

CHRISTINE O. GREGOIRE  
Governor



JOHN R. BATISTE  
Chief

STATE OF WASHINGTON  
WASHINGTON STATE PATROL

General Administration Building • PO Box 42600 • Olympia, WA 98504-2600 • (360) 596-4000 • [www.wsp.wa.gov](http://www.wsp.wa.gov)

June 23, 2009

Chief Dan Smith  
N Kitsap Fire & Rescue  
26642 Miller Bay Road NE  
Kingston WA 98346

Dear Chief Smith:

Subject: WSP Agreement No. C091015GSC – Fire Training Academy Facility Use

Enclosed with this letter is one fully executed original of the referenced agreement between the Washington State Patrol and your organization. Please keep this original for your records.

The Washington State Patrol contract tracking number is the agreement number referenced above; please use this number on all correspondence regarding this agreement. If you need further assistance, please contact Ms. Pat Hill, Budget and Fiscal Services, at (360) 596-4076.

Sincerely,

CHIEF JOHN R. BATISTE

*Patricia Hill*  
for:

Mr. Jeffrey R. Hugdahl  
Budget and Fiscal Services

JRH:pgh  
Enclosure

<b>WASHINGTON STATE PATROL</b> <b>Fire Training Academy Facility Use Agreement</b>	WSP Agreement No. <b>C091015GSC</b>
	Other Agreement No.

This Agreement is between the State of Washington, Washington State Patrol and the Organization identified below.

<b>ORGANIZATION NAME</b>	
<b>N Kitsap Fire &amp; Rescue</b>	
Organization Location Address 26642 Miller Bay Road NE Kingston WA 98346	Organization Billing Address (if different from location address)
Organization Contact Name Chief Dan Smith	Organization Contact Telephone (360) 297-3619
Organization Contact Fax (360) 297-2653	Organization Contact E-mail Address


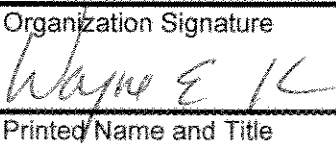
<b>WSP Contact Information</b>		
WSP Project Manager Name and Title Frank Garza Fire Training Academy Administrator	WSP Project Manager Address WSP Fire Training Academy 50810 SE Grouse Ridge Road/PO Box 1273 North Bend WA 98045	
Telephone (425) 453-3000	Fax (425) 888-3060	E-mail Address Frank.Garza@wsp.wa.gov
WSP Administrative Contact Name and Title Mr. Jeff Hugdahl Grants and Contracts Manager	WSP Administrative Contact Address PO Box 42602 Olympia WA 98504-2602	
Telephone (360) 596-4052	Fax (360) 596-4077	E-mail Address jeff.hugdahl@wsp.wa.gov

<b>Agreement Start Date</b> <b>July 30, 2009</b>	<b>Agreement End Date</b> <b>July 29, 2014</b>
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ATTACHMENTS. The following Exhibits are attached to and incorporated into this Agreement by reference:

- General Terms and Conditions
- Exhibit A, WSP Fire Training Academy Facility Use Regulations
- Exhibit B, Individual Release of Civil Claims and Indemnity Agreement

This Agreement, including the attached Terms and Conditions and any other documents incorporated by reference, contains all of the terms and conditions agreed upon by the parties. No other understandings or representations, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind the parties. The parties signing below warrant that they have read and understand this Agreement and have the authority to enter into this Agreement.

<b>FOR THE WASHINGTON STATE PATROL:</b>		<b>FOR THE ORGANIZATION:</b>	
WSP Signature 	Date 4/29/09	Organization Signature 	Date 06/20/09
FOR: John R. Batiste, Chief		Printed Name and Title Wayne E. Kie, Assistant Chief	

APPROVED AS TO FORM BY THE OFFICE OF THE ATTORNEY GENERAL 3/30/2004

## General Terms and Conditions

- 1. Statement of Work.** Based on availability, WSP shall provide the use of its WSP Fire Training Academy facilities and other services to the Organization as requested. These facilities and services include:
  - Classroom use
  - Hazardous Materials Prop
  - Flammable Liquids Prop
  - Burn Tower
  - Search and Rescue Prop
  - Ship and Aircraft Props
  - Instructors for various subjects

The Organization acknowledges that WSP shall not tolerate unruly behavior, including but not limited to, horseplay or roughhousing. The Organization and its members shall make every effort to ensure their own safety and the safety of others. If WSP determines that this section has been violated by the Organization, WSP may stop all Organization training taking place under this Agreement, order the Organization off of WSP premises, and restrict the Organization from the use of WSP facilities in the future.

- 2. Registration for Use of Facilities.** The Organization must make all requests no less than five (5) business days in advance of facility use. The Organization shall make requests to use specific facilities available at the WSP Fire Training Academy to the WSP Project Manager identified on Page 1 of this Agreement. The Organization shall make this request in writing, and must provide the following information to WSP:
  - This Facility Use Agreement Number
  - The facility being requested
  - The dates/times the facility will be needed
  - The type of training the Organization will conduct
  - The number of students and trainers participating in the training
  - An Organization point of contact for this use

If available, WSP shall notify the Organization in writing in order to confirm the Organization's use of the requested facility. WSP reserves the right to cancel any registration, however WSP shall notify the Organization of any such cancellations as soon as possible.

- 3. Facility Regulations.** The Organization shall follow WSP Fire Training Facility Use Regulations while using WSP facilities under this Agreement. The *WSP Fire Training Academy Facility Use Regulations* are attached as Exhibit A to this Agreement. Additionally, each individual participating in the Organization's use of WSP Fire Training Academy facilities shall sign a *Release of Civil Claims and Indemnity Agreement* (Exhibit B) prior to facility use.
- 4. Fees.** The Organization shall reimburse WSP for services rendered under the terms of this Agreement according to rates and fees established in the WSP Fire Training Academy User Fee Study in effect at the time of the service. Organizations can obtain this study from the WSP Project Manager identified on Page 1 of this Agreement.
- 5. Payment for Services.** WSP shall bill the Organization no more than once per month in accordance with this Agreement. WSP shall send billings to the Organization billing address identified on Page 1 of this Agreement. The Organization shall reimburse WSP within 30 days of receipt of billing from WSP.
- 6. Definitions.**

"Agreement" means this WSP Fire Training Academy Facility Use Agreement, including all documents attached or incorporated by reference, and any amendments executed in accordance with this Agreement.

"Organization" means the entity purchasing services under this Facility Use Agreement from WSP, and includes the Organization's officers, directors, trustees, employees and/or agents unless otherwise stated in this Agreement. For the purposes of this agreement, the Organization shall not be considered an employee or agent of WSP.

"Subcontractor" means one not in the employment of the Organization, who is performing all or part of the Organization's activities under this Agreement under a separate contract with the Organization.

"WSP" means the State of Washington, Washington State Patrol, federal employer identification number 91-6001127, and its officers, directors, trustees, employees and/or agents. For the purposes of this agreement WSP shall not be considered an employee or agent of the Organization.

- 7. Assignment.** The work to be provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express written consent of the other party.

## General Terms and Conditions

8. **Agreement Alterations and Amendments.** WSP and the Organization may mutually amend this Agreement. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind WSP and the Organization.
9. **Compliance with Civil Rights Laws.** During the period of performance for this Agreement, both parties shall comply with all federal and state nondiscrimination laws.
10. **Disputes.** In the event that a dispute arises under this Agreement, it shall be determined in the following manner: The Chief of WSP shall appoint one member to the Dispute Board. The Organization shall appoint one member to the Dispute Board. The Chief of WSP and the Organization shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall evaluate the dispute and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on the parties hereto. If applicable and 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.
11. **Governing Law.** This Contract shall be governed in all respects by the laws of the State of Washington. The jurisdiction for any action hereunder shall be the Superior Court for the State of Washington. The venue of any action hereunder shall be in the Superior Court for Thurston County, State of Washington.
12. **Indemnification.** To the fullest extent permitted by law, the Organization shall indemnify, defend and hold harmless WSP, agencies of WSP and all officials, agents and employees of WSP, from and against all claims arising out of or resulting from the performance of the contract. "Claim" as used in this agreement means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease or death, or injury to or destruction of tangible property including loss of use resulting therefrom. The Organization's obligation to indemnify, defend, and hold harmless includes any claim by the Organization's agents, employees, representatives, or any subcontractor or its employees. The Organization expressly agrees to indemnify, defend, and hold harmless WSP for any claim arising out of or incident to the Organization's or any Organization subcontractor's performance or failure to perform the contract. The Organization's obligation to indemnify, defend, and hold harmless WSP shall not be eliminated or reduced by any actual or alleged concurrent negligence of WSP or its agents, agencies, employees and officials.
13. **Maintenance of Records.** During the term of this Agreement and for six years following termination or expiration of this Agreement, both parties shall maintain records sufficient to document performance of all acts required by statute, regulation, rule, or this Agreement; substantiate the parties' statement of its organization's structure, tax status, capabilities and performance; and demonstrate accounting procedures, practices and records which sufficiently and properly document WSP's invoices to the Organization and all expenditures made by WSP to perform as required by this Agreement.
14. **Order of Precedence.** In the event of any inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order to: applicable federal and state law, regulations and rules; any other provision of this Agreement; and any document incorporated by reference.
15. **Personnel.** WSP employees performing work under the terms of this Agreement shall be under the direct command and control of the Chief of WSP or designee, and shall perform duties required under this Agreement in a manner consistent with WSP policy and regulations, and applicable federal, state and local laws. The assignment of WSP personnel under this Agreement shall be at the discretion of the Chief of WSP or designee.
16. **Responsibility for Property Damage.** The Organization shall be responsible for the actual costs for the repairs of any damage resulting from the Organization's misuse of any WSP facility under this Agreement.
17. **Severability.** If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.
18. **Termination.** Except as otherwise provided in this Agreement, either party may terminate this Agreement, in whole or in part, upon thirty (30) calendar days written notification. If this Agreement is so terminated, the terminating party shall be liable only for performance in accordance with the terms of this Agreement for performance rendered prior to the effective date of termination.
19. **Waiver.** A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in writing and signed by an authorized representative of the party and attached to the original Agreement.

## WSP FIRE TRAINING ACADEMY FACILITY USE REGULATIONS

### 1. General Rules for All Facilities

- a. Safety is the first concern while using WSP facilities. The Organization is responsible for ensuring that all training taking place through its use of Fire Training Academy facilities shall comply with Chapter 296-305 WAC (Safety Standards for Fire Fighters) and NFPA 1403.
- b. The Organization's Lead Instructor and/or Safety Officer shall ensure qualified basic life support providers are onsite and prepared to render aid if an injury or medical emergency occurs. The Organization or the Organization's Lead Instructor shall report all injuries to the WSP Administrative Building immediately, and submit a completed injury accident report to the Fire Training Academy prior to departure.
- c. The Organization must check in at the Fire Training Academy Administrative Building prior to beginning training.
- d. The Organization must ensure that all trash has been placed in appropriate trash containers, and that the facility configuration is returned to its original condition at the end of each day of use.
- e. No smoking is allowed except at designated sites.
- f. Alcoholic beverages and illegal drugs are not allowed at the WSP Fire Training Academy. WSP will dismiss from the premises any individual that, under the opinion of WSP, has a noticeable indication of alcohol on their breath or appears impaired by the use of illegal drugs.
- g. The Fire Training Academy Administrator or designee has the final say on determining if the Organization is complying with these Facility Use Regulations, and may suspend the Organization's use of WSP Fire Training Academy facilities if he/she determines that the Organization is not in compliance.

### 2. Classrooms

- a. No smoking is allowed in the classrooms.
- b. Place chairs on top of desks after the last class of the day.
- c. Ensure that all materials and trash are cleaned up at the end of the day.
- d. Do not open classroom windows or change thermostat control settings.

### 3. General Live Fire Training Rules

- a. Pre-Operational Checks. The Organization will ensure that all students have met the performance objectives of NFPA 1001, Standards for Fire Fighter Professional Qualifications. Each individual participating in the training must be equipped with a full complement of personal protective clothing and equipment that meets applicable NFPA standards. The Organization's Safety Officer will inspect all personal protective clothing and equipment to ensure that it is serviceable and in correct operating condition. Individuals with facial hair that interferes with the proper sealing of the SCBA facepiece will not be allowed to participate in training.
- b. Facility Inspection. Prior to conducting any training evolution, the Organization and Fire Training Academy staff must concurrently conduct a safety inspection of the props to be used during the training. The Organization's Lead Instructor and WSP Fire Training Academy staff will make the determination if the props are safe and ready for training.
- c. Water Supply. The Organization must establish at least two independent water sources for any live fire training evolutions. One source shall always be maintained as a backup supply and shall be ready to supply water instantaneously. All hydrants will be opened and closed per WSP Fire Training Academy operational procedures; any hydrant repair costs resulting from misuse will be passed on to the Organization.
- d. Rehab. The Organization must establish a safe rehab area away from the burn areas in use. The location of the rehab sector must provide students and instructors with an area free from smoke and contaminants in order to allow rest, fluid replenishment and health monitoring.

## WSP FIRE TRAINING ACADEMY FACILITY USE REGULATIONS (Continued)

### **Burn Building.**

- a. Fire shall only be started in areas designated for fire training evolutions. No fires shall be constructed in areas that will impede ingress or egress of the Burn Building.
- b. Only Class "A" materials (pallets, hay or excelsior) shall be used in the Burn Building. Absolutely no flammable or combustible liquids are to be used at any time.
- c. No student will be allowed to start or stoke any fires. Instructors responsible for igniting and stoking fires shall wear full personal protective equipment/self contained breathing apparatus, and will use Fire Training Academy provided torches.
- d. Fire loads are limited to three (3) pallets and will never exceed more than five (5) standard size pallets.
- e. At the conclusion of live fire training, the Burn Building shall be jointly inspected by Fire Training Academy staff and the Organization for any remaining fire and for physical damage. The Organization shall ensure that all unusable burned materials have been extinguished and properly discarded into a Fire Training Academy designated dumpster or area.

### **Flammable Liquid Props**

- a. Only Fire Training Academy certified instructors shall operate Flammable Liquid Prop control valves.
- b. Instructors responsible for igniting fires shall wear full personal protective equipment/self contained breathing apparatus, and will use Fire Training Academy provided torches.

### **Decontamination**

- a. All students and instructors must decontaminate themselves using the potable water supply at the apparatus bay.
- b. All Fire Training Academy supplied equipment must be cleaned and stored in the proper location. All Fire Training Academy supplied nozzles must be cleaned and washed after use per Fire Training Academy procedures. Damaged or inoperable equipment shall be red tagged with a description of damage/operation problem, and reported to Fire Training Academy maintenance personnel.

For and in consideration of being permitted to use Washington State Patrol facilities at the Washington State Patrol Fire Training Academy; and understanding I am in no way an employee or agent of the Washington State Patrol;

I, \_\_\_\_\_,  
(Please print your full name)

for myself, my heirs, assigns or other successors in interest, do hereby release and forever discharge the Washington State Patrol, the State of Washington, its officers, agents, employees, agencies and departments from any and all liability for all existing and future claims, damages, and causes of action of any nature whatsoever which I may have or which may cause injury to me or which may otherwise arise as a result of my being a permissive user of Washington State Patrol facilities, and I do hereby waive any claim against the Washington State Patrol, the State of Washington, its officers, agents, employees, agencies and departments for personal injuries, loss of service, or medical expenses of whatever nature which might arise during or as a result of my being a permissive user of Washington State Patrol facilities.

Furthermore, I do agree that I will forever protect, defend, hold harmless and indemnify the Washington State Patrol, the State of Washington, its officers, agents, employees, agencies and departments against any and all claims for damages, judgements, or liabilities by third persons that may occur as a direct or indirect result of my using Washington State Patrol facilities, including those resulting directly or indirectly from my acts or omissions, from the indemnitee's acts or omissions, or any combination thereof.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Signed: \_\_\_\_\_

Witness: \_\_\_\_\_