

WHATCOM COUNTY CONTRACT

INFORMATION SHEET

SCANNED 8-10-10 (21)

Whatcom County Contract No. 201008003

Expires 6-30-11

Originating Department:	Public Works—Natural Resources
Contract Administrator:	Scarlet Tang, Senior Planner
Contractor's / Agency Name:	Western Washington University
Is this a New Contract? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> If not, is this an Amendment or Renewal to an Existing Contract? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, previous number(s): _____ Is this a grant agreement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, grantor agency contract number(s) _____ CFDA number _____ Is this contract grant funded? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, associated Whatcom County grant contract number(s) <u>200906036-2</u> Is this contract the result of a RFP or Bid process? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, RFP and Bid number(s) _____	
Contract Amount: (sum of orig contract amt and any prior amendments) \$ <u>6,036</u> This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	If a Professional Services Agreement is more than \$15,000 or a Bid is more than \$35,000, please submit an Agenda Bill for Council approval and a supporting memo. Any amendment that provides either a 10% increase in amount or more than \$10,000, whichever is greater, must also go to Council and will need an agenda bill and supporting memo. If less than these thresholds, just submit to Executive with supporting memo for approval.
Scope of Services	Whatcom County Public Works on behalf of the Whatcom Marine Resources Committee (MRC) requests to enter into an ILA with WWU to conduct rockfish abundance and habitat surveys in Whatcom County marine waters. WWU performed preliminary rockfish surveys for the MRC in 2008 and 2009 to refine methods, survey the extent of rockfish habitat, generate better estimates of population abundance, and locate areas for focusing conservation efforts. These current surveys will combine SCUBA and remotely-operated-vehicle (ROV) tows to correlate abundance estimates and compare population estimates to regional (Skagit and Island County) population studies.
Term of Contract:	Expiration Date: 6/30/2011

- Contract Routing Steps & Signoff:** [sign or initial] [indicate date transmitted]
- Prepared by: Remy Stratton Date 7/9/10 [electronic]
 - Attorney reviewed: Daniel L. Gibson Date 07/16/10 [electronic]
 - AS Finance reviewed: bbennett Date 7/16/10 [electronic]
 - IT reviewed if IT related: _____ Date _____ [electronic]
 - Corrections made: _____ Date _____ [electronic] hard copy printed
 - Attorney signoff: Daniel L. Gibson *[Signature]* Date 07/16/10
 - Contractor signed: Date 7-22-10
 - Submitted to Exec Office: Date 8-6-10 [summary via electronic; hardcopies]
 - Reviewed by DCA: _____ Date _____
 - Council approved (if necessary): _____ Date _____
 - Executive signed: Date 8-9-10
 - Contractor Original
 - Returned to dept: Date 8-10-10
 - County Original to Council: Date 8-10-10

**2010 INTERLOCAL AGREEMENT
WESTERN WASHINGTON UNIVERSITY – WHATCOM COUNTY
MARINE RESOURCES COMMITTEE ROCKFISH SURVEY PROJECT**

THIS INTERLOCAL AGREEMENT (the "Agreement") is made and entered into by and between Western Washington University, 516 High Street, Bellingham, WA, 98225-9038 ("WWU") and Whatcom County, County Courthouse, 311 Grand Avenue, Bellingham, WA 98225 ("County").

WHEREAS, WWU and the County desire to establish an arrangement wherein the County will provide funding to WWU to conduct rockfish surveys in Whatcom County marine waters to the mutual advantage of each jurisdiction; and

WHEREAS, Chapter 39.34, Revised Code of Washington provides for cooperation between local government entities through contractual agreement; and

WHEREAS, the Whatcom County Marine Resources Committee (MRC) considers rockfish surveys in local marine waters as a priority project; and

WHEREAS, Whatcom County MRC Grants are administered by the County; and

WHEREAS, the County received funding to support the continuation of rockfish surveys through the Northwest Straits Project: Marine Resources Committee Administration and Action Projects (Grant #G100002, County Contract #200906036-2); and

WHEREAS, the source of County funds for this project are Coastal Zone Management 310 funds (National Oceanic and Atmospheric Administration, Department of Commerce, CFDA # 11.419) passed through the Washington State Department of Ecology; and

WHEREAS, WWU has completed previous rockfish surveys for the MRC to evaluate methods, troubleshoot equipment, identify prime rockfish habitats and locations, and develop standard operating procedures; and

WHEREAS, the parties desire to enter into this Agreement in order to define their respective obligations for this transaction,

NOW THEREFORE, WWU and the County agree as follows:

- I. *Purpose:* The purpose of this agreement is to set the terms whereby the County will make funds available to WWU so that WWU can conduct rockfish surveys in Whatcom County.
- II. *Administration:* No new or separate legal or administrative entity is created to administer the provisions of this agreement. As a sub-recipient of grant funds, WWU must, and as a condition of this agreement does agree to comply with all requirements for sub-recipients set forth in the Sub-Recipient Agreement between the County and WWU, which is attached hereto as Exhibit A.
- III. *Western Washington University Responsibilities:* WWU agrees to perform the work described in Exhibit B.
- IV. *Whatcom County Responsibilities:* The County agrees to reimburse WWU in an amount not to exceed the total grant contribution allocated to the MRC budget, as shown in Exhibit C, for the costs of providing and performing the services stated under Sections I and III, based on the actual costs of labor (including fringe benefits), equipment rental, materials and contract services involved, and consultant fees and expenses pertaining to the project.

- V. *Payment:* All payments by the County to WWU under this Agreement are considered reimbursement for work performed by WWU or its contractors. Each request for payment herein is to be submitted in the usual form of a claim for services rendered, which claim shall be supported by detailed documentation of the services actually performed so as to comply with auditing requirements. Payment shall be upon approved claims and in accordance with customary procedures. The County will compensate WWU for work performed within thirty (30) days following receipt of a detailed invoice, provided all other terms and conditions of the contract have been met and are certified as such by the County's Contract Administrator.
- VI. *Term:* This Agreement shall be effective for services performed from August 5, 2010, through May 31, 2011. It may be terminated by either party upon the giving of written notice to the other, at which time any remaining financial obligations for services rendered shall be paid in full according to the provisions of V. *Payment*, stated above.
- VII. *Responsible Persons:* The persons responsible for administration of this Agreement shall be the Whatcom County Public Works Director and the WWU Vice Provost for Research or their designees.

Ken Clark, Director
 Research & Sponsored Programs
 Western Washington University
 516 High Street, MS 9038
 Bellingham, WA 9822-9038

Scarlet Tang, Senior Planner
 Public Works Natural Resources
 Whatcom County
 322 N. Commercial St., Ste. 110
 Bellingham, WA 98225

Phone: (360) 650-3082
 Fax: (360) 650-6811

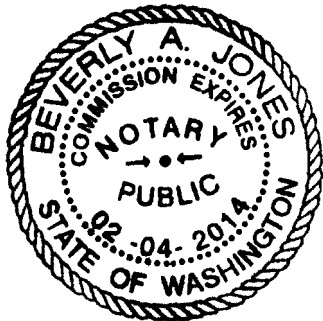
Phone: (360) 676-6876
 Fax: (360) 738-2468

The WWU contact and telephone number for billing/invoice questions is David Shull, Assistant Professor, Department of Environmental Sciences, Huxley College of the Environment (360) 650-3690. The Whatcom County contact and telephone number for project questions is Melissa Roberts, Planner I, Public Works Natural Resources (360) 676-6876.

- VIII. *Treatment of Assets and Property:* No fixed assets or personal or real property will be jointly or cooperatively acquired, held, used, or disposed of pursuant to this Agreement, except that the products of the project shall be deemed the property of both of the parties to this agreement.
- IX. *Hold Harmless:* Each party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions or those of its officials, officers, agents, or employees, to the fullest extent required by law, and further agrees to hold the other party harmless from any such liability. It is further provided that no liability shall attach to the Parties by reason of entering into this Agreement except as expressly provided herein.
- X. *Modifications:* The terms of this Agreement may be changed, modified, amended, or waived only by written agreement executed by the Parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.
- XI. *Applicable Law:* In the performance of this Agreement, it is mutually understood and agreed upon by the Parties hereto that this Agreement shall be governed by the laws of the State of Washington, both as to interpretation and performance, and the venue of any action arising herefrom shall be in the Superior Court of the State of Washington in and for Whatcom County.
- XII. *Severability:* In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement that can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

On this 2 day of August, 2010, before me personally appeared, MOHEB A. GHALI, to me known to be the Vice Provost for Research of WESTERN WASHINGTON UNIVERSITY, and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.



Beverly A. Jones
NOTARY PUBLIC in and for the State of
Washington, residing at Bellingham
My commission expires: 2/4/14

**EXHIBIT A: SUB-RECIPIENT AGREEMENT
BETWEEN WHATCOM COUNTY AND WESTERN WASHINGTON UNIVERSITY
2010 Rockfish Survey Project**

THIS SUB-RECIPIENT AGREEMENT is made and entered into, by and between, Whatcom County, hereinafter referred to as the "County", and the Western Washington University, hereinafter referred to as the "Agency".

This is a sub-grant of the National Oceanic and Atmospheric Administration (U.S. Dept. of Commerce) and the Washington State Department of Ecology, CZM Grant Agreement No. G1000002, entitled Northwest Straits Project: Marine Resources Committee Administration and Action Projects, passed through by the following entities: Washington State Department of Ecology, and Whatcom County, for Federal fiscal years 2009-2011, CFDA No. 11.419.

The purpose of this sub-award is as follows:

The County, on behalf of the MRC, will provide funds to the Agency to conduct rockfish abundance and habitat distribution surveys in local marine waters to provide information about the health of rockfish populations in Whatcom County.

IT IS, THEREFORE, MUTUALLY AGREED THAT:

SPECIAL TERMS AND CONDITIONS

Statement of Work:

The Agency will conduct rockfish abundance and habitat distribution surveys around Lummi Island in Whatcom County using both a remotely operated vehicle (ROV) deployed from a research vessel as well as certified scientific divers in order to correlate abundance estimates between the two survey methods.

Period of Performance:

Subject to its other provisions, the period of performance of this Agreement shall commence after August 5, 2010 and be completed by May 31, 2011 unless terminated sooner or extended by amendment as provided herein.

In Consideration Whereof:

The maximum amount of this Agreement allocated to the Agency is **\$6036**, subject to a detailed budget as described in Exhibit C and completion of the Statement of Work as described in Exhibit B. The Agency shall provide invoices documenting all actual direct costs, such as: salaries and benefits, materials, travel expenses, contracts, or equipment incurred by the Agency. All reimbursement requests must be submitted to the County no later than 30 days after the grant completion date. The County shall reimburse the Agency within 30 days of receipt of reimbursement from the granting agency, Washington State Department of Ecology.

GENERAL TERMS AND CONDITIONS

1. Administrative Requirements:

The Agency shall comply with all requirements within OMB Circular **A-87**, Cost Principles for State, Local, and Indian Tribal Governments, OMB Circular **A-21**, Cost Principle for Educational Institutions, or OMB Circular **A-122**, Cost Principles for Non-Profit Organizations; OMB Circular **A-102**, Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments or OMB Circular **A-110**, Administrative Requirements for Non-Profit Organizations; and OMB Circular **A-133**, Audits of States, Local Governments, and Non-Profit Organizations, as are applicable.

The Agency shall comply with all federal and state laws and regulations, including all non-discrimination laws, but not limited to, Title VII of the Civil Rights Act, 42 USC 12101 et seq.; the Americans with Disabilities Act (ADA); and Chapter 49.60 RCW.

2. Single Audit Reporting:

Non-federal entities receiving financial assistance of \$500,000 or more in federal funds from all sources, direct and indirect are required to have a single or a program-specific audit conducted in accordance with the Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations. Circular A-133 is available on the OMB Home Page at <http://www.omb.gov>. If this is applicable, the Agency has the responsibility of notifying the State Auditor's Office and requesting an audit. Non-federal entities that spend less than \$500,000 a year in federal awards are exempt from federal audit requirements for that year, except as noted in OMB Circular A-133.

The Agency shall maintain records and accounts so as to facilitate the audit requirement and shall ensure that any subcontractors also maintain auditable records. The Agency shall include the above audit requirements in any subcontracts.

The Agency is responsible for any audit exceptions incurred by its own organization or that of its subcontractors. Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report. The Agency must respond to County's requests for information or corrective action concerning audit issues within 30 days of the date of request. The County reserves the right to recover from the Agency all disallowed costs resulting from the audit.

Once the single audit has been completed, the Agency must send a full copy of the audit to the County and a letter stating there were no findings or if there were findings, the letter should provide a list of the findings.

3. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:

The Agency certifies, by submission of this proposal or contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

The Agency further agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Agency and any other person) with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Agency agrees to include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction" without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The "General Service Administration List of Parties Excluded from Federal Procurement or Non-procurement Programs" is available to research this information at <http://epls.arnet.gov/>.

4. Termination of Contract:

If, through any cause, the Agency fails to fulfill in a timely and proper manner its obligations under this contract or if the Agency violates any of the stipulations of this contract, the County shall thereupon have the right to terminate this contract and withhold any remaining allocation, if such default is not corrected within thirty (30) days after submitting written notice to the Agency describing such default or violation. Otherwise, either party may terminate this contract by providing written notice of such termination, specifying the effective date thereof, at least thirty (30) days prior to such date.

Reimbursement for services performed by the Agency and not otherwise paid for by the County prior to the effective date of termination, shall be as the County reasonably determines. The County reserves the right to terminate all or part of this contract, or may reduce its scope of work and budget, if there is a reduction in funding from the source of these grant funds, provided that such funds are the basis for this contract.

5. Sub-recipient Obligations:

The Agency recognizes that the source of funding for the work to be performed hereunder is the National Oceanic and Atmospheric Administration (NOAA, a branch of the U.S. Dept. of Commerce) and the Washington State Department of Ecology, by means of grant funding passed through Whatcom County. In

addition to the requirements contained above, the Agency agrees to fulfill federal and state requirements that are placed upon the RECIPIENT in the General Terms and Conditions Pertaining to Grant and Loan Agreements of the Department of Ecology (DEPARTMENT) and of CZM Grant Agreement No. G1000002 between the Department of Ecology and Whatcom County as abstracted below. In addition, the Agency will ensure that its subcontractors will also comply with any applicable terms and conditions.

A. RECIPIENT PERFORMANCE

All activities for which grant/loan funds are to be used shall be accomplished by the RECIPIENT and RECIPIENT's employees. The RECIPIENT shall not assign or subcontract performance to others unless specifically authorized in writing by the DEPARTMENT.

B. SUBGRANTEE/CONTRACTOR COMPLIANCE

The RECIPIENT must ensure that all sub-grantees and contractors comply with the terms and conditions of this agreement.

C. ADMINISTRATION OF THIS AGREEMENT

For the administration of this agreement the RECIPIENT shall follow the "Administrative Requirements for Ecology Grants and Loans", current edition.

D. THIRD PARTY BENEFICIARY

The RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this agreement, the state of Washington is named as an express third-party beneficiary of such subcontracts with full rights as such.

E. CONTRACTING FOR SERVICES (BIDDING)

Contracts for construction, purchase of equipment and professional architectural and engineering services shall be awarded through a competitive process, if required by State law. RECIPIENT shall retain copies of all bids received and contracts awarded, for inspection and use by the DEPARTMENT.

F. ASSIGNMENTS

No right or claim of the RECIPIENT arising under this agreement shall be transferred or assigned by the RECIPIENT.

G. COMPLIANCE WITH ALL LAWS

1. The RECIPIENT shall comply fully with all applicable Federal, State and local laws, orders, regulations and permits.

Prior to commencement of any construction, the RECIPIENT shall secure the necessary approvals and permits required by authorities having jurisdiction over the project, provide assurance to the DEPARTMENT that all approvals and permits have been secured, and make copies available to the DEPARTMENT upon request.

2. Discrimination. The DEPARTMENT and the RECIPIENT agree to be bound by all Federal and State laws, regulations, and policies against discrimination. The RECIPIENT further agrees to affirmatively support the program of the Office of Minority and Women's Business Enterprises to the maximum extent possible. The RECIPIENT shall report to the DEPARTMENT the percent of grant/loan funds available to women or minority owned businesses.

3. Wages and Job Safety. The RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.

4. Industrial Insurance. The RECIPIENT certifies full compliance with all applicable state industrial insurance requirements. If the RECIPIENT fails to comply with such laws, the DEPARTMENT shall have the right to immediately terminate this agreement for cause as provided in Section K.1, herein.

H. KICKBACKS

The RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this project to give up any part of the compensation to which he/she is otherwise entitled or, receive any fee, commission or gift in return for award of a subcontract hereunder.

I. AUDITS AND INSPECTIONS

1. The RECIPIENT shall maintain complete program and financial records relating to this agreement. Such records shall clearly indicate total receipts and expenditures by fund source and task or object.

All grant/loan records shall be kept in a manner which provides an audit trail for all expenditures. All records shall be kept in a common file to facilitate audits and inspections. Engineering documentation and field

inspection reports of all construction work accomplished under this agreement shall be maintained by the RECIPIENT.

2. All grant/loan records shall be open for audit or inspection by the DEPARTMENT or by any duly authorized audit representative of the State of Washington for a period of at least three years after the final grant payment/loan repayment or any dispute resolution hereunder. If any such audits identify discrepancies in the financial records, the RECIPIENT shall provide clarification and/or make adjustments accordingly.

3. All work performed under this agreement and any equipment purchased, shall be made available to the DEPARTMENT and to any authorized state, federal or local representative for inspection at any time during the course of this agreement and for at least three years following grant/loan termination or dispute resolution hereunder. This includes any directly pertinent books, documents, papers, and records of the RECIPIENT involving transactions related to this grant. The RECIPIENT agrees to include the substance of this paragraph into all grants and subcontracts payable from contract funds in whole or in part.

4. Unauthorized Expenditures. All payments to the RECIPIENT shall be subject to final audit by the DEPARTMENT and any unauthorized expenditure(s) charged to this grant/loan shall be refunded to the DEPARTMENT by the RECIPIENT.

5. Overhead Costs. No reimbursement for overhead costs shall be allowed unless provided for in the Scope of Work hereunder.

J. PROPERTY RIGHTS

1. Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property, the RECIPIENT may copyright or patent the same but the DEPARTMENT retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover or otherwise use the material(s) or property and to authorize others to use the same for federal, state or local government purposes.

2. Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish information of the DEPARTMENT; present papers, lectures, or seminars involving information supplied by the DEPARTMENT; use logos, reports, maps or other data, in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to the DEPARTMENT.

3. Conversions. Regardless of the contract termination date shown on the cover sheet, the RECIPIENT shall not at any time convert any equipment, property or facility acquired or developed pursuant to this agreement to uses other than those for which assistance was originally approved without prior written approval of the DEPARTMENT. Such approval may be conditioned upon payment to the DEPARTMENT of that portion of the proceeds of the sale, lease or other conversion or encumbrance which monies granted pursuant to this agreement bear to the total acquisition, purchase or construction costs of such property.

K. RECYCLED/RECYCLABLE PAPER

All documents and materials published under this agreement shall be produced on recycled paper containing the highest level of post consumer and recycled content that is available. At a minimum, paper with 10 percent post consumer content and 50 percent recycled content shall be used. Whenever possible, all materials shall be published on paper that is unbleached or has not been treated with chlorine gas and/or hypochlorite.

As appropriate, all materials shall be published on both sides of the paper and shall minimize the use of glossy or colored paper and other items which reduce the recyclability of the document.

L. RECOVERY OF PAYMENTS TO RECIPIENT

The right of the RECIPIENT to retain monies paid to it as reimbursement payments is contingent upon satisfactory performance of this agreement including the satisfactory completion of the project described in the Scope of Work. In the event the RECIPIENT fails, for any reason, to perform obligations required of it by this agreement, the RECIPIENT may, at the DEPARTMENT's sole discretion, be required to repay to the DEPARTMENT all grant/loan funds disbursed to the RECIPIENT for those parts of the project that are rendered worthless in the opinion of the DEPARTMENT by such failure to perform.

Interest shall accrue at the rate of twelve percent (12%) per annum from the time the DEPARTMENT demands repayment of funds. If payments have been discontinued by the DEPARTMENT due to insufficient funds as in Section K.2 above, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination. Any property acquired under this agreement, at the option of the DEPARTMENT, may become the DEPARTMENT'S property and the RECIPIENT'S liability to repay monies shall be reduced by an amount reflecting the fair value of such property.

M. PROJECT APPROVAL

The extent and character of all work and services to be performed under this agreement by the RECIPIENT shall be subject to the review and approval of the DEPARTMENT through the Project Officer or other designated official to whom the RECIPIENT shall report and be responsible. In the event there is a dispute with regard to the extent and character of the work to be done, the determination of the Project Officer or other designated official as to the extent and character of the work to be done shall govern. The RECIPIENT shall have the right to appeal decisions as provided for below.

N. DISPUTES

Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement which is not disposed of in writing shall be decided by the Project Officer or other designated official who shall provide a written statement of decision to the RECIPIENT. The decision of the Project Officer or other designated official shall be final and conclusive unless, within thirty days from the date of receipt of such statement, the RECIPIENT mails or otherwise furnishes to the Director of the DEPARTMENT a written appeal.

In connection with appeal of any proceeding under this clause, the RECIPIENT shall have the opportunity to be heard and to offer evidence in support of this appeal. The decision of the Director or duly authorized representative for the determination of such appeals shall be final and conclusive. Appeals from the Director's determination shall be brought in the Superior Court of Thurston County. Review of the decision of the Director will not be sought before either the Pollution Control Hearings Board or the Shoreline Hearings Board. Pending final decision of dispute hereunder, the RECIPIENT shall proceed diligently with the performance of this agreement and in accordance with the decision rendered.

O. CONFLICT OF INTEREST

No officer, member, agent, or employee of either party to this agreement who exercises any function or responsibility in the review, approval, or carrying out of this agreement, shall participate in any decision which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is, directly or indirectly interested; nor shall he/she have any personal or pecuniary interest, direct or indirect, in this agreement or the proceeds thereof.

P. HOLD HARMLESS

1. The DEPARTMENT shall in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.
2. To the extent that the Constitution and laws of the State of Washington permit, each party shall hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this agreement.

Q. PRECEDENCE

In the event of inconsistency in this agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable Federal and State statutes and regulations; (b) Scope of Work; (c) Special Terms and Conditions; (d) Any terms incorporated herein by reference including the "Administrative Requirements for Ecology Grants and Loans"; and (e) the General Terms and Conditions.

R. RESTRICTIONS ON LOBBYING

Each bidder/applicant/recipient/ sub-recipient of this agreement is generally prohibited from using Federal funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with this award. This agreement is subject to Section 319 of Public Law 101-121, which added Section 1352, regarding lobbying restrictions, to Chapter 13 of Title 31 of the United States Code. The new section is explained in the common rule, 15 CFR Part 28 (55 FR 6736-6748, 2/26/90).

The Special Terms and Conditions and General Terms and Conditions contained herein apply towards the Agency unless expressly revised by this Agreement.

EXHIBIT B: SCOPE OF WORK 2010 Rockfish Survey Project

PROJECT OVERVIEW:

Rockfish abundance and reproductive potential have declined greatly in Puget Sound and the Georgia Basin over the last few decades. Conducting rockfish surveys in Whatcom County has provided valuable information on the health of rockfish populations in our local marine waters. Recent surveys (2008 and 2009) of rockfish by researchers and students at Western Washington University using a remotely operated vehicle (ROV) have mapped the spatial distribution of rockfish in the waters of Whatcom County and have initiated an on-going monitoring project at a site on the southwestern portion of Lummi Island. Surveys found this site to be particularly good rockfish habitat where observations of copper, Puget Sound, and black rockfish (*Sebastes caurinus*, *S. emphaeus*, and *S. melanops*) were frequently made. The spatial surveys also indicated that Lummi Island was only the area where rockfish were present in significant numbers (Grove and Shull 2008, Smith and Shull 2009, Fig. 1). The key habitat characteristics associated with the presence of rockfish were a bottom slope greater than 20 degrees and a complex rocky bottom with plenty of boulders.

The ROV has proven to be a useful tool for quantifying rockfish in Whatcom County. However, it is difficult to compare estimates of rockfish abundance in Whatcom County with abundance estimates from other counties due to differences in methodology. It would thus be useful to compare rockfish abundance determined from ROV surveys with other methods. One of the other important methods of quantifying rockfish abundance is underwater surveys using SCUBA. WWU will coordinate surveys using an ROV and SCUBA concurrently. With this information, they will compile data on rockfish abundance in Whatcom County and compare population estimates with estimates from Skagit and Island Counties.

TASK DESCRIPTION:

Previous rockfish surveys were conducted in 2008 and 2009 by WWU in various regions of Whatcom County waters. These surveys found the highest rockfish density and best habitat along the west side of Lummi Island (Figure 1) using an ROV. An ROV is a submersible video camera equipped with an integrated DVD recording system, a depth gauge, and parallel laser beams to quantify the field of view. The purpose of these preliminary surveys was to evaluate methods, troubleshoot equipment, develop standard operating procedures for future rockfish surveys, and to evaluate abundance and suitable habitat features. While rockfish were found, the first surveys were limited in spatial extent and scope. A broader survey of rockfish habitat and abundance was necessary to document the extent of rockfish habitat, to generate better estimates of population abundance, and to locate areas for focusing conservation efforts.

This current project will build off previous rockfish surveys by combining ROV survey methods with coordinated SCUBA dive team surveys. These surveys will occur at several locations along the southwestern shore of Lummi Island possessing different bottom types and varied rockfish populations. The divers will conduct traditional SCUBA surveys using two different survey methods. First, they will use the diver survey methods of Weispfenning (2006) consisting of 25-m transects over a range of depths. Second, they will also conduct surveys that follow the same path taken by the ROV (typically straight up the slope). Rockfish abundance and species composition data collected by the ROV and divers covering the same area as well as the ROV surveys and diver surveys using the methodology of Weispfenning (2006) will then be compared.

Rockfish abundance from all surveys will be determined per unit area surveyed and bottom depth and habitat characteristics will be noted for all rockfish observations. Both univariate and multivariate statistics will be used to compare rockfish abundance and species composition determined by the three survey methods. Canonical analysis, such as canonical correspondence analysis or redundancy analysis, (Legendre and Legendre 1998) will be used to assess differences in abundance and species composition among the survey methods. These statistical methods will allow for control of habitat characteristics and water depth as the three methodologies are compared.

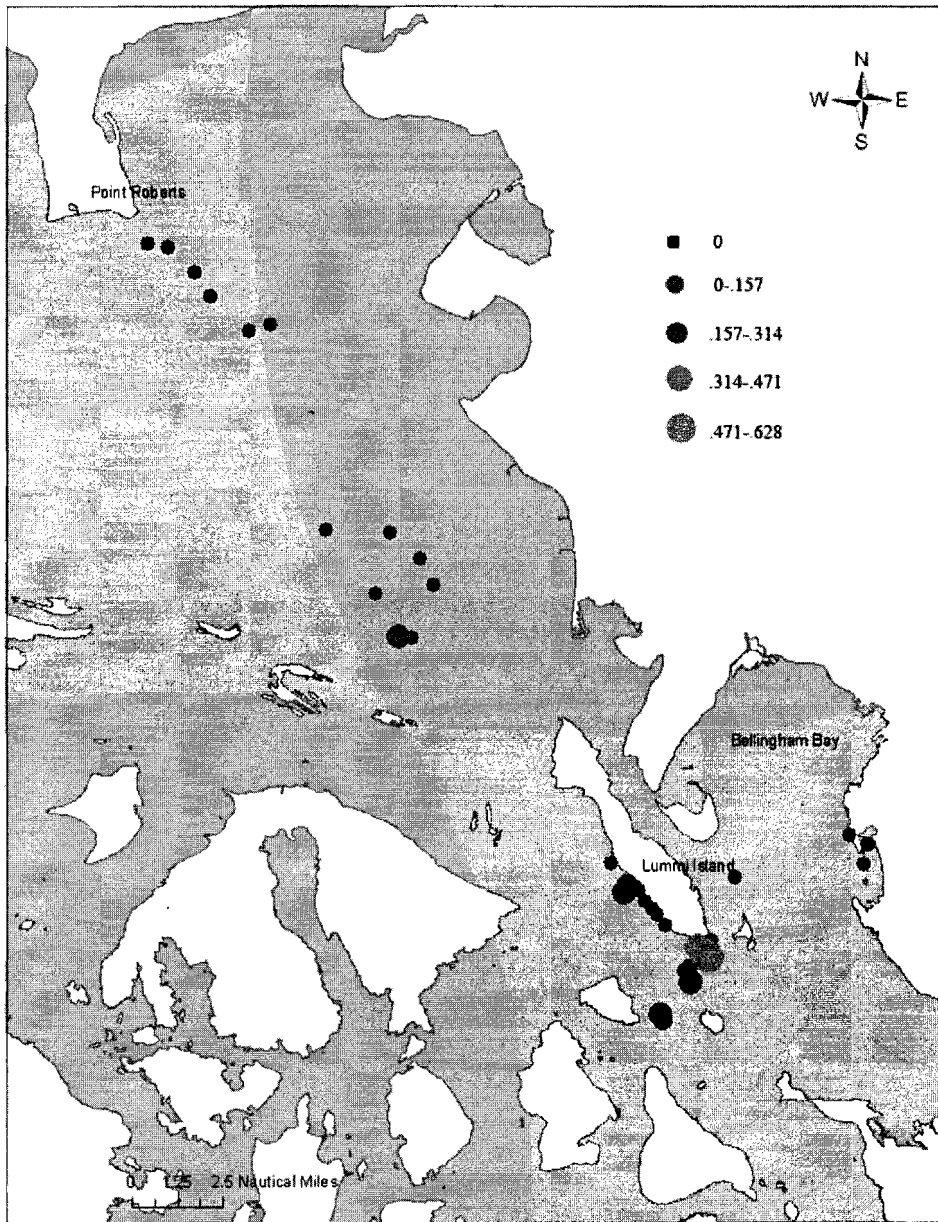


Figure 1. Rockfish m^{-2} in Whatcom County waters enumerated by Smith and Shull (2009) and Grove and Shull (2008).

PERSONNEL AND RESPONSIBILITIES:

The research vessel and ROV are the property of WWU. David Shull, WWU Associate Professor, will supervise the project and will be responsible for overall project management. Brandy Carpenter (WWU Senior) will carry out the rockfish surveys, perform the data analysis and write the report under Dr. Shull's supervision. Shannon Point Marine Center Diving Control Board manages all scientific diving activities, following the University wide dive policy. This policy follows the guidelines of OSHA regulations and American Academy of Underwater Scientists (AAUS) standards. The primary divers for this project will be Nathan Schwarck, Shannon Point Dive Safety Officer, and Karl Mueller, Marine Technologist and Scientific Diver. They may be assisted by other certified scientific divers from the Shannon Point Marine Center depending upon staff availability.

PRODUCTS: WWU will make copies of all video recordings of underwater bottom habitat and fish available to Whatcom County. A GIS data layer of rockfish populations will be provided to Whatcom County. WWU will provide a summary report on rockfish habitat and abundance to be delivered to the Whatcom MRC no later than December 31, 2010. An oral presentation will be given to the Whatcom MRC during one of their scheduled committee meetings no later than June 30, 2011.

TIMELINE/DELIVERY DATE:

August 5, 2010 - September 15, 2010: Conduct rockfish surveys

September 30 - December 1, 2010: Analyze data and submit draft of summary report for MRC subcommittee review

December 31, 2010: Submit all final deliverables including final summary report, video recordings, and GIS data layer

By May 31, 2011: Present findings at a regularly scheduled MRC committee meeting

REFERENCES:

Grove, T. L. and D.H. Shull. 2008. ROV assessment of rockfish abundance, distribution, and habitat in Whatcom County marine waters. Report to Whatcom County MRC.

Legendre, P. and L. Legendre. 1998. *Numerical Ecology*. Elsevier. 853 pp.

Love, M., M. Yoklavich and L. Thorsteinson. 2002. *Rockfishes of the Northeast Pacific*. University of California Press.

Smith, S. and D. H Shull. 2009. Survey of Whatcom County, Washington nearshore rockfish by remotely operated vehicle and implications for marine protected areas. Report to Whatcom County MRC.

Weispfenning, A. J. 2006. Survey of nearshore demersal fishes within candidate marine reserves in Skagit County, Washington. M.S. Thesis, Western Washington University, Bellingham, WA.

EXHIBIT C: BUDGET
2010 Rockfish Survey Project

Task	Item	Rate	Est. Hours	Est. Cost
Surveys	Boat	\$110/hr	24	\$2,640
Materials and Supplies	Burnable DVDs and misc. supplies	n/a	n/a	\$48
ID book	Love et al. 2002 Rockfishes of N. Pac.	n/a	n/a	\$30
Materials and supplies	ROV maintenance kit	n/a	n/a	\$2,000
Salaries	PI salary (Shull)	\$30/hour	24	\$720
Fringe Benefits	30% of salary*	\$9/hour	24	\$216
Indirect Costs	53.1% of salary**	\$15.93/hr	24	\$382
Total Estimated Project Budget (not to exceed)				\$6,036

* see Exhibit D and Exhibit E

** see Exhibit F

Budget Narrative

The total budget referenced above is an amount not to be exceeded under this Agreement. As consideration for the services provided pursuant to Exhibit B, Scope of Work, the County agrees to compensate WWU according to the hourly rates, equipment rates and material rates provided in budget breakdown. Other reasonable expenses incurred in the course of performing the duties herein shall be reimbursed at actual cost as documented by copies paid invoices. Any work performed prior to the effective date of this contract or continuing after the completion date of the same unless otherwise agreed upon in writing, will be at WWU's expense.

Budget Justification

The survey will be conducted using Western's research vessel R/V Zoea at a cost of \$110/h. The work will require an estimated 24 hours for a total cost of \$2640. Funds will be required to purchase blank DVDs for recording bottom habitat and rockfish observations (approximately 30 DVDs), notebooks, pens, and other supplies that will be used during the survey. A maintenance kit that is essential for the proper upkeep and functioning of the ROV will be purchased for \$2000. A salary of \$720 to the PI is estimated based on 24 hours of total effort (\$30/h). Fringe benefits were calculated as 30% of salary and indirect costs were calculated as 53.1% of salary. Total project cost is \$6036.

**EXHIBIT D: FRINGE BENEFIT COSTS
2010 Rockfish Survey Project**

<u>BENEFIT TYPE</u>	<u>ACCOUNT CODE</u>	<u>EMPLOYEE CHARGE</u>	<u>EMPLOYER CHARGE</u>
<i>F.I.C.A.</i>			
Social Security	F910	6.2% x gross salary to maximum salary of \$106,800 ^{^^}	6.2% x gross salary to maximum salary of \$106,800 ^{^^}
Medicare	F915	1.45% x gross salary (no limit)	1.45% x gross salary (no limit)
<i>Retirement (employee may only be active in one plan)</i>			
LEOFF (Law Enforcement Officers Retirement System)	F920	Plan II: 8.83%* x gross salary	Plan II: 8.99%* x gross salary
PERS (Public Employees Retirement System)	F920	Plan I: 6.0% x gross salary	Plan I: 8.31%* x gross salary
		Plan II: 5.45%* x gross salary	Plan II: 8.31%* x gross salary
		Plan III: Employee Option	Plan III: 8.31%* x gross salary
TRS (WA State Teacher's Retirement System)	F920	Plan I: 6.0% x gross salary	Plan I: 8.46%^ x gross salary
		Plan II: 4.26%^ x gross salary	Plan II: 8.46%^ x gross salary
		Plan III: Employee Option	Plan III: 8.46%^ X gross salary
WWURP (University Retirement System)	F920	Age: Less than 35 = 5.0% 35 and over = 7.5% 50 and over = 10.0% (10% is employee option)	Matched by University; equal to employee contribution
<i>Insurance/Other</i>			
Medical/Dental/Life/LTD Insurance	F940	Based on Plan Choice	\$561.00/month per eligible employee*
Industrial Insurance	F930	No charge to employee	.0639 ^{^^} x hrs to a maximum of \$10.22/month (160 hours)

Medical Aid	F930	.0673 ^{^^} x hrs to a maximum of \$10.76/month (160 hours)	.0673 ^{^^} x hrs to a maximum of \$10.76/month (160 hours)
Unemployment	F960	No charge to employee	.13% ^{**} x gross salary

[^] = Effective September 1, 2008

^{^^} = Effective January 1, 2009

^{*} = Effective July 1, 2008

^{**} = Effective November 1, 2003

General Rules

Student employees: employer is not charged for social security, retirement, health insurance, or unemployment.

Temporary employees: employer is not charged for retirement or health insurance unless the employee becomes eligible for the benefit. Contact Jeff Ritter at (360) 650-7314 for more information.

**EXHIBIT E: FRINGE BENEFIT CALCULATIONS
2010 Rockfish Survey Project**

FRINGE BENEFIT CALCULATION

Updated 1.2.09

CLASSIFIED

WAGE	Benefits 0.167	Medical/ Other	FB Rate
		8760	(\$561 + 23 x12=\$8,760)
24,000	4008.00	12768.00	0.532
26,000	4342.00	13102.00	0.504
28,000	4676.00	13436.00	0.480
30,000	5010.00	13770.00	0.459
32,000	5344.00	14104.00	0.441
34,000	5678.00	14438.00	0.425
44,000	7348.00	16108.00	0.366
45,000	7515.00	16275.00	0.362

FACULTY:

Academic Year

WAGE AY	Benefits 0.167	Medical/ Other	AY Fringe rate
		6570	(\$561 + 23 X 9 mos=\$6,570)
45,000	7515.00	14085.00	0.31
50,000	8350.00	14920.00	0.30
55,000	9185.00	15755.00	0.29
60,000	10020.00	16590.00	0.28
70,000	11690.00	18260.00	0.26

EXHIBIT F: INDIRECT COSTS
2010 Rockfish Survey Project

Jul. 15. 2008 9:58AM DIVISION OF COST ALLOCATION

No. 1505 P. 3/5

COLLEGES AND UNIVERSITIES RATE AGREEMENT

EIN #:

DATE: July 14, 2008

INSTITUTION:
Western Washington University
516 High Street

FILING REF.: The preceding
Agreement was dated
July 21, 2005

Bellingham

WA 98225-9038

The rates approved in this agreement are for use on grants, contracts and other agreements with the Federal Government, subject to the conditions in Section III.

SECTION I: FACILITIES AND ADMINISTRATIVE COST RATES*

RATE TYPES: FIXED FINAL PROV. (PROVISIONAL) PRED. (PREDETERMINED)

TYPE	EFFECTIVE PERIOD		RATE (%)	LOCATIONS	APPLICABLE TO
	FROM	TO			
PRED.	07/01/08	06/30/11	53.1	On-Campus	All Programs
PRED.	07/01/08	06/30/11	18.0	Off-Campus	All Programs
PROV.	07/01/11	06/30/12	53.1	On-Campus	All Programs
PROV.	07/01/11	06/30/12	18.0	Off-Campus	All Programs

*BASE:

Direct salaries and wages including vacation, holiday, sick pay and other paid absences but excluding all other fringe benefits.

(1)

U72069

INSTITUTION:
Western Washington University

AGREEMENT DATE: July 14, 2008

SECTION II: SPECIAL REMARKS

TREATMENT OF FRINGE BENEFITS:

This organization charges the actual cost of each fringe benefit direct to Federal projects. However, it uses a fringe benefit rate which is applied to salaries and wages in budgeting fringe benefit costs under project proposals. The fringe benefits listed below are treated as direct costs.

TREATMENT OF PAID ABSENCES:

Vacation, holiday, sick leave pay and other paid absences are included in salaries and wages and are claimed on grants, contracts and other agreements as part of the normal cost for salaries and wages. Separate claims for the costs of these paid absences are not made.

DEFINITION OF OFF-CAMPUS: A project is considered off-campus if the activity is conducted at locations other than in University owned or operated facilities and indirect costs associated with physical plant and library are not considered applicable to the project.

DEFINITION OF EQUIPMENT

Equipment is defined as tangible nonexpendable personal property having a useful life of more than one year and an acquisition cost of \$8,000 or more per unit.

The following fringe benefits are treated as direct costs:

FICA, INDUSTRIAL INSURANCE, MEDICAL AID, HEALTH/DENTAL/LIFE INSURANCE, AND PENSION.

INSTITUTION:
Western Washington University

AGREEMENT DATE: July 14, 2008

SECTION III: GENERAL

A. LIMITATIONS:

The rates in this Agreement are subject to any statutory or administrative limitations and apply to a given grant, contract or other agreement only to the extent that funds are available. Acceptance of the rates is subject to the following conditions: (1) Only costs incurred by the organization were included in its facilities and administrative cost pools as finally accepted; such costs are legal obligations of the organization and are allowable under the governing cost principles; (2) The same costs that have been treated as facilities and administrative costs are not claimed as direct costs; (3) Similar types of costs have been accorded consistent accounting treatment; and (4) The information provided by the organization which was used to establish the rates is not later found to be materially incomplete or inaccurate by the Federal Government. In such situations the rate(s) would be subject to renegotiation at the discretion of the Federal Government.

B. ACCOUNTING CHANGES:

This Agreement is based on the accounting system purported by the organization to be in effect during the Agreement period. Changes to the method of accounting for costs which affect the amount of reimbursement resulting from the use of this Agreement require prior approval of the authorized representative of the cognisant agency. Such changes include, but are not limited to, changes in the charging of a particular type of cost from facilities and administrative to direct. Failure to obtain approval may result in cost disallowances.

C. FIXED RATES:

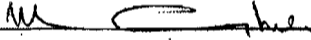
If a fixed rate is in this Agreement, it is based on an estimate of the costs for the period covered by the rate. When the actual costs for this period are determined, an adjustment will be made to a rate of a future year(s) to compensate for the difference between the costs used to establish the fixed rate and actual costs.

D. USE BY OTHER FEDERAL AGENCIES:

The rates in this Agreement were approved in accordance with the authority in Office of Management and Budget Circular A-21 Circular, and should be applied to grants, contracts and other agreements covered by this Circular, subject to any limitations in A above. The organization may provide copies of the Agreement to other Federal Agencies to give them early notification of the Agreement.

BY THE INSTITUTION:
Western Washington University

(INSTITUTION)



(SIGNATURE)

Dr. Moheb Ghali

(NAME)

Vice Provost, Research

(TITLE)


7-15-08

(DATE)

ON BEHALF OF THE FEDERAL GOVERNMENT:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

(AGENCY)



(SIGNATURE)

Wallace Chan

(NAME)

DIRECTOR, DIVISION OF COST ALLOCATION

(TITLE)

July 14, 2008

(DATE) 2008

HHS REPRESENTATIVE: Karen Wong
Telephone: (415) 437-7820

(3)

WHATCOM COUNTY
PUBLIC WORKS DEPARTMENT

FRANK M. ABART
Director



NATURAL RESOURCES

322 N. Commercial, Suite 110
Bellingham, WA 98225
Telephone: (360) 676-6876
FAX: (360) 738-2468
www.whatcomcounty.us

RECEIVED

MEMORANDUM

AUG 6 - 2010

TO: The Honorable Pete Kremen, Whatcom County Executive

THROUGH: Frank M. Abart, Public Works Director *FAA 8/5/2010*

FROM: Jon Hutchings, Public Works Assistant Director *JH 8/4/10*

DATE: ~~July~~ ^{August} 1, 2010 *JH*

RE: Interlocal with WWU for Marine Resources Committee Rockfish Surveys

PETE KREMEN
COUNTY EXECUTIVE

Enclosed are two (2) originals of an interlocal agreement between Western Washington University (WWU) and Whatcom County for your review and signature.

▪ **Background and Purpose**

Whatcom County Public Works on behalf of the Whatcom Marine Resources Committee (MRC) requests to enter into an ILA with WWU to conduct rockfish abundance and habitat surveys in Whatcom County marine waters. WWU performed preliminary rockfish surveys for the MRC in 2008 and 2009 to refine methods, survey the extent of rockfish habitat, generate better estimates of population abundance, and locate areas for focusing conservation efforts. These current surveys will combine SCUBA and remotely-operated-vehicle (ROV) tows to correlate abundance estimates and compare population estimates to regional (Skagit and Island County) population studies.

▪ **Funding Amount and Source**

This interlocal agreement in the amount of \$6036 is fully-funded through the Northwest Straits Project: Marine Resources Committee Administration and Action Projects Grant Agreement between the Department of Ecology and Whatcom County (DOE Grant Number G1000002, Whatcom County Contract Number 200906036-2).

Please contact Scarlet Tang at extension 50638 or Melissa Roberts at extension 50259 if you have any questions or concerns regarding the terms of this agreement.

Enclosure