



Procurement Services
 Emma B. Lommasson Center 236
 University of Montana
 Missoula, Montana 59812-2304
 Phone: (406) 243-6260
 Fax: (406) 243-2529

LABORATORY TESTING SERVICES CONTRACT CMV00063

THIS CONTRACT is entered into by and between the University of Montana, (hereinafter referred to as "the University"), whose address and phone number are 32 Campus Drive, Missoula, MT 59812-2304, 406-243-6260 and Washington State University (WSU), (Contractor), whose address and phone number are PO Box 645222, Pullman, WA 99164 and (509) 335-0430.

EFFECTIVE DATE, DURATION, AND RENEWAL

CONTRACT TERM: The contract's initial term is January 1, 2014 through December 31, 2014, unless terminated earlier as provided in this contract. In no event is this contract binding on the University unless the University's Procurement Services has signed it.

CONTRACT RENEWAL: The University may renew this contract under its then-existing terms and conditions, as reviewed and approved by Contractor prior to such renewal, upon written mutual agreement in one-year intervals, or any interval that is advantageous to the University for a period not to exceed two (2) additional years. The renewal is dependent upon the University's need to continue the contract or legislative appropriations and in no case may the contract run longer than a three (3) year period.

SERVICES: CNS elemental and stable isotope analysis of the University's grizzly bear hair and blood samples.

Estimated Annual Usage for the term of the contract: \$6,933.60

Usage: The dollar amount is given as an estimate only, and in no way represents a guaranteed amount to be spent for the period of the contract. Any increase to this contract must receive prior written approval from Procurement Services.

Project Goals:

WSU Isotope Analysis work for the Grizzly Bear Recovery Program

There is limited information on the most important foods of grizzly bears in northern ecosystems of the US (i.e., Northern Continental Divide [NCDE], Cabinet-Yaak, and Selkirk ecosystems). Climate change may impact food availability and therefore food use. Food use changes may reduce body condition and influence reproduction and survival. Management status may also influence food habits and body condition and conversely food habitats and condition may be indicators of past and future management status. Methods exist to quantify consumption of major foods across these ecosystems. We propose to apply these techniques and assess use of these foods by grizzly bears using samples from many bears. Specifically, with these analyses we aim to 1) quantify the relative proportion of meat and vegetation in the diets of grizzly bears using stable isotopes and samples of hair, serum, and whole blood collected from all captured bears, 2) relate the relative importance of meat to the spatial coverage of livestock and wild ungulates, 3) evaluate reproductive rates of individual females relative to their body condition, and 4) evaluate the dietary proportions of meat as measured by stable isotope concentrations.

Hair, serum and tissue samples have been collected from captured grizzly bears throughout the NCDE since 2010. We have conducted isotope analysis and summarized our findings in this ecosystem from 2010-2012 in previous reports. We wish to 1) continue this work in the NCDE and 2) expand our investigation into the Cabinet-Yaak and Selkirk ecosystems. Other hair samples have been collected from all grizzly bears trapped and handled for telemetry studies in these ecosystems. Past and currently collected samples will be analyzed for isotopic concentrations of sulfur and nitrogen using methods described by Felicetti et al. (2003). Additionally, we have quite a few samples of serum and blood clots that can be analyzed to determine recent (1-3 months) diets of bears.

All work will be accomplished by December 31, 2014.



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Performance Location: Washington State University, School of the Environment, PO Box 642812, Webster 1228, Pullman, WA 99164-2812.

WARRANTIES

Warranty of Services. Contractor warrants that the services provided conform to the contract requirements, including all descriptions, specifications and attachments made a part of this contract. The University's acceptance of services provided by Contractor shall not relieve Contractor from its obligations under this warranty. In addition to its other remedies under this contract, at law, or in equity, the University may, at Contractor's expense, require prompt correction of any services failing to meet Contractor's warranty herein. Services corrected by Contractor shall be subject to all the provisions of this contract in the manner and to the same extent as services originally furnished.

CONSIDERATION/PAYMENT

Payment Schedule. In consideration of the services to be provided, the University shall pay Contractor according to the following pricing schedule:

Compensation for services shall not exceed: \$6,933.60. Contractor may submit an invoice monthly for completed work. Payment to the Contractor will be made in a single lump sum payment after the University reviews and accepts the work listed on the invoice.

Estimated 321 samples subject to CNS isotope elemental analysis are \$21.60 (\$7.40 + \$14.20) per sample. Since collaborators on the project are researchers at WSU, prices reflect the contractor's internal rates. The cost is for samples ready for analysis; assuming all required sample prep has been performed by the University.

Costs noted are per analysis or replicate. Included in all fees are detailed reports for each sequence of data. Reports include a QA summary with all of the Contractor's normalization information, precision of running standards and long term external precision evaluated from blind QC samples interspersed among unknowns. Contractor does not charge for repeat analyses due to an error on their part. A brief description of the Contractor's analytical methods follows.

Withholding of Payment. In addition to its other remedies under this contract, at law, or in equity, the University may withhold payments to Contractor if Contractor has breached this contract. Such withholding may not be greater than, in the aggregate, 15% of the total value of the subject statement of work or applicable contract.

Payment Terms. All payment terms will be computed from the date of delivery of supplies or services OR receipt of a properly executed invoice, whichever is later. Unless otherwise noted in the solicitation document, the University is allowed 30 days to pay such invoices. (See section 17-8-242 MCA). Vendors that utilize the University's electronic payment method will maintain a preferred vendor status with the University of Montana. Vendors can select from one of the following payment terms:

- a. Accounts Payable Direct Program (ePayables),
<http://www.umt.edu/bussrvcs/Employees/Services/Accounts Payable/AP Direct Program.aspx>
- b. 2% 10 NET 30
- c. NET 60

Reference to Purchase Order. The purchase order number MUST appear on all invoices, packing lists, packages, and correspondence pertaining to the contract. If the number is not provided, the University is not obligated to pay the invoice.

Invoices. At no time is a vendor authorized to submit a purchase order invoice directly to an individual or the ordering department. Except where stipulated otherwise on the purchase order, address all invoices to:

University of Montana
Accounts Payable
32 Campus Drive



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or send via email to mso.umt@accountspayable.docufree.com. Invoices sent via email must meet these requirements:

1. All invoices must be PDF attachments with scan image quality of at least 300dpi.
2. UM will accept multiple PDF attachments in a single email.
 - Each invoice must be a single PDF.
 - One PDF equals one invoice.
 - UM will not accept multiple invoices within the same PDF attachment.
3. Do not send correspondence to mso.umt@accountspayable.docufree.com as any text or additional information in the email will be discarded

ACCESS AND RETENTION OF RECORDS

Access to Records. To the extent permitted by law, the contractor agrees to provide the University, Legislative Auditor, or their authorized agents access to any records necessary to determine contract compliance. The University may terminate this contract under section 22, without incurring liability, for the Contractor's refusal to allow access as required by this section. (18-1-118, MCA.)

Retention Period. Contractor shall create and retain all records supporting the services rendered for a period of eight years after either the completion date of this contract or termination of the contract.

ASSIGNMENT, TRANSFER, AND SUBCONTRACTING

Contractor may **not** assign, transfer, or subcontract any portion of this contract without the University's prior written consent. (18-4-141, MCA.) Contractor is responsible to the University for the negligent acts and omissions of its agents and for the negligent acts and omissions of persons employed directly by Contractor. No contractual relationships exist between any subcontractor and the University under this contract.

MUTUAL INDEMNIFICATION:

Each party (Indemnifying Party) agrees to protect, defend, and save the other (Indemnified Party), its elected and appointed officials, agents, and employees, while acting within the scope of its duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the indemnifying party's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the indemnifying party and/or its agents, employees, representatives, assigns, subcontractors, under this agreement.

Notwithstanding anything in this Agreement to the contrary, the parties expressly acknowledge and agree that Contractor's liability and indemnification obligations hereunder are limited to liability for/ indemnification for negligent acts of WSU, its employees, officers, agents, and registered volunteers in the performance of their official WSU duties in good faith under this Agreement. Contractor and its officers, employees, agents, and registered volunteers, while acting in good faith within the scope of their official WSU duties, are covered by the State of Washington Self-Insurance Liability Program (RCW 43.19.766 et seq.) and the Tort Claims Act (RCW 4.92.060 et seq.). Successful claims to pay legal liabilities and defense costs of the state resulting from tortious conduct of Contractor and its employees, officers, agents, and registered volunteers in the performance of their official WSU duties in good faith under this Agreement will be paid from the tort claims liability account as provided in RCW 4.92.130. The extent of the liability Contractor contractually assumes under this Agreement is limited to those risks for which Contractor is covered by the State of Washington Self-Insurance Liability Program and the Tort Claims Act.

In addition, Contractor will only provide a defense to University if the Office of the Attorney General of the State of Washington determines that (1) coverage for the costs of the same are within the scope of the coverage afforded to Contractor by the State of Washington Self-Insurance Liability Program and the Tort Claims Act, or (2) that notwithstanding a lack of coverage for such defense costs, it is appropriate and advantageous to the Licensee and the State of Washington to do so.

COMPLIANCE WITH LAWS:

To the extent applicable to the contractor and consistent with the contractor's State Law, the contractor must, in performance of work under the contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

DISABILITY ACCOMMODATIONS:

The University does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals who need aids, alternative document formats, or services for effective communications or other disability related accommodations in the programs and services offered are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

CONTRACT TERMINATION

Termination for Cause with Notice to Cure Requirement. Either party may terminate this contract in whole or in part for the other party's failure to materially perform any of the services, duties, terms, or conditions contained in this contract after giving Contractor written notice of the stated failure. The written notice must demand performance of the stated failure within a specified period of time of not less than thirty (30) days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

Reduction of Funding. The University must by law terminate this contract if funds are not appropriated or otherwise made available to support the University's continuation of performance of this contract in a subsequent fiscal period. (18-4-313(4), MCA.) If state or federal government funds are not appropriated or otherwise made available through the University budgeting process to support continued performance of this contract (whether at an initial contract payment level or any contract increases to that initial level) in subsequent fiscal periods, the University shall terminate this contract as required by law. The University shall provide Contractor the date the University's termination shall take effect. The University shall not be liable to Contractor for any payment that would have been payable had the contract not been terminated under this provision. As stated above, the University shall be liable to Contractor only for the payment, or prorated portion of that payment, owed to Contractor up to the date the University's termination takes effect. This is Contractor's sole remedy. The University shall not be liable to Contractor for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

EVENT OF BREACH – REMEDIES

Event of Breach by Contractor. Any one or more of the following Contractor acts or omissions constitute an event of material breach under this contract:

- products or services furnished fail to conform to any requirement;
- failure to submit any report required by this contract;
- failure to perform any of the other terms and conditions of this contract, including but not limited to beginning work under this contract without prior University approval and breaching obligations defined under the Meetings section of this contract; or
- voluntary or involuntary bankruptcy or receivership.

Event of Breach by University. The University's failure to perform any material terms or conditions of this contract constitutes an event of breach.

Actions in Event of Breach.

Upon the Contractor's material breach, the University may:

- terminate this contract; or



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- treat this contract as materially breached and pursue any of its remedies under this contract, at law, or in equity.

Upon the University's material breach, the Contractor may:

- terminate this contract after giving the University written notice of the stated failure. The written notice must demand performance of the stated failure within a specified period of time of not less than thirty (30) days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period; or
- treat this contract as materially breached and, except as the remedy is limited in this contract, pursue any of its remedies under this contract, at law, or in equity.

FORCE MAJEURE

Neither party is responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the nonperforming party, so long as such party uses its best efforts to remedy such failure or delays. A party affected by a force majeure condition shall provide written notice to the other party within a reasonable time of the onset of the condition. In no event, however, shall the notice be provided later than 5 working days after the onset. If the notice is not provided within the 5 day period, then a party may not claim a force majeure event. A force majeure condition suspends a party's obligations under this contract, unless the parties mutually agree that the obligation is excused because of the condition.

WAIVER OF BREACH

Either party's failure to enforce any contract provisions after any event of breach is not a waiver of its right to enforce the provisions and exercise appropriate remedies if the breach occurs again. Neither party may assert the defense of waiver in these situations.

CONFORMANCE WITH CONTRACT

No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without the University of Montana Procurement Services' prior written consent. Product or services provided that do not conform to the contract terms, conditions, and specifications may be rejected and returned at Contractor's expense.

LIAISONS AND SERVICE OF NOTICES

Contract Liaisons. All project management and coordination on the University's behalf must be through a single point of contact designated as the University's liaison. Contractor shall designate a liaison that will provide the single point of contact for management and coordination of Contractor's work. All work performed under this contract must be coordinated between the University's liaison and Contractor's liaison.

Kate Smith is the University's liaison.
Title: Operations Director
Department: College of Forestry
Telephone: (406) 243-4903
E-mail: kate.smith@cfc.umt.edu

R David Evans is Contractor's liaison.
(Address): School of Biological Sciences
Washington State University
PO Box 644236
(City, State, ZIP): Pullman, WA 99164-4236
Telephone: (509) 335-7466
Fax: (509) 335-3184
E-mail: rdevans@wsu.edu

Notifications. The University's liaison and Contractor's liaison may be changed by written notice to the other party. Written notices, requests, or complaints must first be directed to the liaison. Notice may be provided by personal service, mail,



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or facsimile. If notice is provided by personal service or facsimile, the notice is effective upon receipt; if notice is provided by mail, the notice is effective within three (3) business days of mailing. A signed and dated acknowledgement of the notice is required of both parties.

CHANGES IN WORK or INCREASE IN CONTRACT AMOUNT:

No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without the University's prior written consent. Prior approval must be obtained in the form of a contract addendum. Only a contract addendum authorized by Procurement Services will permit any adjustment to the contract. A request by the Contractor or the University Department representative shall be accompanied by an itemized statement, which details all costs that would be incurred to effect the change. Contractor shall provide a complete statement of all actual costs to be incurred for each requested change. This information will be approved by the University Department and sent to Procurement Services for the contract addendum to be signed by both parties.

TAX EXEMPTION

The University is exempt from Federal Excise Taxes (#81-6001713).

AUTHORITY

This contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

SEVERABILITY CLAUSE

A declaration by any court or any other binding legal source that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually and materially dependent.

SCOPE, ENTIRE AGREEMENT, AND AMENDMENT

CONTRACT: The University of Montana is an agency of the State of Montana and it is required by law that the State of Montana's terms and conditions shall be first in the order of precedence. This contract (agreement or purchase order) consists of the University of Montana Contract CMV00063, any Attachments or Exhibits as required. In the case of dispute or ambiguity about the minimum levels of performance by the Contractor the order of precedence of document interpretation is in the same order. In the event there are any inconsistencies or contradictions between the terms herein and the terms of the Vendor's forms or website, the terms of this contract shall prevail.

ENTIRE AGREEMENT: These documents are the entire agreement of the parties. They supersede all prior agreements, representations, and understandings. Any enlargement, alteration or modification requires a written amendment signed by both parties.

WAIVER: The University's waiver of any Contractor obligation or responsibility in a specific situation is not a waiver in a future similar situation or is not a waiver of any other Contractor obligation or responsibility.



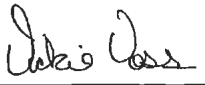
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EXECUTION

IN WITNESS WHEREOF, the parties through their duly authorized representatives have executed this contract to be effective on the dates set out below.

For University of Montana

For: Washington State University

By:  Digitally signed by Vickie Voss
DN: cn=Vickie Voss, o=The University of
Montana, ou=Business Services -
Procurement,
email=vickievoss@msou.mt.edu, c=US
Date: 2014.01.30 07:28:44 -0700

By: 
(Authorized Signature)

Name: Vickie Voss

Name: Amanda N. Owen
Contracts Manager
Washington State University

Title: Procurement Officer

Title: _____
(Print or Type)

Date: 01/30/2014

Date: 1/27/14

TAXPAYER ID#: 91-6001108

NOTE: This contract is not validated and work may not start until both signatures are acquired.