

INTERAGENCY AGREEMENT

Between the Washington State Patrol and the Washington State Department of Transportation

Tow Incentive Program for Heavy Truck Collisions

Description of Work: The Washington State Patrol will work cooperatively with the Washington State Department of Transportation, Incident Response Program, to offer a tow incentive for responding to heavy truck collisions. .

This Agreement is made and entered into and between the Washington State Patrol, (hereinafter the "WSP"), and the Washington State Department of Transportation, acting by and through the Secretary of Transportation, (hereinafter "WSDOT").

WHEREAS, the WSDOT Incident Response Program has received funding to implement a "Tow Incentive Program" for increasing the efficiency of response and removal of heavy trucks from collision scenes on state highways; and

WHEREAS, the WSP is best situated to respond to highway collisions and request the necessary towing services; and

WHEREAS, the WSP and WSDOT intend to work together to plan and implement the Tow Incentive Program;

NOW THEREFORE, by virtue of Chapter 39.34 RCW. And Chapter 47.32 RCW in consideration of the terms, conditions, covenants, and performances contained herein, or attached and incorporated and made a part hereof, IT IS MUTUALLY AGREED AS FOLLOWS:

1 PURPOSE

The purpose of the tow truck incentive project is to reduce clearance times and congestion associated with heavy truck incidents, and to improve travel time reliability for motorists on the I-5 and I-90 corridors. This includes major truck routes to the US-Canada border crossing point and other key routes in Clark, Cowlitz, King, Lewis, Pierce, Snohomish and Thurston Counties.

2 STATEMENT OF WORK

WSP and WSDOT will work cooperatively on all elements of the Tow Incentive program, with each agency taking the lead on the duties as listed below:

2.1 WSP will:

- Develop a Master List of Eligible Tow Companies for the Tow Incentive Program and provide this master list, labeled as Exhibit B and incorporated herein, to WSDOT within ninety (90) calendar days of contract execution. This master list shall be updated and submitted in writing to WSDOT listing the effective date of said update by WSP as needed;
- Execute a General Conditions - Letter of Appointment (LOA), attached as Exhibit A and incorporated herein, with eligible Tow Companies for the Tow Incentive Program;

- Utilize their Computer Aided Dispatch (CAD) system to maintain a record of tow company response including time to respond and remove vehicles and circumstances affecting removal and provide this information to WSDOT in a timely manner;
- Make initial decision as to whether a tow company meets the Tow Incentive Program requirements for award;
- Require incident debriefings for all activations of the Tow Incentive Program and allow WSDOT's Incident Response Manager and/or designee to attend.
- Provide one member to serve on a panel that will hear informal appeals by tow companies on decisions not to award.

2.2 WSDOT will:

- Assist WSP to develop details of Tow Incentive Program including requirements for tow company "Incentive Award" and "Informal Appeals Process" for tow companies who respond, but do not meet the requirements and so receive no award;
- Send a representative (State Incident Response Program Manager or designee) to incident debriefings of all incidents where the Tow Incentive Program is activated.
- Process invoices from Eligible Tow Companies for incentive award payments defined in Section 5.1.1 Tow Incentive Payments;
- Develop, maintain and report on performance measures on all Tow Incentive Program activations; and share the results with WSP;
- WSDOT's Incident Response Program manager or designee will document, track, and report on all funds expended on behalf of this program, not to exceed the appropriation of \$145,000.
- Provide two members to serve on a panel that will hear informal appeals by tow companies on decisions not to award.

3 PAYMENT

The incident response services provided by WSP are deemed to be a highway purpose as are the Tow Incentive Program bonus funds provided by WSDOT creating mutually offsetting benefits with no payment required by either party for implementation of the program.

4 FUNDING

Funding is provided to continue the tow truck incentive pilot project through fiscal year 2013. The program will be evaluated for continued funding during the 2012 legislative session.

5 EXPENSES

During the term of this Agreement, the Parties shall each be responsible for the following expenses:

5.1 WSDOT

WSDOT's responsibility shall not exceed the funds \$145,000 appropriated for this program. WSDOT further agrees to pay for:

5.1.1 Tow Incentive Payments

WSDOT also agrees to pay all Tow Incentive Payments up to \$2,500 per each activation, and cancellation fees of up to \$600.

5.2 WSP

WSP shall not be responsible for any expenses resulting from this agreement.

6 TERM

6.1 This Agreement shall be effective from January 13, 2012 until June 30, 2013, or until funds are exhausted. If funds become exhausted, WSDOT shall notify WSP of the anticipated termination date as per Section 9 of this agreement.

6.2 This Contract's term may be extended by two (2) additional one (1) year terms, provided that the extensions shall be at WSDOT's option and shall be effected by WSDOT giving written notice of its intent to extend this Contract to Vendor not less than thirty (30) calendar days prior to the then-current Contract term's expiration and Vendor accepting such extension prior to the then-current Contract term's expiration. No change in terms and conditions shall be permitted during these extensions unless specifically agreed to in writing.

7 RECORDS MAINTENANCE

The parties to this Agreement shall each maintain books, records, documents and other evidence which sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the service(s) described herein. These records shall be subject to inspection, review or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period.

Records and other documents, in any medium, furnished by one party to this agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving it a reasonable opportunity to respond. Each party will utilize

reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

8 INTERAGENCY DISPUTES

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members to appoint shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, 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. 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.

9 TERMINATION

9.1 Termination for Convenience

Either party may terminate this Agreement upon at least 30 days prior written notification to the other party. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

9.2 Termination for Cause

If for any cause, either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within 15 working days. If failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

10 LEGAL RELATIONS

It is agreed that no liability shall attach to WSDOT or the WSP by reason of entering into this Agreement except as expressly provided herein. Each agency agrees to be responsible for its sole negligence for any liabilities that might arise out of this Agreement. Where liabilities arise out of concurrent negligence, both agencies agree to share responsibility as determined by the Office of Financial Management/Risk Management Division and the Office of the Attorney General/Torts Division.

11 GOVERNANCE

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws.

In the event of an 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:

- a) Applicable state and federal statutes and rules;
- b) Statement of work; and
- c) Any other provisions of the agreement, including materials incorporated by reference.

12 ASSIGNMENT

The work to be provided under this Agreement, and any claim arising there under, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

13 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 a writing signed by an authorized representative of the party and attached to the original Agreement.

14 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.

15 AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

16 LEGAL NOTICES

Wherever in this agreement written notices are to be given or made, they will be sent to the address listed below unless a different address shall be designated in writing to the other party.

16.1 WSDOT

Washington State Department of Transportation
WSDOT Administrative Services Contracts Office
Attn: Employee Name
P.O. Box 47408
Olympia, Washington 98405-7408
(360) 705-xxx
employee@wsdot.wa.gov

16.2 WSP

Washington State Patrol
Contracts Office
Attn: Employee Name
210 11th Avenue S.W.
Olympia, Washington 98504-2614
(360) 596-xxxx
employee@wsp.wa.gov

17 CONTRACT MANAGEMENT

The program manager for each of the parties shall be responsible for and shall be the contact person for all communications regarding the performance of this Agreement. This section may be updated by either party and shall be submitted in writing or electronic mail to the other party by the Contract Administrators. Any update shall list the effective date of said update.

17.1 WSDOT Contract Management

The Program Manager for WSDOT is:
Employee Name, State Incident Response Program Manager
WSDOT Incident Response Program
P.O. Box 47344
Olympia, WA 98504-7344
(360) 705-7287
(360) 705-6826 Fax
incidentresponse@wsdot.wa.gov

The Contract Administrator for WSDOT is:
Employee Name, Senior Contracts Supervisor
WSDOT Administrative Services Contracts Office
P.O. Box 47408
Olympia WA 98504-7408
(360) 705-7548
missildj@wsdot.wa.gov

17.2 WSP Contract Management

The Program Manager and Contract Administrator for WSP is:
Captain Employee Name, Program Manager
WSP Commercial Vehicle Division
210 11th Avenue SW, Room G21
Olympia, WA 98504-2614
(360) 753-0302
(360) 586-8233 Fax
employee@wsp.wa.gov

18 ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

IN WITNESS THEREOF, The parties have subscribed their names.

**STATE OF WASHINGTON
WASHINGTON STATE PATROL**

**STATE OF WASHINGTON
DEPARTMENT OF TRANSPORTATION**

By: _____

By: _____

Name: Employee Name

Name: Employee Name

Title: Captain, Commercial Vehicle Division

Title: State ITS Operations Engineer

Date: _____

Date: _____