is in the custody or control of City. Each party agrees to indemnify, defend, and hold harmless the other from all claims, lawsuits, and actions of whatever nature brought against it which arise as a result of a party having custody or control of the equipment of the other or for any actions or claims arising out of a Party's use of the other's space. This provision is subject to the limitation, if applicable, set forth in Article XI, Section 10 of the Oregon Constitution and in the Oregon Tort Claims Act, ORS 30.260 to 30.300; provided however, liability of the party having custody or control of the equipment of the other, or for actions or claims arising out of a Party's use of the other's space, its officers, employees or agents acting within the scope of their employment or

duties on claims within the scope of Oregon Revised Statutes (ORS) 30.260-30.300 shall not exceed the limits as described in ORS 30.272.

7. **Warranties.** Each party expressly disclaims all warranties related to the services provided under this Agreement, whether express or implied, including the implied warranties of merchantability and fitness for a particular purpose.

8. **Employment Status.** It is mutually understood and agreed by and between the parties hereto that neither this Agreement nor any services performed hereunder shall constitute any change in the employment status of any employees of the parties to this Agreement. It is additionally understood and agreed that neither party shall have the right to control or direct the activities of any employee of the other during the performance of any services under this Agreement. Each of the parties shall, at its own expense, keep in full force and effect during the terms of this Agreement, statutory workers' compensation insurance or adequate self-insurance funds to provide coverage for its own personnel.

9. **Amendment.** This Agreement shall not be amended except by a writing signed by both parties.

10. **Entire Agreement.** This Agreement shall constitute the entire agreement of the parties regarding the subject matter hereof and shall supersede all prior or contemporaneous agreements, proposals, negotiations, understandings, representations and all other communications, both oral and written, between the parties, including any additional or different terms or conditions as may be set out in any order form or other document submitted by one party to the other.

11. **Officials Not to Benefit.** No elected official or employee of City or Fairgrounds shall be personally paid or personally receive directly or indirectly any share or part of this Agreement or any benefit that might arise therefrom.

12. **Venue and Governing Law.** Venue for any and all legal actions regarding the transactions covered herein shall lie in the Circuit Court in and for the County of Crook, State of Oregon, and this Agreement shall be governed by the laws of the State of Oregon.

13. **Notices.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage prepaid, or by email if the recipient provides confirmation, addressed to the party to whom such notice is to be given at the address set forth below, or at such other address as has been previously furnished in writing to the other party.

City: Eric Klann, City Engineer
City of Prineville
387 NE Third Street
Prineville, OR 97754
eklann@cityofprineville.com

