

**PARTICIPATING ADDENDUM  
NASPO ValuePoint**

**IMMEDIATE NEED AFTERMARKET AUTOMOTIVE PARTS**

Administered by the State of Oklahoma (hereinafter "Lead State")

**MASTER AGREEMENT**

**Master Agreement No: #0900006747**

**O'Reilly Auto Enterprises, LLC dba O'Reilly Auto Parts  
(hereinafter "Contractor")**

and

**State of Washington  
(hereinafter "Participating State")**

**Washington Master Contract No.: 03718**

This Participating Addendum for the above referenced Master Agreement ("Participating Addendum") 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 O'Reilly Auto Enterprises, LLC, an affiliated entity under common ownership and control with O'Reilly Automotive Stores Inc. dba O'Reilly Auto Parts ("Contractor") and is dated and effective as of August 24, 2018.

1. **SCOPE:** This Participating Addendum covers Immediate Need Aftermarket Automotive Parts led by the State of Oklahoma for use by state agencies and other entities located in the Participating State authorized by that state's statutes to utilize state contracts with the prior approval of the State's chief procurement official.
2. **PARTICIPATION:** Use of specific NASPO ValuePoint cooperative contracts by agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use state contracts are subject to the prior approval of the respective State chief procurement official. Issues of interpretation and eligibility for participation are solely within the authority of the State chief procurement official. Pursuant to this Participating Addendum, the Master Agreement may be utilized by the following ("Purchasing Entities"):
  - (a) **WASHINGTON STATE AGENCIES.** Washington state agencies, departments, offices, divisions, boards, and commission; and any the following institutions of higher education in Washington: state universities, regional universities, state college, community colleges, and technical colleges.
  - (b) **MCUA PARTIES.** The Master Agreement also may be utilized by any of the following types of entities that have executed a Master Contract Usage Agreement (MCUA) with Enterprise Services:
    - Political subdivisions (e.g., counties, cities, school districts, public utility districts);
    - Federal governmental agencies or entities;
    - Public-benefit nonprofit corporations (i.e., § 501(c) (3) nonprofit corporations that

receive federal, state, or local funding); and

- Federally-recognized Indian Tribes located in the State of Washington.

**3. PARTICIPATING STATE MODIFICATIONS OR ADDITIONS TO MASTER AGREEMENT:**

3.1. **WASHINGTON'S ELECTRONIC BUSINESS SOLUTIONS (WEBS) SYSTEM:** Within seven (7) days of execution of this Participating Addendum, Contractor shall register in the Washington State Department of Enterprise Services' Electronic Business Solutions (WEBS) System at <https://fortress.wa.gov/ga/webs/>. Contractor shall ensure that all of its information therein is current and accurate and that, throughout the term of the Master Agreement, Contractor shall maintain an accurate profile in WEBS.

3.2. **WASHINGTON'S STATEWIDE PAYEE DESK:** To be paid for contract sales, Contractors must register with Washington's Statewide Payee Desk. Washington state agencies cannot make payments to a contractor until it is registered. Registration materials are available here: [Receiving Payment from the State](#).

3.3. **CONTRACT SALES REPORTING.** Contractor shall report total contract sales for participating members within the State of Washington quarterly to Enterprise Services, as set forth below.

(a) **REPORTING.** Contractor shall report quarterly Contract sales in Enterprise Services' [Contract Sales Reporting System](#). Enterprise Services will provide Contractor with a login password and a vendor number.

(b) **DATA.** Each sales report must identify every authorized Purchasing Entity by name as it is known to Enterprise Services and its total combined sales amount invoiced during the reporting period (i.e., sales of an entire agency or political subdivision, not its individual subsections). The "Miscellaneous" option may be used only with prior approval by Enterprise Services. Upon request, Contractor shall provide contact information for all authorized Purchasing Entities specified herein during the term of this Participating Addendum. Refer sales reporting questions to the Primary Contact set forth below. If there are no contract sales during the reporting period, Contractor must report zero sales.

(c) **DUE DATES FOR CONTRACT SALES REPORTING.** Quarterly Contract Sales Reports must be submitted electronically by the following deadlines for all sales invoiced during the applicable calendar quarter:

For Calendar Quarter Ending	Contract Sales Report Due
March 31	April 30
June 30	July 31
September 30	October 31
December 31	January 31

3.4. **VENDOR MANAGEMENT FEE:** Contractor shall pay to Enterprise Services a vendor management fee ("VMF") of 1.5 percent on the purchase price for all contract sales (the purchase price is the total invoice price less applicable taxes, returns, credits and adjustments).

(a) The sum owed by Contractor to Enterprise Services as a result of the VMF is calculated as follows:

Amount owed to Enterprise Services = Total contract sales invoiced (not including taxes, returns, credits and adjustments) x .01500.

- (b) The VMF must be rolled into Contractor's current pricing. The VMF must not be shown as a separate line item on any invoice unless specifically requested and approved by Enterprise Services.
- (c) Enterprise Services will invoice Contractor quarterly based on contract net sales reported by Contractor. Contractor shall not remit payment until it receives an invoice from Enterprise Services. Contractor's VMF payment to Enterprise Services must reference the following:
  - This Washington Master Contract No.: 03718
  - The NASPO Master Agreement No.: 0900006747
  - The year and quarter for which the VMF is being remitted, and
  - Contractor's name as set forth in this Contract, if not already included on the face of the check.
- (d) Contractor's failure to accurately and timely report total net sales, to submit usage reports, or remit payment of the VMF to Enterprise Services, may be cause for suspension or termination of this Participating Addendum or the exercise of any other remedies as provided by law.
- (e) Enterprise Services reserves the right, upon thirty (30) days advance written notice, to increase, reduce or eliminate the VMF for subsequent purchases; provided however, that any such VMF change shall result in a proportionate change to contractor's price. Any increase to the VMF must be agreed to in writing by Contractor before such increase will be binding on Contractor.

**3.5. CONTRACTOR REPRESENTATIONS AND WARRANTIES.** Contractor makes each of the following representations and warranties as of the effective date of this Participating Addendum and at the time any order is placed pursuant to the Master Contract. If, at the time of any such order, Contractor cannot make such representations and warranties, Contractor shall not process any orders and shall, within three (3) business days notify Enterprise Services, in writing, of such breach.

- (a) **WAGE VIOLATIONS.** Contractor represents and warrants that, during the term of this Master Contract and the three (3) year period immediately preceding the award of the Master Contract, it is not determined, by a final and binding citation and notice of assessment issued by the Washington Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction, to be in willful violation of any provision of Washington state wage laws set forth in RCW chapters 49.46, 49.48, or 49.52.
- (b) **PAY EQUALITY.** Contractor represents and warrants that, as required by Washington state law (Laws of 2017, Chap. 1, § 147), during the term of the Master Contract for the time period of July 1, 2017 through June 30, 2019, it agrees to equality among its workers by ensuring similarly employed individuals are compensated as equals. For purposes of this provision, employees are similarly employed if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed. Contractor may allow differentials in compensation for its workers based in good faith

on any of the following: a seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels. A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience, that is: consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential. A bona fide regional difference in compensation level must be consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential. Notwithstanding any provision to the contrary, upon breach of warranty and Contractor's failure to provide satisfactory evidence of compliance within thirty (30) days, Enterprise Services may suspend or terminate this Participating Addendum and Master Contract and any purchaser hereunder similarly may suspend or terminate its use of the Master Contract and/or any agreement entered into pursuant to this Participating Addendum.

- 3.6. **COMPLIANCE WITH LAW; TAXES, LICENSES, & REGISTRATION:** Contractor shall comply with all applicable law. Contractor shall register to conduct business in the State of Washington and promptly acquire and maintain all necessary licenses and registrations and pay all applicable taxes and fees. In addition, for all sales to purchasers in the State of Washington, Contractor shall calculate, collect, and remit, as appropriate, the applicable state and local sales tax on all invoices.
- 3.7. **INVOICING:** In addition to Master Agreement Section "Invoicing," Contractor shall identify the following information on an invoice:
- (a) Washington State Master Contract No. 03718
  - (b) Purchaser Information such as name, address, telephone number and/or email
- 3.8. **AUTO PARTS PRODUCT LINE CLARIFICATION:** Contractor shall provide the following lines of products at the current category discounts:
- (a) Passenger vehicles
  - (b) Light, medium, and heavy duty trucks
  - (c) Off road construction vehicles and equipment
  - (d) Transit Vehicles and equipment
  - (e) Agricultural vehicles and equipment
  - (f) Warehouse vehicles and equipment
  - (g) Marine drive train vehicles and equipment
- 3.9. **DELIVERY SCHEDULES:** In addition to Master Agreement Section G Administrative Requirements Worksheet, 6.26 "Delivery," Contractor shall use commercially reasonable efforts, subject to safe and responsible driving practices, to endeavor to ensure 98% on time delivery of standard in-stock vehicle parts. Contractor will endeavor to deliver standard in-stock items to locations within five (5) miles from commercial servicing locations within forty-five (45) minutes. Delivery outside the five (5) mile range but within twenty (20) miles will be accomplished by a scheduled delivery. Delivery outside of a twenty (20) mile radius

may be unavailable. Should changes to the delivery schedule arise, Contractor shall immediately notify the purchaser and arrive at an alternate mutually agreeable delivery option. Contractor shall arrive at mutually agreeable delivery options for non-standard, out of stock or specially ordered items.

3.10. **EXTENDED RETURNS AND CREDITS:** In addition to Master Agreement Section G Administrative Requirements Worksheet, 6.30 "Return Policy," and 6.31 "Credit Policy," Contractor agrees that any products purchased through this contract within the past six (6) months may be returned for full credit and without any fees such as restocking, return shipping, etc.; provided they are unused, undamaged in original cartons or packaging and are in re-salable condition. Contractor will not impose a restocking fee for returned items that were shipped incorrectly, damaged upon receipt or returned and exchanged for another item.

3.11. **TECHNICAL ASSISTANCE AND SUPPORT:** Contractor's authorized dealer network shall provide technical assistance and guidance to the purchaser as necessary to obtain timely, accurate, and cost effective products for vehicle/equipment maintenance and repair needs.

4. **DIVERSE BUSINESS INCLUSION:** Enterprise Services is committed to providing the maximum practicable opportunity for small and diverse businesses to participate in state contracting opportunities. Diverse businesses are defined in WEBS as follows: small business, microbusiness, minibusiness, Washington State Office of Minority and Women's Business Enterprises (OMWBE) certified minority owned (MBE) or women owned business (WBE), or Washington Department of Veterans Affairs (DVA) certificated veteran-owned business. Upon request, for the purposes of this Master Contract, Contractor shall report to Enterprise Services its contract spend with small and certified diverse businesses, if any. Such reports shall include the period covered, the authorized dealer, and sales amount by Purchasing entity to such Authorized Dealer. Contractors are encouraged to utilized appropriate business strategies to increase contracting opportunities for small and diverse businesses. Such strategies include but are not limited to subcontractors, authorized dealer networks, etc.

5. **LEASE AGREEMENTS:** Leasing, renting, or purchasing equipment through lease agreements, is not allowed throughout the term of the Master Agreement.

6. **PRIMARY CONTACTS:** The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor	Participating State
O'Reilly Auto Parts PO Box 1156 Springfield, MO. 65301	State of Washington Department of Enterprise Services Contracts & Procurement Division P.O. Box 41411 Olympia, WA 98504-1411
Attn: Roanen Barron Tel: (417) 829 – 5879 Email: <a href="mailto:probids@reillyauto.com">probids@reillyauto.com</a>	Attn: Lana Gunaratne-Graham Tel: (360) 407 - 9360 Email: <a href="mailto:lane.gunaratne-graham@des.wa.gov">lane.gunaratne-graham@des.wa.gov</a>

7. **AUTHORIZED DEALERS:** All Contractor's Distributors (authorized dealers) authorized in the State of Washington, as shown in Authorized Dealer List for Immediate Need Aftermarket Automotive Parts

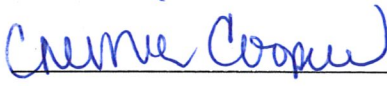
on the dedicated Washington State contracts website, Washington's Electronic Business Solutions (WEBS), are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. The Contractor's Distributor's participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement. Contractor shall cooperate with Enterprise Services and NASPO to add such authorized dealers to the Contractor website. Each such authorized dealer is approved to accept orders, subject to the terms and condition of the Master Agreement and this Participating Addendum. In the event of any disputes between an authorized dealer and Purchasing Entity, Contractor shall investigate, consult with Participating State and the Purchasing-Entity, Contractor shall investigate, consult with Participating State and the Purchasing Entity, Contractor shall investigate, consult with Participating State and the Purchasing Entity as appropriate, and shall use commercially reasonable efforts to resolve the dispute. In the event the dispute cannot be resolved satisfactorily, Enterprise Services reserves the right to remove the authorized dealer from further work pursuant to this Participating Addendum. Notwithstanding any provision to the contrary, Contractor is responsible to report sales and pay the vendor management fee, timely, and shall ensure that its authorized dealers enable it to do so. Any authorized dealers enable it to do so. Any authorized dealer receiving payment for services under the Master Agreement, pursuant to this Participating Addendum, is required to register with the Statewide Payee Desk (see Section 3.2 above).

8. **ORDERS:** Unless the parties to the Order agree in writing that another contract or agreement applies to such order, any Order placed by a Participating Entity or Purchasing Entity for a Product and/or Service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions of) the Master Agreement as conditioned by this Participating Addendum.
9. **GENERAL:**
  - (a) **INTEGRATED AGREEMENT; MODIFICATION.** This Participating Addendum and Master Agreement, together with its exhibits, set forth the entire agreement and understanding of the Parties with respect to the subject matter and supersedes all prior negotiations and representations. This Participating Addendum may not be modified except in writing signed by the Parties.
  - (b) **AUTHORITY.** Each party to this Participating Addendum, 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 Participating Addendum and that its execution, delivery, and performance of this Participating Addendum has been fully authorized and approved, and that no further approvals or consents are required to bind such party.
  - (c) **ELECTRONIC SIGNATURES.** A signed copy of this Participating Addendum or any other ancillary agreement transmitted by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Participating Addendum or such other ancillary agreement for all purposes.

- (d) COUNTERPARTS. This Participating Addendum may be executed in one or more 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 Participating Addendum 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 Participating Addendum.

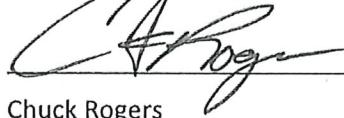
EXECUTED as of the date and year first above written.

STATE OF WASHINGTON  
DEPARTMENT OF ENTERPRISE SERVICES

By:   
Corinna Cooper

Its: Goods and Services, Procurement Manager

O'REILLY AUTO ENTERPRISES, LLC, DBA O'REILLY AUTO  
PARTS, A DELAWARE LIMITED LIABILITY COMPANY

By:   
Chuck Rogers

Its: Vice President, Professional Sales

