CITY

WASHINGTON STATE PATROL WSP Academy Facility Use Agreement	WSP Agreement No. **K13050** Other Agreement No.

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

ORGANIZATION NAME **Everett Police Department**	
Organization Location Address 3002 Wetmore Avenue, Everett WA 98201	Organization Billing Address (if different from location address)
Organization Contact Name Sergeant Ken Dorn	Organization Contracts Dept. Contact Tracey Versteeg
Organization Contact Email KDorn@everettwa.gov	Organization Contracts E-mail TVersteeg@everettwa.gov
Organization Contact Phone 425-257-7550	Organization Contracts Phone 425-257-8447
WSP Contact Information	
WSP Project Manager Name and Title Sergeant Kent Hitchings WSP Training Division	WSP Project Manager Address WSP Training Academy 631 W Dayton-Airport Road Shelton WA 98584-8945
Telephone (360) 432-7502	E-mail Address Kent.Hitchings@wsp.wa.gov
WSP Administrative Contact Name and Title Ms. Karen Cline Contracts Assistant	WSP Administrative Contact Address PO Box 42602 Olympia WA 98504-2602
Telephone (360) 596-4073	E-mail Address Karen.Cline@wsp.wa.gov
Agreement Start Date **July 1, 2017**	**Agreement End Date** **June 30, 2022**

ATTACHMENTS. The following Exhibits are attached to and incorporated into this Agreement by reference:

- ☒ General Terms and Conditions
- ☒ Exhibit A, Facility Use Regulations
- ☒ Exhibit B, Insurance Requirements for EVOC Use

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.

FOR THE WASHINGTON STATE PATROL:	**FOR THE ORGANIZATION:**
WSP Signature Date 10/18/17	Organization Signature Date 10/9/17
FOR: John R. Batiste, Chief	Printed Name and Title Ray Stephanson, Mayor

APPROVED AS TO FORM BY THE OFFICE OF THE ATTORNEY GENERAL 7/3/03

ATTEST:

City Clerk

APPROVED AS TO FORM

JAMES D. ILES, City Attorney

WSP Academy Facility Use Agreement
General Terms and Conditions

1. **Statement of Work.** Based on availability, WSP shall provide the use of its WSP Academy facilities and other services to the Organization as requested. These facilities and services include:
   - Overnight lodging for students
   - Meals for students attending training at the WSP Academy
   - Classroom use, including a personal computer lab
   - Multipurpose Building/Gym
   - Training Tank/Pool
   - Firing Range
   - Hazardous Materials Training Pit
   - Emergency Operator Vehicle Course (EVOC), which can include training vehicles and PIT vehicles
   - Instructors for various subjects, including EVOC and the Firing Range

   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 three (3) business days in advance of facility use. The Organization shall make requests to use specific facilities available at the WSP 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
   - 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 should WSP mission needs require any facilities use, however WSP shall notify the Organization of any such cancellations as soon as possible.
3. **Facility Regulations**. The Organization shall follow WSP Facility Use Regulations while using WSP facilities under this Agreement. The *WSP Facility Use Regulations* are attached as Exhibit A to this Agreement. Additionally, each individual using either the Multipurpose Building/Gym for ground tactics training, the EVOC, the Firing Range, or the Training Tank/Pool shall sign *a Release of Civil Claims and Indemnity Agreement* (Exhibit B) prior to facility use.
4. **Insurance Requirements for EVOC Use**. If the Organization will use the EVOC at any time during the period of performance of this Agreement, the Organization shall comply with the insurance requirements contained in Exhibit C, *Insurance Requirements for EVOC Use*.
5. **Fees.** The Organization shall reimburse WSP for services rendered under the terms of this Agreement according to rates and fees established in the WSP Training Division 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.
6. **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.
7. **Definitions.**

   "Agreement" means this 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.

General Terms and Conditions (Continued)

"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.

8. **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.
9. **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.
10. **Compliance with Civil Rights Laws.** During the period of performance for this Agreement, both parties shall comply with all federal and state nondiscrimination laws.
11. **Disputes.** In the event a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: The Chief of WSP shall appoint a member to the Dispute Board. The Organization shall appoint a member to the Dispute Board. The Chief of WSP and the Organization shall jointly appoint a 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 to all parties to this Agreement.
12. **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.
13. **Indemnification.** The Organization shall be responsible for and shall indemnify and hold WSP harmless for all claims resulting from the acts or omissions of the Organization.
14. **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.
15. **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.
16. **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.
17. **Responsibility for Property Damage.** The Organization shall be responsible for the actual costs for the repairs of any damage resulting from the Organization's use of any WSP facility under this Agreement.
18. **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.
19. **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.
20. **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.

EXHIBIT A

WSP FACILITY USE REGULATIONS

1. **General Rules for All Facilities**
   a. Safety is the first concern while using WSP facilities.
   b. Report all injuries to the WSP Administrative Building immediately.
   c. The Organization must check in at the WSP 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. Alcoholic beverages and non-prescription drugs are not allowed at the WSP Academy. Individuals with any noticeable indication of alcohol on their breath will be dismissed from the premises.
   f. The WSP Academy Commander 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 Academy facilities if he/she determines that the Organization is not in compliance.
2. **Classrooms**
   a. No smoking, food or beverages are 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.
3. **Multipurpose Building (Gym)**
   a. No smoking, food or beverages are allowed in the Multipurpose Building, including locker rooms and restrooms.
   b. High-top tennis or court shoes are required for all users during sporting events or activities such as basketball or volleyball.
   c. Appropriate attire shall be worn at all times.
   d. No impact weapons will be used on punching bags or Body Opponent Bags (BOB).
   e. Bag gloves will be worn to protect hands while hitting punching bags.
   f. No competitive sparring or wrestling is allowed.
   g. Do not engage in weightlifting without a spotter.
   h. Clean and replace all equipment after use.
4. **Training Tank**
   a. All individuals using the Training Tank must familiarize themselves with the type and location of rescue devices prior to training.
   b. The Organization must have a minimum of two people in the Training Tank area in order to use the Training Tank. The second person does not have to be in the water, but must be able to observe the swimmer.
   c. There is absolutely no running in the Training Tank area.
   d. All swimmers must shower before entering the Training Tank. No swimmer may enter the Training Tank with open sores or wounds, bandages, jewelry, bobby pins or other small items. All swimming attire shall be conservative in appearance.
   e. When training is taking place in the Training Tank, the Organization is required to have two instructors in the Training Tank area for any training taking place in the Training Tank. However, if underwater training is taking place the Organization will have a minimum of three instructors in the Training Tank area (one remaining out of the water, and with two of the three being certified divers). Instructors must explain all safety procedures prior to training taking place. No one will be forced to perform any exercise in which they are not comfortable.
   f. The Organization shall ensure the Training Tank area is locked and secured after use.
5. **Firing Range**
   a. Safety is everyone's responsibility on the firing range. If anyone sees an unsafe situation occur on the firing range they must immediately call a cease fire and notify the firearms instructor.
   b. All firing range training must be supervised by a qualified firearms instructor.

c. All personnel present must use eye and hearing protection, as well as protective body armor.
d. Steel targets will not be engaged closer than 15 yards.
e. Discipline must be maintained at all times to prevent mishaps or injuries. All personnel present must obey all range commands immediately.
f. No one shall give a firearm or take a firearm from anyone unless the firearm's cylinder or action is open, unloaded, and with the safety engaged. Likewise, no firearm shall be benched without ensuring the firearm is unloaded, the action opened and the safety engaged.
g. Shooters shall use the clearing barrels to load, unload or clear rounds from firearms.
h. No one shall go forward of the firing line unless directed to do so by the firearms instructor.
i. Handguns will remain holstered at all times except for the firing line. Shotguns and rifles shall be carried with the action or bolt open, the safety engaged and with the muzzle higher than the tallest person in the area. Using a sling to carry a shotgun or rifle over the shoulder is acceptable.
j. Dry firing is allowed only on the firing line and only at the direction of the firearms instructor.
k. Firearms may be cleaned in designated areas only.
l. No food, beverages or smoking is allowed in the firing range area.
m. Horseplay or unruly behavior will not be tolerated.

6. Hazardous Materials Pit

a. The gate to the Hazardous Materials Pit must be locked when not in use.
b. There is no smoking within 500 feet of the outer fence.
c. The Hazardous Material Pit may not be used at the same time as the Firing Range.

7. Emergency Vehicle Operator Course (EVOC)

a. The Organization shall follow all directions of the WSP Trooper present during use of the EVOC. WSP may suspend training should the Organization fail to follow these regulations, operate vehicles in an unsafe manner or if weather conditions dictate a suspension of training for safety purposes.
b. One qualified instructor must be present during use of the EVOC.
c. Instructors must explain Emergency Stop Procedures prior to training.
d. High beam headlights will be on, seat belts will be fastened and helmets will be worn by students and instructors at all times while in student training vehicles.
e. All vehicles will travel in the same direction during training.
f. Cone setters shall remain off the paved portion of the course when not resetting cones. Students must understand that student drivers are learning and may experience complete loss of control at any time while driving on the EVOC.
g. Visitors are not allowed on the EVOC without the permission of the WSP Academy Commander.
h. There is a 50 mph speed limit on the brake-and-steer exercise approaching the skid pan, and a 15 mph speed limit on general skid pan exercises.
i. Driving on the skid pan while the surface is dry is prohibited. Do not drive on gravel prior to driving on the skid pan. Do not drive on the fire hoses that feed water to the skid pan.
j. Pursuit Immobilization Technique (PIT) training shall only be performed on the four-lane area of the EVOC. PIT training is not authorized for any other area of the EVOC.
k. The Organization shall ensure that all debris left on the track is cleaned up, such as dirt debris and coffee cups.
l. Live fire exercises are expressly prohibited on the EVOC. Blank ammunition and/or simulators may be used provided the use is authorized in writing by the WSP Academy Commander. If authorized, the Organization shall follow WSP directions in the use of these materials.

Exhibit B

INSURANCE REQUIREMENTS FOR EVOC USE

1. **General.** In order to use the EVOC, the Organization shall, at all times during the term of this Agreement at its cost and expense, buy and maintain insurance of the types and amounts listed below. Failure to buy and maintain the required insurance may result in the termination of this Agreement at WSP's option. All insurance and surety bonds should be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports.

   Before gaining access to the EVOC, the Organization shall furnish the WSP Administrative Contact named on Page 1 of this Agreement with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements specified in this Agreement. All insurance provided in compliance with this contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by WSP. If the Organization is self-insured, evidence of its status as a self-insured entity shall be provided to WSP. If requested by WSP, the Organization must describe its financial condition and the self-insured funding mechanism.

2. **Level of Insurance.**

   a. General Liability: The Organization shall maintain general liability (CGL) insurance with a limit of not less than $1,000,000 per each occurrence. If such CGL insurance contains aggregate limits, the General Aggregate limit shall be at least twice the "each occurrence" limit. CGL insurance shall have products-completed operations aggregate limit of at least two times the "each occurrence" limit.

   b. Business Auto Liability: The Organization shall maintain business auto liability with a limit not less than $1,000,000 per accident. Such insurance shall cover liability arising out of "Any Auto." Business auto coverage shall be written on ISO form CA 00 01, or substitute liability form providing equivalent coverage. The Organization waives all rights against WSP for the recovery of damages to the extent they are covered by business auto liability insurance.

3. **Cancellation of Insurance.** The Organization's insurer shall give WSP forty-five (45) calendar days advance notice of cancellation or non-renewal of any insurance referred to herein. If cancellation is due to non-payment of premium, WSP shall be given ten (10) days advance notice of cancellation.

Agreement

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:
Washington State Patrol Academy Facility use Agreement #K13050 to participate in motorcycle training

	Briefing	COUNCIL BILL #	
	Proposed Action	Originating Depart.	Police
	Consent	Contact Person	D/C Mark St. Clair
X	Action	Phone Number	425-257-8432
	First Reading	FOR AGENDA OF	September 27, 2017
	Second Reading		
	Third Reading		
	Public Hearing		
	Budget Advisory	Initialed by:	
		Department Head	
		CAA	db
		Council President	

Location	Preceding Action	Attachments	Department(s) Approval
		Facility Use Agreement, General Terms and Conditions	Police, Legal

Amount Budgeted		
Expenditure Required	$0	Account Number(s):
Budget Remaining		
Additional Required	$0	

DETAILED SUMMARY STATEMENT:

The Everett Police Department is requesting authority to enter into the Washington State Patrol Academy Facility Use Agreement to participate in future Basic, Advanced and annual Refresher Motorcycle training purposes. The agreement also allows the Everett Police Department to use its facility in the event that there are other training needs. There are no anticipated fees for the use of the facility. The agreement is for five-years from July 1, 2017 through June 30, 2022.

RECOMMENDATION (Exact action requested of Council):

Authorize the Mayor to sign the Washington State Patrol Academy Facility Use Agreement to participate in motorcycle training.

Council Approval on 9/27/17 SJ