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**AGREEMENT 5080
STATEWIDE WORK ZONE ENFORCEMENT and TRAFFIC CONTROL ASSISTANCE
AGREEMENT BETWEEN WSDOT and WSP**

THIS AGREEMENT is made and entered into this 22 day of FEBRUARY 2007, by and between the State of Washington, Department of Transportation, hereinafter called the "WSDOT," and the Washington State Patrol, hereinafter called the "WSP," referred to collectively as the "PARTIES" and individually as the "PARTY."

WHEREAS, WSDOT and the WSP first entered into Agreement GC 9131 on July 1, 1991 for the purpose of having WSP provide traffic control in WSDOT work zones, and

WHEREAS, GC 9131 needs to be superseded to reflect the PARTIES current agreement, and

WHEREAS, WSDOT, as it deems necessary, desires WSP to provide traffic control in work zones where project work may disrupt the smooth flow of traffic, increase the risk of crashes to the traveling public, and/or increase hazards to roadway workers, and

WHEREAS, WSDOT may not at times have sufficient trained personnel in traffic control available to provide the needed traffic control for safe highway project operations for the benefit of the traveling public and roadway workers, and

WHEREAS, WSDOT does not have the authority to enforce traffic laws, and

WHEREAS, WSP is also concerned with the safety of the traveling public and roadway workers and agrees to provide the additional traffic control as needed by the WSDOT and as provided under this AGREEMENT, and

WHEREAS, the PARTIES deem it to be in the public's best interest for WSP to be present in the work zones to enforce traffic laws and to assist WSDOT with traffic control when requested by the WSDOT,

NOW, THEREFORE, by virtue of chapter 39.34 RCW, and in consideration of the terms, conditions, covenants and performance contained herein,

IT IS MUTUALLY AGREED AS FOLLOWS:

1. WSP RESPONSIBILITIES

1.1 WSP agrees to furnish uniformed officers, vehicles and associated equipment to assist the WSDOT in traffic control operations, hereinafter the "WORK," when requested by WSDOT. The WORK to be assigned to WSP under this AGREEMENT may include, but is not limited to, the following: work zone traffic enforcement; rolling slowdowns; flagging; controlling pedestrians, spectators and participants; controlling signalized intersections; and controlling traffic in restricted lane situations and/or providing support during ramp, lane or road closures.

1.2 The officers provided by WSP, under the terms of this AGREEMENT, shall be under the sole direction, management and control of the Chief of the WSP or his/her designee and shall perform the WORK required by this AGREEMENT in a manner consistent with WSP policy and regulations, applicable state and local laws, and the Constitutions of the State of Washington and the United States.

1.3 The assignment of uniformed officers to accomplish the WORK under this AGREEMENT shall be at the discretion of the Chief of the WSP or his/her designee.

2. SCOPE OF WORK

2.1 The PARTIES agree to enter into separate Task Assignments for the WORK performed under the terms of this AGREEMENT. WSDOT may assign WORK to the WSP only as authorized by an agreed upon and executed Task Assignment. Task assignments shall be made in writing and shall at a minimum include: date, time, and location of WORK; number of personnel and type of equipment needed; estimated hours per day required; estimated number of days required; and name, location and phone number of WSDOT contact in charge of the WORK. WSDOT Traffic Manual (M51-02) outlines the process for developing the Task Assignment.

2.2 If time or circumstances do not permit preparation of a written Task Assignment *prior* to the start of WORK, WSDOT may verbally authorize WSP to proceed with WORK and document this authorization in a written Task Assignment within 72 hours after the verbal authorization is given. The PARTIES agree that the terms and conditions of this AGREEMENT shall be in full force and effect with any verbal authorization to start WORK prior to entering into a written Task Assignment.

3. PAYMENT AND RECORDS

3.1 WSDOT, in consideration of faithful performance of the WORK to be performed by WSP, agrees to reimburse WSP for the actual direct and related indirect costs in accordance with a work order accounting procedure as prescribed and approved by the Office of Financial Management for all reimbursable work requested by WSDOT.

3.2 Costs for WORK under this AGREEMENT are likely to be included in requests to the Federal Highway Administration for reimbursement of project costs; therefore, WSP agrees to follow the rules of the Office of Management and Budget (OMB) Circular A-87. In particular, WSP shall follow A-87, regarding equitable distribution of indirect costs and the provisions for costs of Interagency Services (sections F and G of A-87). All labor costs billed to WSDOT by WSP shall comply with WSP regulations and policies relating to employee compensation.

3.3 WSP may make requests for payment at any time, but such requests shall not be more frequent than once per month. Payment shall be made by WSDOT to WSP within (30) days following the date the invoice is received.

3.4 WSP agrees to submit a final invoice to WSDOT within sixty (60) days after notification by WSDOT that WSP's services for the WORK under a Task Assignment are no longer required.

3.5 WSDOT will reimburse WSP for actual hours worked by WSP officers or a minimum of 2 overtime hours for each WSP officer called out from an off-duty status to provide WORK under this AGREEMENT. WSDOT will reimburse WSP for overtime salaries and benefits; indirect costs at WSP's federally approved current indirect rate; and mileage at WSP's current rate. Two examples of the overtime cost rates for staff typically assigned to this type of WORK are as follows:

WSP Trooper (w/ 10 years service):

O.T. rate w/ 35% Indirect Costs (i.e. overhead) \$60.31

WSP Sergeant (w/ 15 years service):

O.T. rate w/35% Indirect Costs (i.e. overhead) \$70.74

3.6 WSP will be paid mileage for its vehicles at WSP's approved rate which is currently \$0.48/mile. WSDOT acknowledges that the WSP approved rate is higher than the Office of Financial Management approved mileage rate for privately owned vehicles.

3.7 For the purposes of estimating costs of providing the requested WORK, the all inclusive (labor, vehicle, mileage) amount of \$75.00 per hour shall be used when preparing WORK estimates.

3.8 During the progress of the WORK and for a period of not less than three (3) years from the date of the final Task Assignment payment to the WSP, the records and accounts pertaining to the WORK under this AGREEMENT and accounting therefore are to be kept available for inspection and audit by WSDOT and/or the Federal Government and copies of all records, accounts, documents, or other data pertaining to this AGREEMENT WORK shall be furnished upon request. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claim, or audit finding has been resolved even though such litigation, claim, or audit continues past the 3-year retention period.

4. EXTRA WORK AND AMENDMENTS

4.1 In the event unforeseen conditions require an increase in the costs of a specific Task Assignment by twenty-five percent (25%) or more, or a change in scope of the WORK to be accomplished in connection with a specific Task Assignment is required, the PARTIES agree to amend the Task Assignment in writing to cover the increase or change.

5. AGENCY REPRESENTATIVES

5.1 WSDOT's representative under this AGREEMENT shall be the Region Administrator of the WSDOT Region for which the WORK is being performed or an appointed representative; except in the case of oversize loads, WSDOT's representative shall be located at WSDOT Headquarters Maintenance and Operations Division in Olympia. These representatives shall be responsible for requesting the WSP provide WORK and shall be responsible for verifying and processing billings for payment. WSP's representative shall be the Headquarters Duty Officer or his/her designee.

6. ADMINISTRATION OF WORK

6.1 WSDOT shall follow the requirements of WSDOT's policy and procedures contained in the WSDOT Traffic Manual Chapter 5 throughout the process of assigning, implementing and compensating for WSP traffic control. Task Assignments must be authorized by the designated WSDOT manager prior to beginning work or within 72 hours for unforeseen or emergency conditions.

7. TERMINATION

7.1 Either PARTY to this AGREEMENT may terminate this AGREEMENT by giving thirty (30) days written notice to the other PARTY. In the event that this AGREEMENT is terminated, such termination shall also terminate all outstanding Task Assignments. The WSP shall be entitled to recover its costs as provided under this AGREEMENT for WORK provided up until the termination date of this AGREEMENT and any Task Assignment.

7.2 WSDOT will initiate a biennial review of this AGREEMENT to ensure that it is kept current.

8. GENERAL PROVISIONS

8.1 Independent Contractor: WSP shall be deemed an independent contractor for all purposes under the terms of this AGREEMENT or any Task Assignment. WSP officers and employees shall not be deemed employees, agents or representatives of WSDOT.

8.2 Amendment: This AGREEMENT may be amended by the mutual agreement of the PARTIES. Such amendment or modifications shall not be binding unless they are in writing and signed by persons authorized to bind each of the PARTIES.

8.3 Disputes Resolution: In the event that a dispute arises under this AGREEMENT which cannot be resolved between the PARTIES, the dispute shall be settled in the following manner: Each PARTY to this AGREEMENT shall appoint a member to a dispute board. The members so appointed shall jointly appoint a third member to the

dispute board who is not employed by or affiliated in any with the two PARTIES to this AGREEMENT. The dispute board shall evaluate the facts, contract terms, and applicable statutes and rules and make a determination of the dispute. The determination of the dispute board shall be final and binding on the PARTIES hereto All costs associated with the appointment of the third party to the disputes board shall be split evenly between the two PARTIES. As an alternative to this process, either of the PARTIES may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

8.4 Venue: In the event that a PARTY deems it necessary to institute legal action or proceedings to enforce any right or obligation under this AGREEMENT, the PARTIES hereto agree that any such action or proceedings shall be brought in Thurston County Superior Court.

IN WITNESS WHEREOF, the PARTIES hereto have executed this AGREEMENT as of the day and year first above written.

WASHINGTON STATE PATROL

WASHINGTON STATE DEPARTMENT
OF TRANSPORTATION

Paul S. Beckley
Signature

Ted Trepanier
Signature

Name _____ Date 1-27-07

Name TED TREPANIER Date 2/22/07

Approved as to form
1/17 2007

Approved as to form
12-22 2006

BY: [Signature]
Assistant Attorney General

BY: [Signature]
Assistant Attorney General