

**AGREEMENT**  
Between  
**USDI - NATIONAL PARK SERVICE**  
**NORTH CASCADES NATIONAL PARK**  
and  
**WASHINGTON STATE**  
**DEPARTMENT OF TRANSPORTATION**

This AGREEMENT is entered into by and between the National Park Service (hereinafter "NPS"), United States Department of the Interior, acting through the Superintendent of North Cascades National Park (hereinafter, "Park"), and the Washington State Department of Transportation (hereinafter "WSDOT").

**ARTICLE I. BACKGROUND AND OBJECTIVES**

This AGREEMENT relates to tasks, to be performed by the NPS on behalf of WSDOT, necessary from the preliminary planning of the proposed mitigation of rock fall hazards along State Route 20 (SR-20) in the vicinity of Falls Creek, Mile Post (MP) 121.5.

In the winter of 2003-2004, a major rock fall occurred on SR-20, between Falls Creek and Afternoon Creek drainages just east of the town of Newhalem, Washington. As a result of this rock fall, portions of the highway were damaged and slopes above the highway remain unstable. The proposed WSDOT project is to create a rock fall catchment area with a barrier to protect the traveling public from rock fall. WSDOT requests the services of the NPS to perform cultural and natural resource surveys in the area and to revegetate the disturbed area.

**ARTICLE II. AUTHORITIES**

WHEREAS, WSDOT is responsible for planning, designing, constructing, and maintaining public highways of the State Highway System for the safety and benefit of the using public; and

WHEREAS, WSDOT has proposed mitigation of rock fall hazard in the vicinity of Falls Creek at MP 121.5 in the Ross Lake National Recreation Area, within the North Cascades National Park Service Complex, Whatcom County, Washington; and

WHEREAS, pursuant to the National Historic Preservation Act of 1966, as amended, and the Endangered Species Act of 1973, as amended, the National Park Service is responsible for preservation and protection of cultural resources and natural resources

on National Park Service lands, and to provide responsible stewardship for future generations; and

WHEREAS, it is necessary to perform certain revegetation of roadside and quarry areas in compliance with the requirements of the environmental document, National Environmental Policy Act (NEPA), its amendments, and NPS guidelines.

NOW THEREFORE, in consideration of the terms, conditions, covenants and performances contained herein, and by virtue of RCW ~~47-28-140~~, the PARTIES hereto desire, and agree, to cooperate as described below. 39,340.00 MAF 104

APR 23-04  
WSP 6-8-04

### ARTICLE III. STATEMENT OF WORK

#### A. Responsibility of the NPS:

1. The NPS agrees to perform surveys for the presence of cultural resources, pre-historic and historic, within the area of potential effects as noted in Exhibit "A", Scope of Work, attached hereto and by this reference made a part of this AGREEMENT.
2. The NPS agrees to perform surveys for the presence of Federal or State listed plants including vascular or non-vascular species within the area of potential effects as noted in Exhibit "B", Scope of Work, attached hereto and by this reference made a part of this AGREEMENT.
3. The NPS agrees to perform the revegetation of SR-20 roadside areas in the vicinity of MP 121.5, and the restoration of additional disturbed sites as mutually agreed to by the NPS and WSDOT. The details of this work will be described in Exhibit "C", Scope of Work, which will be included by Modification to this AGREEMENT.
4. This AGREEMENT may not be used by the NPS to obligate funds in any way, nor shall it be construed as obligating the NPS to the expenditure of appropriated funds for any project, which may be identified in this AGREEMENT.
5. It is agreed that any payments by WSDOT will not constitute agreement as to the appropriateness of any item and that, at the time of final audit, all required adjustments will be made and reflected in a final payment.

#### B. Responsibility of WSDOT:

1. In consideration of the faithful performance of the work to be done by the NPS, WSDOT agrees to provide advance payment for the actual direct and related indirect cost of the work.

2. An itemized estimate of cost for work to be performed by the NPS at the WSDOT's expense is included in Exhibits A and B, Scope of Work.
3. Payment shall be made in advance of the work to be performed. Advanced payments to the NPS shall be made at the beginning of each fiscal year for the estimated cost of work to be completed in that year. Any funds in excess of the actual direct and indirect cost of work completed shall be promptly refunded by the NPS, or at the discretion of WSDOT, may be carried over and applied to the next fiscal year's advance payment.

#### **ARTICLE IV. TERM OF AGREEMENT**

This AGREEMENT shall remain in force for a period of five years from the date of final signature. It is anticipated that the need for continued services will be required, at the end of the five-year period. Therefore, this AGREEMENT shall be reviewed and determined if it shall be renewed, modified, or terminated. Dependent upon that determination, the AGREEMENT shall be formally reaffirmed or rewritten as necessary.

#### **ARTICLE V. KEY OFFICIALS**

<b>Washington State Department of Transportation</b>	<b>USDI - National Park Service</b>
<p>Todd Harrison  Assistant Regional Administrator  Northwest Region - Mount Baker Area  1043 Goldenrod Rd. Suite #101  Burlington, WA 98233  (360) 757-5992</p>	<p>William F. Paleck  Superintendent  North Cascades NPS Complex  810 State Route 20  Sedro Woolley, WA 98284  (360) 856-5700 x350</p>
<p>Dave Crisman  Project Engineer  Northwest Region - Mount Baker Area  1109 East Hickox Road  Mount Vernon, WA 98274  (360) 428-1593</p>	<p>Barbara A. Rolph  Contracting Officer  North Cascades NPS Complex  810 State Route 20  Sedro Woolley, WA 98284  (360) 856-5700 x362</p>
<p>Mark Hammer  Assistant Project Engineer  Northwest Region - Mount Baker Area  1109 East Hickox Road  Mount Vernon, WA 98274  (360) 428-1593</p>	<p>Dan Allen  Resource Management Specialist  North Cascades NPS Complex  810 State Route 20  Sedro-Woolley, WA 98284  (360) 856-5700 x 367</p>

- A. Communications** – WSDOT will address any communication regarding this Agreement to the Superintendent and to the Resource Management Specialist at the Park.
- B. Changes in Key Officials** – Neither the NPS nor WSDOT may make any permanent change in a key official without written notice to the other party reasonably in advance of the proposed change. Any permanent change in key officials will be made only by modification to this Agreement.

## **ARTICLE VI. FUNDING**

Advancement of funds will be provided as set forth in Article III, B.

## **ARTICLE VII. PROPERTY UTILIZATION**

N/A

## **ARTICLE VIII. PRIOR APPROVAL (if applicable)**

N/A

## **ARTICLE IX. REPORTS AND/OR DELIVERABLES**

A. Exhibit A – Agreement GA9471041127:

1. Survey and Documentation of the area of potential affect.
2. Historic and Prehistoric Cultural Resources Surveys including recommendations.

B. Exhibit B – Agreement GA9471041127:

1. Final report of bryophyte (moss), macrolichens (lichen), and vascular plant communities in an electronic version (Word format).

C. Exhibit C – Agreement GA947104127 Modification:

1. SR 20, MP 121.5 and Vicinity Revegetation Plan including plant establishment.

## **ARTICLE X. MODIFICATION AND TERMINATION**

A. This AGREEMENT may be modified by a written instrument executed by the PARTIES.

- B. Either PARTY may terminate this AGREEMENT upon 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, and any advanced funds in excess of the actual direct and indirect cost of work to the termination date shall be refunded in accordance with Article III of this AGREEMENT.

## **ARTICLE XI. STANDARD CLAUSES**

### **A. Civil Rights**

During the performance of this Agreement, the participants will not discriminate against any person because of race, color, religion, sex, or national origin. The participants will take affirmative action to ensure that applicants are employed without regard to their race, color, sexual orientation, national origin, disabilities, religion, age, or sex.

### **B. Promotions**

WSDOT will not publicize, or otherwise circulate, promotional material (such as advertisements, sales brochures, press releases, speeches, still and motion pictures, articles, manuscripts or other publications), which states or implies Governmental, Departmental, bureau, or Government employee endorsement of a product, service, or position, which WSDOT represents. No release of information relating to this Agreement may state or imply that the Government approves of WSDOT work product, or considers WSDOT's work product to be superior to other products or services.

### **C. Public Information Release**

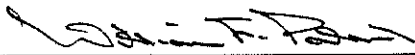
#### **1. Publications of Results of Studies**

No party will unilaterally publish a joint publication without consulting the other party. This restriction does not apply to popular publication of previously published technical matter. Publications pursuant to this Agreement may be produced independently or in collaboration with others; however, in all cases proper credit will be given to the efforts of those parties contributing to the publication. In the event no agreement is reached concerning the manner of publication or interpretation of results, either party may publish data after due notice and submission of the proposed manuscripts to the other. In such instances, the party publishing the data will give due credit to the cooperation but assume full responsibility for any statements on which there is a difference of opinion.

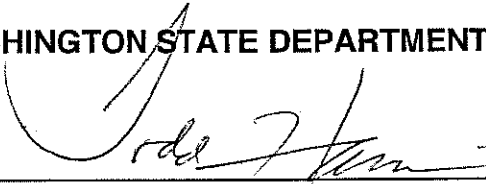
**ARTICLE XI. AUTHORIZING SIGNATURES**

IN WITNESS HEREOF, the PARTIES hereto have signed their names and executed this AGREEMENT.

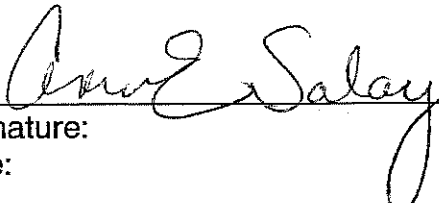
**NATIONAL PARK SERVICE**

  
\_\_\_\_\_  
Signature: William F. Paleck Date: 5-18-04  
Title: Superintendent

**WASHINGTON STATE DEPARTMENT OF TRANSPORTATION**

  
\_\_\_\_\_  
Signature: Todd Harrison Date: 5/13/04  
Title: Assistant Regional Administrator

**Approved as to Form:**

  
\_\_\_\_\_  
Signature: Anne E. Salay Date: 6-3-04  
Title:

**EXHIBIT A - AGREEMENT GA9471041127**  
**SCOPE OF WORK AND ESTIMATE OF COST**

**HISTORIC AND PREHISTORIC CULTURAL RESOURCE SURVEYS**  
**SR-20 FALLS CREEK SITE**  
**MP 121.5**

**A. Introduction**

The scope of work to be completed by the National Park Service (NPS), North Cascades National Park personnel involves performance of historic and prehistoric cultural resource surveys of SR-20 roadside areas, between Falls Creek and Afternoon Creek, MP 121.5.

The NPS will:

- (1) Conduct a field survey of the area of potential effect and full documentation of any cultural resources located;
- (2) Prepare a report of findings, including assessment of cultural resource significance, and an assessment of effect;
- (3) Consultation with the Upper Skagit Tribe, Sauk-Suiattle Tribe, and the Swinomish Tribe, and;
- (4) Conduct preliminary consultation with the SHPO.

**B. ESTIMATE OF COST**

1. Field survey .....	\$2,000
2. Report preparation with recommendations .....	\$500
3. Preliminary discussion with area Tribes .....	\$200
4. Preliminary discussion with SHPO .....	\$200

**Total \$2,900**

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**EXHIBIT B - AGREEMENT GA9471041127**  
**SCOPE OF WORK AND ESTIMATE OF COST**  
**VASCULAR AND NON-VASCULAR PLANT SURVEYS**  
**SR-20 FALLS CREEK SITE**  
**MP 121.5**

**A. Introduction**

The scope of work by National Park Service (NPS), North Cascades National Park personnel or contractor involves the survey of the vascular plants, bryophytes and lichens in the area of proposed rock removal by the Washington State Department of Transportation (WSDOT) within the Skagit Gorge area of Ross Lake National Recreation Area. In the winter of 2003-2004, a major rock fall occurred on Highway 20, between Falls Creek and Afternoon Creek drainages just east of the town of Newhalem, Washington. As a result of this rock fall portions of the highway were damaged and slopes above the highway remain unstable. The proposed WSDOT project is to create a barrier to protect the motoring public from rock fall. The approximate area to be impacted for the stabilization is 2.5 acres. The area to be surveyed is steep and wooded.

NPS will develop and administer a contract for survey of moss and lichen in the project area. NPS will survey the project area for vascular plants of concern. The WSDOT biologist may participate in these surveys.

At the end of the surveys the following will be provided:

1. Typed field notes describing the area surveyed. These notes will include, at a minimum, the following: moss and lichen communities and associated vascular plant association(s) encountered in the project area delineated on Mylar overlays on aerial photos; a list of dominant vascular species found in each community type (include scientific and common names).
2. Voucher specimens of moss and lichen species, collected where appropriate. Some specimens or duplicate specimens that are difficult to determine may be retained after the completion date to be verified in the University of Washington herbarium. Specimen label information is as follows: Latin name, common name, slope, aspect, elevation, associated species, date, collectors name, and UTM's.
3. The location of any unique or rare vascular plants, moss or lichen species or communities within each area, identified on NPS-provided USGS 7.5min quad maps and marked on aerial photos, if appropriate.
4. A final report to include a species list of all bryophyte and macrolichens encountered, a description of all vascular plant communities and any unique features, estimates of damage

**GCA4106**

to bryophyte and macrolichen populations on areas impacted (cover loss by ocular estimate), and an estimate of time needed to achieve a 90% verification of the species within the project area. The report should be delivered in an electronic version (Word format).

**B. ESTIMATE OF COST**

1. Field survey and report preparation, moss and lichen.....	\$5,000
2. Field survey and report preparation, vascular plants .....	\$2,000
2. Project oversight.....	\$500
<b>Total</b>	<b>\$7,500</b>