

ITB 14/15-12 Exhibit 1

DRAFT CONTRACT FOR NORTH ATLANTIC RIGHT WHALE AERIAL SURVEY

This CONTRACT is entered into by and between the FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION, whose address is 620 South Meridian Street, Tallahassee, Florida 32399-1600, hereinafter “COMMISSION” and _____, of _____, hereinafter called the “CONTRACTOR”. If the CONTRACTOR is a corporation, its Florida corporate status must be current and an individual must sign as the guarantor.

NOW THEREFORE, the COMMISSION and the CONTRACTOR, for the consideration hereafter set forth, agree as follows:

1. **PROJECT DESCRIPTION.** The CONTRACTOR shall conduct the **NORTH ATLANTIC RIGHT WHALE AERIAL SURVEY** to detect the presence of right whales in the Atlantic coastal waters of Florida and Georgia, as specified herein and shall perform those specific responsibilities and obligations, as set forth in the FWC ITB 14/15-12. The term “Scope of Work” when used in this Contract shall include ITB 14/15-12 and Attachments A, B, C and D of this Contract.

The COMMISSION and the CONTRACTOR intend to partner together to obtain aircraft services, including the plane, pilot, co-pilot, fuel, oil and any other equipment needed in accordance with FWC ITB 14/15-12, this Contract, and the awarded vendor’s response. ITB 14/15-12 and the awarded vendor’s response are hereby attached and incorporated into this contract. In case of any conflict, the order of precedence and prevailing terms shall be in this order; FWC ITB 14/15-12, this Contract, and the awarded vendor’s response.

2. **PERFORMANCE.** The CONTRACTOR shall perform right whale aerial surveys as described in the Scope of Work in a proper and satisfactory manner. Any and all equipment, products or materials necessary or appropriate to perform under this Contract shall be supplied by the CONTRACTOR. The CONTRACTOR shall be licensed as necessary to perform under this Contract as may be required by law, rule, or regulation, and shall provide evidence of such compliance to the COMMISSION upon request. The CONTRACTOR shall procure all supplies; pay all charges, fees, taxes and incidentals that may be required for the completion of this Contract. By acceptance of this Contract, the CONTRACTOR warrants that it has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good-faith performance as a responsible vendor. The CONTRACTOR shall comply with Chapter 287, F.S., and all other applicable laws, rules and ordinances.

Contractor – Quarterly Minority and Service-Disabled Veteran Business Enterprise Report. Contractor shall provide a quarterly Minority and Service-Disabled Veteran Business Enterprise Report to the Commission’s Contract Manager, summarizing the participation of certified and non-certified minority and service-disabled veteran subcontractors/material suppliers for the current quarter and project to date. The report shall include the names, addresses and dollar amount of each certified and non-certified Minority Business Enterprise and Service-Disabled Veteran Enterprise participant and a copy must be forwarded to the Commission’s Contract Manager. The Office of Supplier Diversity at (850) 487-0915 will assist in furnishing names of qualified minorities. The Commission’s Minority Coordinator at (850) 488-3427 will assist with questions and answers.

Contractor Responsibilities. Contractor agrees that all Contractor employees, subcontractors, or agents performing work under the Contract shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Contractor shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Commission. The Commission may conduct, and Contractor shall cooperate in, a security background check or otherwise assess any employee, subcontractor, or agent furnished by Contractor. The Commission may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with the Commission's security or other requirements. Such refusal shall not relieve Contractor of its obligation to perform all work in compliance with the Contract. The Commission may reject and bar from any facility for cause any of Contractor's employees, subcontractors, or agents.

Commission Rights to Assign or Transfer. Contractor agrees that the State of Florida shall at all times be entitled to assign or transfer its rights, duties, or obligations under this Contract to another governmental agency in the State of Florida, upon giving prior written notice to Contractor.

3. CONTRACT PERIOD

3.1 **TERM.** This Contract shall begin upon execution by both parties or December 1, 2014, whichever date is later, and end March 31, 2015, inclusive unless terminated earlier in accordance with its term.

3.2 **RENEWAL.** The Commission has the option to renew this Contract on a yearly basis for a period up to three (3) years after the initial Contract period upon the same terms and conditions contained herein. Pursuant to Sections 287.057(1)(a)1., and 287.057(1)(a)2., Florida Statutes, each Bidder shall supply a price for each year that a contract may be renewed. Evaluation of bids shall include consideration of the total cost of the contract, including the total cost for each renewal year, as submitted by the Bidder.

Exercise of the renewal option is at the Commission's sole discretion and shall be conditioned, at a minimum, on the Contractor's satisfactory performance of this Contract and is subject to the availability of funds. The Contractor if it desires to exercise this renewal option will provide written notice to the Commission no later than thirty (30) days prior to the Contract expiration date. The renewal term shall require written approval from the Commission's Contract Administrator.

4. AMENDMENT OR MODIFICATION.

Waiver or Modification. No waiver or modification of this Contract or of any covenant, condition, or limitation herein contained shall be valid unless in writing and lawfully executed by both parties.

Change Orders. The Commission may, at any time, by written order, make a change to this Contract. Such changes are subject to the mutual agreement of both parties as evidenced in writing. Any change which causes an increase or decrease in the Contractor's cost or time shall require an Amendment. Minor changes, such as those updating a party's contact information, may be accomplished by a Modification.

Renegotiation upon Change in Law or Regulations. The Parties agree to renegotiate this Contract if federal and/or state revisions of any applicable laws or regulations make changes in the Contract necessary.

5. COMPENSATION AND PAYMENTS.

5.1 Compensation. As consideration for the services rendered by the Contractor under the terms of this Contract, the Commission shall pay the Contractor on a fee schedule basis as specified in the Scope of Work at a rate not to exceed the price quoted in FWC ITB 14/15-12.

5.2 Payments. The Commission shall pay the Contractor for satisfactory performance of the task identified in the Scope of Work, as evidenced by the completed deliverables, upon submission of invoices, accompanied by supporting documentation sufficient to justify invoiced expenses of fees, and after acceptance of services and deliverables in writing by the Commission's Contract Manager, identified in paragraph 10, below. Unless otherwise specified in the Scope of Work, invoices shall be due monthly, commencing from the start date of this Contract. Invoices must be legible and must clearly reflect the goods or services that were provided in accordance with the terms of the Contract for the invoice period. Unless otherwise specified in the Scope of Work, a final invoice shall be submitted to the Commission no later than forty five (45) days following the expiration date of this Contract to assure the availability of funds of payment. Cost under this Contract must be obligated and all work completed by the Contractor by the end of the Contract period identified in paragraph five (5).

5.3 Invoices. Each invoice shall include the Commission Contract Number and the Contractor's Federal Employer Identification (FEID) Number. Invoices may be submitted electronically. If submitting hard copies, an original and two (2) copies of the invoice, plus all supporting documentation, shall be submitted. All bills for amounts due under this Contract shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof. Contractor acknowledges that the Commission's Contract Manager shall reject invoices lacking documentation necessary to justify invoiced expenses.

5.4 Travel. If authorized in the Scope of Work, travel expenses shall be reimbursed in accordance with section 112.061, F.S.

5.5 State Obligation to Pay. The State of Florida's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the Legislature. The parties hereto understand that this Contract and any renewal thereof is not a commitment to future appropriations, but is subject to appropriation and authority to spend provided by the Legislature. The Commission shall be the final authority as to the availability of funds for this Contract, and as to what constitutes an "annual appropriation" of funds to complete this Contract. If such funds are not appropriated or available for the Contract purpose, such event will constitute a default on behalf of the Commission or the State. The Commission's Contract Manager shall notify Contractor in writing at the earliest possible time if funds are not appropriated or available.

5.6 Time Limits for Payment of Invoices. Payments shall be made in accordance with Sections 215.422 and 287.0585, F.S., governing time limits for payment for invoices. Section 215.422, F.S. provides that agencies have five (5) working days to inspect and approve goods and services, unless bid specifications or Scope of Work, specifies otherwise. If payment is not available within forty (40) days, measured from the latter of the date the invoice is received or the goods or services are received, inspected and approval, a separate interest penalty set by the Department of Financial Services pursuant to Section 55.03(1), F.S., will be due and payable in addition to the invoice amount. Invoices returned to a vendor due to preparation errors will result in a payment delay. Invoice payment requirements do not start until a properly completed invoice is provided to the agency.

5.7 Electronic Funds Transfer. Contractor agrees to enroll in Electronic Funds Transfer (EFT), offered by the State's Chief Financial Officer, within thirty (30) days of the date the last party has signed this Contract. Copies of the Authorization form and a sample blank enrollment letter can be found on the vendor instruction page at:

http://www.fldfs.com/aadir/direct_deposit_web/Vendors.htm

Questions should be directed to the State of Florida's EFT Section at (850) 413-5517. Once enrolled, invoice payments will be made by EFT.

5.8 Vendor Ombudsman. A Vendor Ombudsman, whose duties include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a State agency, may be contacted at (850) 413-5516 or by calling the Chief Financial Officer's Hotline, (800) 342-2762.

6. CONTRACTOR'S RESPONSIBILITIES. In addition to the general provisions of this Contract the CONTRACTOR shall have the following specific responsibilities:

6.1 DAMAGES TO STATE PROPERTY

Any damages to state property (e.g. structures, roads, culverts, fences, trees, or other natural resources) caused by the Contractor while working on this project shall be the responsibility of the Contractor to remedy, as determined by the Commission. The Contractor shall be responsible for the conduct of all Contractor personnel at all times while on the job site.

Should any historical or cultural artifacts be uncovered the Contractor shall immediately halt work and notify the Contract Manager. Please note: The State Archeologist has the power to halt work if he or she has reason to believe artifacts are being disturbed.

6.2 REGULATIONS: The CONTRACTOR shall abide by all laws, rules and regulations relating to the taking of wild animal life or freshwater aquatic life for outdoor recreational purposes as hereinafter provided, and the CONTRACTOR shall be responsible to the COMMISSION under this CONTRACT for its agents and employees so abiding by all such laws, rules and regulations.

6.3 ASSIGNMENT: The CONTRACTOR shall not assign any or all of the rights, liabilities, duties or obligations of the CONTRACT nor subcontract any part of the grazing lands, without the prior written approval of the COMMISSION.

6.4 INDEMNITY: If Contractor is a state agency or subdivision, as defined in Subsection 768.28(2), F.S., pursuant to Subsection 768.28(19), F.S., neither Party indemnifies nor insures the other Party for the other Party's negligence. If Contractor is not a state agency or subdivision as defined above, Contractor shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the State and the Commission, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Contractor, its agents, employees, partners, or subcontractors, provided, however, that Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State or the Commission.

6.5 INSURANCE: The CONTRACTOR shall, throughout the term of this CONTRACT, at his own cost and expense, provide, maintain and keep in force general liability insurance (including personal injury and property damage), insuring against liability for injury to persons or property occurring in, on or about the property or arising out of CONTRACTOR's possession, use, occupancy or maintenance thereof in an amount not less than \$500,000 (Five Hundred Thousand Dollars) per occurrence and \$1,000,000 annual aggregate for bodily injury and not less than \$100,000 per occurrence and \$300,000 annual aggregate for property damage and comprehensive automobile liability coverage with limits of not less than \$300,000 combined single limit for bodily injury and property damage. The COMMISSION shall be named as an additional insured, under such insurance.

CONTRACTOR is to ensure the General Liability Insurance Company issuing the Certificate of Liability Insurance indicates the Florida Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, FL 32399-1600 in the Certificate Holder section of the certificate form and references the FWC Contract Number in the Description of Operations section of the form.

Workers Compensation. To the extent required by Chapter 440, F.S., the Contractor will either be self-insured for Worker's Compensation claims, or will secure and maintain during the life of this Contract, Workers' Compensation Insurance for all of its employees connected with the work of this project, with minimum employers' liability limits of \$100,000 per accident, \$100,000 per person, and \$500,000 policy aggregate. Such policy shall cover all employees engaged in any contract work. If any work is subcontracted, the Contractor shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor. Such self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation law (Chapter 440, F.S.). In case any class of employees engaged in hazardous work under this Contract is not protected under Workers' Compensation statutes, the Contractor shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the Commission, for the protection of its employees not otherwise protected. Employers who have employees who are engaged in work in Florida must use Florida rates, rules, and classifications for those employees.

Failure of the CONTRACTOR to provide Insurance or to continuously maintain the insurance in effect during the term of this Contract may be grounds to find the CONTRACTOR in default, which could include; cancellation of the Contract, and/or the CONTRACTOR removal from the Commission's approved vendor list for future solicitations.

6.6 RECORD KEEPING REQUIREMENTS:

Contractor Responsibilities. The Contractor shall maintain accurate books, records, documents and other evidence that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract, in accordance with generally accepted accounting principles.

State Access to Contractor Books, Documents, Papers, and Records. The Contractor shall allow the Commission, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability or authorized representatives of the state or federal government to have access to any of Contractor's books, documents, papers, and records, including electronic storage media, as they may relate to this Contract, for the purposes of conducting audits or examinations or making excerpts or transcriptions.

Contractor Records Retention. Unless otherwise specified in the Scope of Work, these records shall be maintained for five (5) years following the close of this Contract. Contractor shall cooperate with the Commission to facilitate the duplication and transfer of such records upon the Commission's request.

Contractor Responsibility to Include Records Requirements – Subcontractors. In the event any work is subcontracted under this Contract, Contractor shall include the aforementioned audit and record keeping requirements in all subcontract agreements.

Compliance with Federal Funding Accountability and Transparency. Any federal funds awarded under this Contract must comply with the Federal Funding Accountability and Transparency Act (FFATA) of 2006. The intent of the FFATA is to empower every American with the ability to hold the government accountable for each spending decision. The result is to reduce wasteful spending in the government. The FFATA legislation requires that information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website: www.USASpending.gov. Grant recipients awarded a new Federal grant greater than or equal to \$25,000 awarded on or after October 1, 2010 are subject to the FFATA. Contractor agrees to provide the information necessary, over the life of this Contract, for the Commission to comply with this requirement.

6.7 PUBLIC RECORDS.

This Contract may be unilaterally canceled by the Commission for refusal by the Contractor to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Contractor in conjunction with this Contract, unless exemption for such records is allowable under Florida law.

Pursuant to Section 119.0701, F.S., the Contractor shall comply with the following:

- a. Keep and maintain public records that ordinarily and necessarily would be required by the Commission in order to perform the service.
- b. Provide the public with access to public records on the same terms and conditions that the Commission would provide the records and at a cost that does not exceed the cost provided in Chapter 119, F.S. or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- d. Meet all requirements for retaining public records and transfer, at no cost, to the Commission all public records in possession of the Contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the Commission.

6.8 PUBLIC RECORDS OF NONGOVERNMENT CONTRACTORS

All records in conjunction with this contract shall be public records and shall be treated in the same manner as other public records are under Chapter 119, Florida Statutes.

6.9 CERTIFICATE OF CONTRACT COMPLETION

The Contract Manager shall conduct a final inspection of the work to determine if completion has occurred. Upon satisfactory completion of the work, the Contractor shall send the Contract Manager a notarized Certificate of Contract Completion (Attachment E) and the contract shall be deemed completed upon the issuance date of such Certificate.

6.10 MYFLORIDAMARKETPLACE: In accordance with Rule 60A-1.030 of the Florida Administrative Code (F.A.C.), each Contractor doing business with the State for the sale of commodities or contractual services as defined in Section 287.012, F.S., shall register in the MyFloridaMarketPlace system, unless exempted under Rule 60A-1.030(3), F.A.C. Information about the registration process is available, and registration may be completed, at the MyFloridaMarketPlace website (link under Business on the State portal at www.myflorida.com). Interested persons lacking Internet access may request assistance from the MyFloridaMarketPlace Customer Service at (866-352-3776) or from State Purchasing, 4050 Esplanade Way, Suite 300, Tallahassee, Florida 32399.

Transaction Fee. Pursuant to Section 287.057(22), F.S., all payments, unless exempt under Rule 60A-1.030(3), F.A.C., shall be assessed a Transaction Fee of one percent (1.0%), which the Contractor shall pay to the State. For payments within the State accounting system (Florida Accounting Information Resource, FLAIR, or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to the Contractor. If automatic deduction is not possible, the Contractor shall pay the Transaction Fee pursuant to Rule 60A-1.031(2), F.A.C. By submission of these reports and corresponding payments, Contractor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.

Transaction Fee Credits. The Contractor shall receive a credit for any Transaction Fee paid by the Contractor for the purchase of any items(s) if such items(s) are returned to the Contractor through no fault, act, or omission of the Contractor. Notwithstanding the foregoing, a Transaction Fee is non-refundable when an item is rejected or returned, or declined, due to the Contractor's failure to perform or comply with specifications or requirements of the Contract. Failure to comply with these requirements shall constitute grounds for declaring the Contractor in default and recovering re-procurement costs from the Contractor in addition to all outstanding fees. **CONTRACTORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE EXCLUDED FROM CONDUCTING FUTURE BUSINESS WITH THE STATE.**

7. COMMISSION ACTIVITIES AND RESPONSIBILITIES. In consideration of this Contract, COMMISSION permits CONTRACTOR to utilize the Property to CONTRACTOR'S benefit in accordance with this Contract. The COMMISSIONS' activities and responsibilities in regard to the Property will be as follows:

7.1 LAND MANAGEMENT AND PUBLIC USE. COMMISSION shall retain the right to access and utilize the Property in all ways, it being understood by the parties that the CONTRACTOR'S activities on the Property under this Contract are strictly limited to activities specifically permitted by this Contract. COMMISSION will continue to conduct public recreation and general management activities, including but not limited to public hunting and fishing, without interference from the CONTRACTOR. The COMMISSION may engage in land management, controlled burns and exotic plant control activities, which include areas of the Property and immediately adjacent to the Property. All prescribed burning shall be performed by COMMISSION personnel, or under COMMISSION supervision. The CONTRACTOR shall not willfully nor negligently set fire, or allow any agent or employee of the CONTRACTOR to set fire, to the land. Failure to comply will be cause for immediate cancellation of this Contract.

8. SUBCONTRACTS

Contractor shall ensure, and provide assurances to the Commission upon request, that any subcontractor selected for work under this Contract has the necessary qualifications and abilities to perform in accordance with the terms and conditions of this Contract. Contractor must provide the Commission with the names of any subcontractor considered for work under this

Contract in writing; the Commission reserves the right to reject any subcontractor. Contractor agrees to be responsible for all work performed and all expenses incurred with the project. Any subcontract arrangements must be evidenced by a written document available to the Commission upon request. Contractor further agrees that the Commission shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract and Contractor shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract. Contractor, at its expense, will defend the Commission against such claims. The following provisions apply, in addition to any terms and conditions included in the Scope of Work.

Contractor Payments to Subcontractor. The Contractor agrees to make payments to the subcontractor within seven (7) working days after receipt of full or partial payments from the Commission in accordance with Section 287.0585, F.S., unless otherwise stated in the contract between Contractor and subcontractor. Contractor's failure to pay its subcontractors within seven (7) working days will result in a penalty charged against Contractor and paid to the subcontractor in the amount of one-half of one (1) percent of the amount due per day from the expiration of the period allowed herein for payment. Such penalty shall be in addition to actual payments owed and shall not exceed fifteen (15) percent of the outstanding balance due.

Commission Right to Reject Subcontractor Employees. The Commission shall retain the right to reject any of Contractor's or subcontractor's employees whose qualifications or performance, in the Commission's judgment, are insufficient.

Subcontractor as Independent Contractor. The Contractor agrees to take such actions as may be necessary to ensure that each subcontractor will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, or partner of the State of Florida.

9. **RELATIONSHIP OF PARTIES.**

Independent Contractor. The Contractor shall perform as an independent contractor and not as an agent, representative, or employee of the Commission. The Contractor covenants that it presently has no interest and shall not acquire any interest that would conflict in any manner or degree with the performance of services required. Each party hereto covenants that there is no conflict of interest or any other prohibited relationship between the Contractor and the Commission.

Contractor Training Qualifications. Contractor agrees that all Contractor employees, subcontractors, or agents performing work under the Contract shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Contractor shall furnish a copy of technical certification or other proof of qualification.

Commission Security. All employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Commission. The Commission may conduct, and Contractor shall cooperate in, a security background check or otherwise assess any employee, subcontractor, or agent furnished by Contractor. The Commission may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with the Commission's security or other requirements. Such refusal shall not relieve Contractor of its obligation to perform all work in compliance with the Contract. The Commission may reject and bar from any facility for cause any of Contractor's employees, subcontractors, or agents.

Commission Rights to Assign or Transfer. Contractor agrees that the State of Florida shall at all times be entitled to assign or transfer its rights, duties, or obligations under this Contract to another governmental agency in the State of Florida, upon giving prior written notice to Contractor.

Commission Rights to Undertake or Award Supplemental Contracts. Contractor agrees that the Commission may undertake or award supplemental contracts for work related to the Contract. Contractor and its subcontractors shall cooperate with such other contractors and the Commission in all such cases.

10. **NOTICE.** Unless a notice of change of address is given, any and all notices shall be delivered to the parties at the following addresses:

| | |
|------------------------|--------------------------------------|
| CONTRACTOR: | COMMISSION: |
| Name: | Tom Pitchford, Contract Manager |
| Company: | Fish and Wildlife Research Institute |
| Address: | 370 ZOO Parkway |
| City, State, Zip Code: | Jacksonville, Florida 32218 |

11. **TERMINATION.**

Commission Unilateral Termination. The Commission may unilaterally terminate this Contract for convenience by providing the Contractor with thirty (30) calendar days of written notice of its intent to terminate. Contractor shall not be entitled to recover any cancellation charges or lost profits.

Termination – Fraud or Willful Misconduct. This Contract shall terminate immediately in the event of fraud or willful misconduct on the part of the Contractor. In the event of such termination, the Commission shall provide Contractor with written notice of termination.

Termination - Funds Unavailability. In the event funds to finance this Contract become unavailable or if federal or state funds upon which this Contract is dependent are withdrawn or redirected, the Commission may terminate this Contract upon no less than twenty-four (24) hours notice in writing to Contractor. Said notice shall be delivered by certified mail, return receipt requested or in person with proof of delivery. The Commission shall be the final authority as to the availability of funds and will not reallocate funds appropriated for this Contract to another program thus causing “lack of funds.” In the event of termination of this Contract under this provision, Contractor will be compensated for any work satisfactorily completed prior to notification of termination.

Termination – Other. The Commission may terminate this Contract if the Contractor fails to: 1.) comply with all terms and conditions of this Contract; 2.) produce each deliverable within the time specified by the Contract or extension; 3.) maintain adequate progress, thus endangering the performance of the Contract; or, 4.) abide by any statutory, regulatory, or licensing requirement. Rule 60A-1.006(3), F.A.C., governs the procedure and consequences for default. The rights and remedies of the Commission in this clause are in addition to any other rights and remedies provided by law or under the Contract. Contractor shall not be entitled to recover any cancellation charges or lost profits.

Contractor Discontinuation of Activities upon Termination Notice. Upon receipt of notice of termination, the Contractor shall, unless the notice directs otherwise, immediately discontinue all activities authorized hereunder. Upon termination of this Contract, the Contractor shall promptly render to the Commission all property belonging to the Commission. For the purposes

of this section, property belonging to the Commission shall include, but shall not be limited to, all books and records kept on behalf of the Commission.

12. NON-DISCRIMINATION.

Non-Discrimination in Performance. No person, on the grounds of race, creed, color, national origin, age, sex, or disability, shall be excluded from participation in, be denied the proceeds or benefits of, or be otherwise subjected to discrimination in performance of this Contract.

Discriminatory Vendor List. In accordance with Section 287.134, F.S., an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity. Contractor has a continuing duty to disclose to the Commission whether they appear on the discriminatory vendor list.

13. INTELLECTUAL PROPERTY RIGHTS

Contractor's Preexisting Intellectual Property (Proprietary) Rights. Unless specifically addressed otherwise in the Scope of Work, intellectual property rights to the Contractor's preexisting property will remain with the Contractor. If Contractor is a state agency or subdivision, as defined in Subsection 768.28(2), F.S., pursuant to Subsection 768.28(19), F.S., neither Party indemnifies nor insures the other Party for or on account of any copyrighted, patented, or unpatented invention, process or article manufactured or supplied by Contractor. If Contractor is not a state agency or subdivision as defined above, Contractor shall indemnify and hold harmless the Commission and its employees from any liability, including costs, expenses, and attorney's fees, for or on account of any copyrighted, patented, or unpatented invention, process or article manufactured or supplied by Contractor.

Proceeds Related to Intellectual Property Rights. Proceeds derived from the sale, licensing, marketing or other authorization related to any intellectual property right created or otherwise developed by the Contractor under this Contract for the Commission shall be handled in the manner specified by applicable state statute.

Commission Intellectual Property Rights. Where activities supported by this Contract produce original writing, data, sound recordings, pictorial reproductions, drawings or other graphic representation and works of any similar nature, the Commission and the State of Florida have the unlimited, royalty-free, nonexclusive, irrevocable right to use, duplicate and disclose such materials in whole or in part, in any manner, for any purpose whatsoever and to have others acting on behalf of the Commission to do so. If this Contract is supported by federal funds, the federal awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for federal purposes, and to authorize others to do so.

14. PROHIBITION AGAINST LOBBYING

The Contractor certifies that no Federal appropriated funds have been paid or will be paid, on or after December 22, 1989, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding, renewal, amending or modifying of any Federal contract, grant, or cooperative agreement. If any non-Federal funds are used for lobbying activities as described above in connection with this Contract, the Contractor shall submit Standard Form-LLL, "Disclosure Form to Report

Lobbying", and shall file quarterly updates of any material changes. The Contractor shall require the language of this certification to be included in all subcontracts, and all subcontractors shall certify and disclose accordingly.

Pursuant to the Lobbying Disclosure Act of 1995, the Contractor agrees to refrain from entering into any subcontracts under this Agreement with any organization described in Section 501(c)(4) of the Internal Revenue Code of 1986, unless such organization warrants that it does not, and will not, engage in lobbying activities prohibited by the Act as a special condition of the subcontract.

15. PUBLIC ENTITY CRIMES.

Convicted Vendor List. Pursuant to Subsection 287.133(2)(a), F.S., a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, F.S., for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

Notice of Conviction of Public Entity Crime. Any person must notify the Department of Management Services and the Commission within 30 days after conviction of a public entity crime applicable to that person or an affiliate of that person as defined in Section 287.133, F.S.

16. PROHIBITION OF UNAUTHORIZED ALIENS. In accordance with federal Executive Order 96-236, the Commission shall consider the employment by the Contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationalization Act. Such violation shall be cause for unilateral cancellation of this Contract if the Contractor knowingly employs unauthorized aliens.

17. EMPLOYMENT ELIGIBILITY VERIFICATION

Requirement to Use E-Verify. Executive Order 11-116, signed May 27, 2011, by the Governor of Florida, requires Commission contracts in excess of nominal value to expressly require the Contractor to: 1.) utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Contractor during the Contract term; and, 2.) include in all subcontracts under this Contract, the requirement that subcontractors performing work or providing services pursuant to this Contract utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of the subcontract.

E-Verify Online. E-Verify is an Internet-based system that allows an employer, using information reported on an employee's Form I-9, Employment Eligibility Verification, to determine the eligibility of all new employees hired to work in the United States after the effective date of the required Memorandum of Understanding (MOU); the responsibilities and elections of federal contractors, however, may vary, as stated in Article II.D.1.c. of the MOU. There is no charge to employers to use E-Verify. The Department of Homeland Security's E-Verify system can be found online at http://www.dhs.gov/files/programs/gc_1185221678150.shtm

Enrollment in E-Verify. If Contractor does not have an E-Verify MOU in effect, the Contractor must enroll in the E-Verify system prior to hiring any new employee after the effective date of this Contract.

E-Verify Recordkeeping. The Contractor further agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its

subcontractors as provided above, and to make such records available to the Commission or other authorized state entity consistent with the terms of the Contractor's enrollment in the program. This includes maintaining a copy of proof of the Contractor's and subcontractors' enrollment in the E-Verify Program (which can be accessed from the "Edit Company Profile" link on the left navigation menu of the E-Verify employer's homepage).

Employment Eligibility Verification. Compliance with the terms of the Employment Eligibility Verification provision is made an express condition of this Contract and the Commission may treat a failure to comply as a material breach of the Contract.

18. **SEVERABILITY AND CHOICE OF VENUE.** This Contract has been delivered in the State of Florida and shall be construed in accordance with the laws of Florida. Wherever possible, each provision of this Contract shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Contract shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Contract. Any action in connection herewith, in law or equity, shall be brought in Leon County, Florida, to the exclusion of all other lawful venues.

19. **NO THIRD PARTY RIGHTS:** The parties hereto do not intend nor shall this Contract be construed to grant any rights, privileges or interest to any person not a party to this Contract.

20. **JURY TRIAL WAIVER:** As part of the consideration for this Contract, the parties hereby waive trial by jury in any action or proceeding brought by any party against any other party pertaining to any matter whatsoever arising out of or in any way connected with this Contract, or with the products or services provided under this Contract, including but not limited to any claim by the Contractor of *quantum meruit*.

21. **DAMAGES TO STATE PROPERTY**

Any damages to state property (i.e. structures, roads, culverts, fences, trees, or other natural resources) caused by the Contractor while working on this project shall be the responsibility of the Contractor to remedy, as determined by the Commission. The Contractor shall be responsible for the conduct of all Contractor personnel at all times while on the job site.

Should any historical or cultural artifacts be uncovered the Contractor shall immediately halt work and notify the Contract Manager. Please note: The State Archeologist has the power to halt work if he or she has reason to believe artifacts are being disturbed.

22. **CONTRACT RELATED PROCUREMENT PRIDE.**

In accordance with Section 946.515(6), F.S., if a product or service required for the performance of this Contract is certified by or is available from Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE) and has been approved in accordance with Subsection 946.515(2), F.S., the following statement applies:

It is expressly understood and agreed that any articles which are the subject of, or required to carry out, this contract shall be purchased from [PRIDE] in the same manner and under the same procedures set forth in Subsections 946.515(2) and (4), F.S.; and for purposes of this contract the person, firm or other business entity carrying out the provisions of this contract shall be deemed to be substituted for this agency insofar as dealings with such corporation are concerned.

The above clause is not applicable to subcontractors unless otherwise required by law. Additional information about PRIDE and the products it offers is available at <http://www.pride-enterprises.org>.

Respect of Florida. In accordance with Subsection 413.036(3), F.S., if a product or service required for the performance of this Contract is on the procurement list established pursuant to Subsection [413.035\(2\)](#), F.S., the following statement applies:

It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this contract shall be purchased from a nonprofit agency for the blind or for the severely handicapped that is qualified pursuant to Chapter 413, F.S., in the same manner and under the same procedures set forth in Subsections 413.036(1) and (2), F.S.; and for purposes of this contract, the person, firm or other business entity carrying out the provisions of this contract shall be deemed to be substituted for the state agency insofar as dealings with such qualified nonprofit agency are concerned.

Additional information about the designated nonprofit agency and the products it offers is available at <http://www.respectofflorida.org>.

Procurement of Recycled Products or Materials. Contractor agrees to procure any recycled products or materials which are the subject of or are required to carry out this Contract in accordance with Section 403.7065, F.S.

23. FEDERAL DEBARMENT/SUSPENSION CERTIFICATION FORM

Contractor Federal Certification. In accordance with federal Executive Order 12549, Debarment and Suspension, Contractor shall agree and certify 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; and, that the Contractor shall not knowingly enter into any lower tier contract, or other covered transaction, with a person who is similarly debarred or suspended from participating in this covered transaction.

Contractor Commission Certification. Upon execution of this Contract by the Contractor, the Contractor shall complete, sign and return to the Commission's Contract Manager a completed copy of Attachment F, "Certifications and Assurances." This includes the Certification Regarding Debarment, Suspension, and Other Responsibility Matters.

24. PROHIBITION AGAINST LOBBYING

The Contractor certifies that no Federal appropriated funds have been paid or will be paid, on or after December 22, 1989, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding, renewal, amending or modifying of any Federal contract, grant, or cooperative agreement. If any non-Federal funds are used for lobbying activities as described above in connection with this Contract, the Contractor shall submit Standard Form-LLL, "Disclosure Form to Report Lobbying", and shall file quarterly updates of any material changes. The Contractor shall require the language of this certification to be included in all subcontracts, and all subcontractors shall certify and disclose accordingly.

Pursuant to the Lobbying Disclosure Act of 1995, the Contractor agrees to refrain from entering into any subcontracts under this Agreement with any organization described in Section 501(c)(4) of the Internal Revenue Code of 1986, unless such organization warrants that it does not, and

will not, engage in lobbying activities prohibited by the Act as a special condition of the subcontract.

25. **OTHER AGREEMENTS:** This CONTRACT and corresponding solicitation materials and addenda, if any, and the successful proposal contains the complete CONTRACT between the COMMISSION and the CONTRACTOR and, as of the effective date hereof, shall supersede all other agreements, communication or representations, either verbal or written, between the COMMISSION and CONTRACTOR.
26. **COMPLETE CONTRACT:** The COMMISSION and CONTRACTOR stipulate that neither of them has made any representations except such representations specifically contained within this CONTRACT and each party acknowledges reliance on its own judgment in entering into this CONTRACT. The COMMISSION and CONTRACTOR further acknowledge that any payments or any representations that may have been made outside of those specifically contained herein are of no binding effect and have not been relied upon by either party in its dealings with the other in entering into this CONTRACT.
27. **COMPLIANCE WITH LAWS**
The Contractor shall comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, State, and local agencies having jurisdiction and authority. By way of non-exhaustive example, Chapter 287 of the Florida Statutes and Chapter 60A-1 of the Florida Administrative Code govern the Contract. By way of further non-exhaustive example, the Contractor shall comply with section 247A(e) of the Immigration and Nationalization Act, the Americans with Disabilities Act, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. Contractors submitting responses to this solicitation must also provide electronic and information technology resources in complete compliance with the accessibility standards provided in Rule 60-8.002, F.A.C.; these standards establish a minimum level of accessibility. Violation of such laws shall be grounds for Contract termination. The Contractor is required to be familiar with all Federal, State and Local laws, ordinances, rules and regulations that in any manner affect the work. The Contractor shall comply with all laws and rules applicable to the Contractor(s) that shall provide the required commodities or services to the Commission. Ignorance on the part of the Contractor will in no way relieve him from responsibility.
28. **NO THIRD PARTY RIGHTS.** The parties hereto do not intend nor shall this Contract be construed to grant any rights, privileges or interest to any person not a party to this Contract.
29. **MODIFICATION OR AMENDMENT OF CONTRACT:** No waiver, or modification or amendment of this CONTRACT or of any covenant, condition, or limitation herein contained shall be valid unless in writing and lawfully executed by the party to be charged therewith. It is the intention of the COMMISSION and the CONTRACTOR that no evidence of any waiver, or modification or amendment shall be offered or received in evidence in any proceeding or litigation between the parties arising out of or affecting this CONTRACT unless such waiver, or modification or amendment is in writing and executed as aforesaid. The provisions of this section shall not be waived without compliance with said writing and execution requirements.
30. **ENTIRE AGREEMENT:** ITB 13/14-112, this Contract with all incorporated attachments and exhibits and the Contractor's response to ITB 13/14/112 represents the entire Contract of the parties. Any alterations, variations, changes, modifications or waivers of provisions of this Contract shall only be valid when they have been reduced to writing, and duly signed by each of the parties hereto, unless otherwise provided herein. In the event of conflict, the following order of

precedence shall prevail; this contract and its attachments, the terms of the solicitation and the contractor's response to the solicitation.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed through their duly authorized signatories on the day and year last written below.

CONTRACTOR

**FLORIDA FISH AND WILDLIFE
CONSERVATION COMMISSION**

Name

Nick Wiley
Executive Director

Title

Date

Date

Approved as to form and legality:

COMMISSION Attorney

Date

Attachments in this Contract include the following:

- | | |
|--------------|---|
| Attachment A | Scope of Work |
| Attachment B | Certificate of Contract Completion |
| Attachment C | Certifications and Assurances |
| Attachment D | Contractor's Response to FWC ITB 14/15-12 |

14/15-12
Scope of Work

DESCRIPTION OF GOODS / SERVICES PROCURED, OR PROJECT WORKPLAN

A. DESCRIPTION OF GOOD/SERVICES

The Florida Fish and Wildlife Conservation Commission (FWC), Fish and Wildlife Research Institute's (FWRI) North Atlantic Right Whale Program will conduct aerial surveys of the Atlantic coastal waters of Florida and Georgia mainly to detect the presence of right whales (*Eubalaena glacialis*). The purpose of this contract is to obtain aircraft services (details below). This Contract is contingent upon FWC receiving funding from NOAA Fisheries to conduct surveys.

Specifications in this SOW may change due to alterations in survey design or methods, NOAA Fisheries requirements, or other variables. Although the SOW may be modified, FWC does not anticipate that this will result in additional expense to the Vendor. Aircraft operators who can demonstrate they meet the preferred items may be given preference.

The Vendor is to provide the plane, pilot, co-pilot, fuel, oil, and any equipment needed to meet the requirements in this SOW. A selected Vendor's pilots are prohibited from engaging in services, or working for other parties during the hours aerial surveys are being performed for FWC.

Inspection Prior to Award

The Commission reserves the right to inspect the prospective Vendor's equipment, materials and experience (including a test flight) prior to making an award of the Contract. If the Contract Manager determines the Vendor that has submitted the lowest price does not have sufficient experience, equipment, etc. to meet the specifications detailed in this SOW, the Commission reserves the right to reject the Vendor and to evaluate the next lowest Vendor.

The FWC currently anticipates the need for one aircraft to conduct right whale surveys. The FWC anticipates these surveys to be based out of Craig Airport in Jacksonville, FL (KCRG) or Northeast Regional Airport in St. Augustine, FL (KSGJ). The FWC cannot guarantee a minimum number of flight hours, but anticipates the number of contracted hours to be 350 hours. The number of flight hours is contingent on funding and ability to fly during acceptable survey conditions (detailed below).

FWC right whale aerial surveys are conducted under a research permit issued by NOAA Fisheries. The vendor will be bound by the terms and restrictions of this permit.

Survey Specifications

Surveys are conducted from December 1st through March 31st (a four-month period) during the initial contract year(s) and each subsequent renewal year(s). Contracted aircraft and pilots must be available seven days per week during daylight hours to respond to the FWC's need for aerial support during these dates.

Surveys will consist of tracklines that cover a subset of the offshore area from, but not limited to, Fort Pierce, FL to Savannah, GA. The specific location of tracklines may vary depending on environmental conditions, whale distribution, and other variables. Surveys are typically conducted along tracklines that are oriented perpendicular to the shore extending from the shoreline to approximately 80 km (43 nautical miles) offshore, but may also include shore-parallel tracklines. Ancillary surveys will be scheduled as needed and may be flown to confirm public sightings, locate tagged right whales, confirm reports of dead, injured, or entangled whales, etc. Surveys are conducted at an elevation of 1000 feet (1000 AGL) and a ground speed of approximately 185km/hr (100 knots).

ATTACHMENT A- SCOPE OF WORK (page 2 of 10)

Surveys are conducted within strict environmental parameters, which essentially dictate the schedule. Acceptable survey conditions are determined by wind speed, cloud ceiling (type and altitude), visibility and sea state. Currently, visibility of at least two nautical miles, minimum ceiling of 1200 feet, and sea state less than or equal to three on the Beaufort scale (winds 7-10 kts), are considered to be within acceptable survey parameters. Surveys will be flown under VFR (visual flight rules) conditions. Surveys may be rescheduled or canceled at any time due to environmental factors and/or safety considerations.

FWC staff will be in contact with the Pilot-in-command (PIC) daily to discuss anticipated weather conditions and tentative flight schedules; therefore, it is imperative the PIC and pilot-second-in-command (SIC) be linked to an infallible communication network (e.g., telephone, cell phone, internet access). Pilots must remain up-to-date on local weather forecasts and conditions and may be asked to provide weather information related to the flight and aviation forecasts, especially in cases of fog and low ceiling conditions. Pilots must monitor weather conditions during flights and advise FWC staff on any potential weather impacts (e.g., storms, fog, low ceiling) to the survey area or ability to land at the designated airport.

Typical takeoff time is 0900 hours and the aircraft is expected to be fueled and ready for flight prior to the scheduled takeoff time. The go/no-go decision for survey will typically be made in the morning at approximately 0730 hours. However, in order to fulfill contractual obligations, FWC staff may request that the pilots standby for improved weather conditions or contact the Vendor in order to schedule a flight on short notice even after the survey has been canceled for the day. FWC surveys will have priority over other scheduling for the aircraft.

Pilots must be knowledgeable of all local airports in the operational area as well as potential air space restrictions or closures. Pilots will relay air space restrictions that could or will impact survey efforts to FWC staff ASAP, so that effects to survey effort can be mitigated. Pilots may be asked to arrange clearance into restricted airspaces (e.g., Cape Canaveral) and should be able to effectively communicate the aircraft mission to tower or military personal in order to minimize requests to deviate from course or altitude while transitioning through a controlled airspace. Pilots must be capable of monitoring several radio stations simultaneously and work together to isolate radio channels when needed in order to allow the biologists to effectively communicate with each other and the pilots. This is especially important when circling whales in busy and/or controlled airspace.

Pilots must understand the fuel consumption of their aircraft and be able to accurately and precisely predict the amount of time and fuel needed to complete a portion of survey or change in mission. Pilots are typically asked to provide biologists with the amount of time that is available for survey or how much time it will take to get from point A to point B.

Pilots should be able to understand the general scientific mission and must be fully trained to use the aircrafts' GPS units. The pilots must be able to utilize the aircraft GPS units in order to plot tracklines and fly designated tracklines in a straight line and at a consistent altitude with little variation. The pilots must also be able to use the GPS units to assist with circling above targets in the water (e.g., whales).

When a sighting of interest (e.g., whale) is spotted by an FWC biologist, the pilots will be asked to immediately break from the trackline, navigate to the sighting, and circle a fixed location at 1000 AGL and the slowest practicable airspeed. Pilots will be given an estimated distance and bearing to the whale by the biologists and must be able to fly to that estimated location and set up a circle without a visual cue (this is important in order to relocate a whale that dove beneath the surface after the initial sighting). The pilots must be able to document the exact location of the initial sighting in order to relocate the target for photographs and should be prepared to take updated GPS positions of the whale while it is visible at the surface of the water. While circling whales (or other targets) for purposes of obtaining clear, top-down photographs for use in photo-identification, the pilots and aircraft must be able to circle at an appropriate bank angle, slow speed, and 1000

ATTACHMENT A- SCOPE OF WORK (page 3 of 10)

AGL. Pilots must also be able to mitigate for wind speed and direction while circling and work collaboratively with biologists to set up circles in the best location to minimize glare and obtain photos of the head of the whale. These parameters are typically accomplished by flying a repetitive elliptical pattern that allows the biologists to visually follow the whale or predict its location based on the location of the aircraft. The pilots should be able to utilize a GPS and spatial awareness skills to keep the aircraft circling above the whale while it is not visible at the surface. This is especially important when the whale is traveling or subsurface for long periods of time (approximately 20 minutes). Once FWC staff determine the whale(s) has (have) been photographed sufficiently, the pilots will be asked to record a final position, break from circling, and resume survey on the trackline from the initial point of deviation. The photographer will preferably occupy the right rear seat and the pilot seated in the right seat typically has the most unobstructed view of the whale(s); therefore, both pilots should have experience circling the aircraft.

The contract manager or designee shall be notified at least 24 hours prior to flight about changes in aircraft or pilots. Preferably, possible changes in aircraft or pilots should be discussed weeks in advance, so that FWC staff may notify partner agencies and organizations about the changes and schedule time to transfer equipment.

Certification

The Vendor shall hold a current Federal Aviation Administration (FAA) Air Carrier or Operating Certificate. Furthermore their Operations Specifications shall authorize operation of the category and class of aircraft and conditions of flight required to complete missions.

Aircraft will be operated and maintained under provisions of 14 CFR Part 135. Specific Aircraft used under this contract shall be carried on the list required by 14 CFR 135.63

Operations shall be conducted in accordance with the operation limitations of the aircraft airworthiness certificate.

Notwithstanding any status as a Public Aircraft Operation, the Vendor shall operate in accordance with his approved FAA Operations Specifications and all portions of 14 CFR Part 91 and each certification listed above.

Flight Plans

Pilots shall file and operate on a FAA flight plan. Vendor flight plans are not acceptable. Flight plans shall be filed prior to takeoff when possible.

Flight Following

The Vendor shall provide, install, and maintain an automated flight following (AFF) system per the manufacturer's requirements. The AFF system installed must be one compatible with the Government's AFF network (<https://www.aff.gov/>). The Vendor must procure and maintain a subscription for satellite service that allows interface with the Government's AFF network during any use under this contract. The Vendor must register this installation with AFF (registration information will be provided at award). The standard position-reporting interval shall not exceed two minutes. Aircraft location checks shall not exceed one-hour intervals under normal circumstances. It is incumbent upon the Vendor to conduct a thorough evaluation of any potential AFF vendor's services and products to ensure compliance with this requirement.

Flight Crew Requirements

Two pilots, Pilot-in-command (PIC) and Pilot-second-in-command (SIC) are required for each flight.

ATTACHMENT A- SCOPE OF WORK (page 4 of 10)

Pilots shall have at least a FAA commercial pilot certificate with appropriate category, class, and type rating if required.

Pilots shall have instrument rating for airplanes.

Pilots shall hold at least a current second class medical certificate issued under provisions of 14 CFR Part 67.

Pilots shall show evidence of satisfactorily passing all required FAA flight checks in accordance with provisions of 14 CFR Part 135. All pilots shall meet the currency requirements of 14 CFR 61.57.

Pilot flight hours shall be verified from certified pilot records.

Pilot-In-Command shall have recorded minimum flying time as PIC as follows:

- a. 1500 hours total pilot time
- b. 100 hours in category within the preceding 12 months
- c. 1200 hours PIC in airplanes
- d. 25 hours make and model
- e. 200 hours multiengine
- f. 100 hours operating below 1000 feet supporting observational, photogrammetric, or other natural resources surveys (over open ocean preferred)
- g. 10 hours PIC in make and model in the last 60 days and/or 5 hours total time in make and model in the last 30 days.

Completion of a dedicated course on unusual attitude and spin recovery training within the last 18 months is preferred.

Pilot Second-In-Command (Copilot)

- a. Requirements as specified in 14 CFR Part 135.

Vendor must demonstrate that all pilots have taken an aircraft ditching and water survival training course within the preceding 5 years and an annual EGRESS video refresher. At minimum, the course and training should include:

- 1) An 8-hour program designed to provide aircraft crew traveling over water with the knowledge and skills necessary to react to an aircraft-ditching emergency, care for themselves in a sea survival situation, and to participate to the maximum extent in their rescue.
- 2) Course is recommended to include:
 - a. Hazards to aircraft and personnel during over water operations
 - b. Safety and survival equipment requirements and utilization
 - c. Pre-ditching considerations and procedures
 - d. Survival and rescue water skills
 - e. Underwater escape training using Modular Egress Training Simulator (METS™)
 - f. Emergency ditching and evacuation procedures
 - g. Smoke in the cockpit/cabin
 - h. Upright emergency evacuation
 - i. Fire fighting in the cabin/cockpit
 - j. Rescue/recovery at sea simulation

ATTACHMENT A- SCOPE OF WORK (page 5 of 10)

FWC reserves the right to refuse the services of any pilot who does not meet the aforementioned requirements, or who does not perform in a satisfactory manner.

Pilots will not be accepted for duty if they are not listed on the original contract until due certification is provided to the Contract Manager, and the pilot(s) has met with the approval of the Contract Manager.

In accordance with FAA §135.253 Misuse of Alcohol, the FWC requests no pilot be scheduled by the Vendor to fly for the FWC within 8 hours after using alcohol. The FWC reserves the right to refuse the services of a pilot if it is suspected he/she has used alcohol within 8 hours of the scheduled flight.

Manifesting

The PIC shall ensure that a manifest of all crewmembers and passengers on board has been completed. A copy of this manifest shall remain at the point of initial departure. Manifest changes will be left at subsequent points of departure when practical.

Passenger Briefing

Before each takeoff, the PIC shall ensure that all passengers have been briefed in accordance with the briefing items contained in 14 CFR 135 including:

- a. Emergency Locator Transmitter (ELT)
- b. First Aid Kit (if applicable)
- c. Personal Protective Equipment (if applicable)
- d. Battery and fuel cutoff switch location

Prior to the first flight of each passenger and at least once a month following the initial flight the PIC shall brief FWC staff on the ditching procedures for the aircraft and carry-out a ditching drill (simulation) on land that includes a controlled egress of all passengers.

Pilot Authority and Responsibilities

The pilots are responsible for operating the aircraft within its operating limits and the safety of the aircraft, its occupants, and cargo. The pilots shall comply with the directions of FWC staff, except, when in the pilots' judgment compliance will be a violation of applicable federal or state regulations or agreement provisions. The pilots shall refuse any flight or landing which is considered hazardous or unsafe. Pilots must remain at the flight controls while an aircraft engine is operating.

The pilots shall not permit any passenger to ride in the aircraft or any cargo be loaded unless authorized by FWC staff.

Pilots are responsible for computing the weight and balance for all flights and for assuring that the gross weight and center of gravity do not exceed the aircraft's limitations. Pilots shall be responsible for the proper loading and securing of all internal or external cargo.

Pilot Duty and Flight Limitations

Duty includes flight time, ground duty of any kind, and standby or alert status. Local travel up to a maximum of 30 minutes each way between the work site and place of lodging will not be considered duty time. Pilots will be subject to the following duty hour limitations:

- a. A maximum of 14 consecutive duty hours during any assigned duty period
- b. Pilots shall be given 1 day of rest within any 7 consecutive calendar days, or two days of rest within any 14 consecutive days.

ATTACHMENT A- SCOPE OF WORK (page 6 of 10)

- c. Pilots shall be given a minimum of 10 consecutive hours of rest (off duty), not to include any preflight or post-flight activity, prior to any assigned duty period.

All flight time, regardless of how or where performed, except personal pleasure flying, will be reported by each pilot and used to administer flight time and duty time limitations. Flight time to and from a duty station as pilot (commuting) will be reported and counted toward limitations if it is flown on a duty day. Flight time includes, but is not limited to: military flight time; charter; flight instruction; 14 CFR 61.56 flight review; flight examinations by FAA designees; and flight time for which a pilot is compensated; or any other flight time of a commercial nature whether compensated or not. Pilot time computation shall begin at takeoff and end when the aircraft is stopped at the parking spot.

Flight operations shall not extend beyond 45 minutes reserve fuel at 120 knots at sea level.

Pilots will be limited to the following flight hour limitations, which shall fall within their duty hour limitations:

- a. 10 hours for a flight crew consisting of two pilots during any assigned duty period.
- b. When a pilot acquires 40 or more flight hours in a consecutive six-day period, the pilot shall be given the following 24-hour period of rest (off duty) and a new six-day cycle shall begin. Flight time must not exceed a total of 50 hours in any 6 consecutive days. The 24-hour period shall be one calendar day off duty.

Pilot Proficiency

Pilots shall display evidence of experience in using all equipment specified (marine and aviation VHF radio, GPS, etc.). Pilots may be required to demonstrate proficiency.

Pilots shall demonstrate their ability to perform the following functions with the required GPS:

1. Determine the geographic coordinates of a destination identified on a sectional aeronautical chart
2. Install destination coordinates
3. Acquire distance/bearing information to a destination
4. Record as a waypoint, coordinates of various locations while enroute to a primary destination
5. Navigate from a present position to a selected recorded waypoint or between two recorded waypoints.

The Vendor shall submit an experience resume for each pilot offered for approval. The resume shall include names and pilot addresses of past employers, substantiation of related type and typical terrain flying, confirmation of minimum flight time detailed above, and must show any and all accidents involving aircraft. Pilots should be available for a meeting with FWC staff prior to the first scheduled flight to discuss survey parameters.

Pilots shall be knowledgeable of IFR, VFR, low level and slow flight procedures while flying over water. This includes special flight techniques for low level in slow flight configuration and circling.

Pilots may be required to demonstrate proficiency during an initial evaluation flight.

Personal Protective Equipment

Personal Flotation Devices (PFD) required by 14 CFR 91 or Life-Preserver(s) (TSO-C13) required by 14 CFR 135 shall be worn by flight crew and FWC staff at all times when the aircraft is over water.

ATTACHMENT A- SCOPE OF WORK (page 7 of 10)

Anti-exposure suits shall be readily available to occupants of multiengine aircraft when conducting extended over water flight (as defined in 14 CFR 1.1) and when the water temperature is estimated to be 59 degrees Fahrenheit or less.

Aircraft Requirements

The below standards are in addition to airworthiness requirements.

Vendor-furnished aircraft and equipment shall be operable, free of damage, and in good repair. Aircraft systems and components shall be free of leaks except within limitations specified by the manufacturer.

All windows and windshields must be clean and free of scratches, cracks, crazing, distortion, or repairs, which hinder visibility. Repairs such as safety wire lacing and stop drilling of cracks are not acceptable permanent repairs. Prior to acceptance, all temporarily repaired windows and windshields shall have permanent repairs completed or shall be replaced. Pilots should ensure the windows are clean before the start of each survey.

The aircraft interior shall be clean and neat. There shall be no un-repaired tears, rips, cracks, or other damage to the interior. The exterior finish, including the paint, shall be clean, neat, and in good condition. Any corrosion shall be within manufacturer or FAA acceptable limits.

Minimum Required Aircraft Specifications (unless otherwise noted)

1. At least 1200 lb. and 2 passenger capacity
2. High wing
3. Multi-engine
4. Area where equipment can be stored securely and accessed from inside the aircraft during flight
5. Capable of survey speed of 100 knots. The survey speed shall not be greater than power off stall speed +30% (clean configuration/no gear/flaps) at MGTW. VMC shall be at least 10 knots below the survey speed in this configuration.
6. Two positions for biologists with unobscured window views on each side of the aircraft
7. At least one opening window aft of the cockpit (preferably on the right side of the aircraft) and accessible to the biologists for photography. Biologists will take photographs out the window while hand-holding a camera; camera will not be mounted. Therefore, the opening window must be significantly larger than a standard circular "port" for a mounted camera. Acceptable minimum window dimensions are approximately 1ft by 1ft, but depend on the location of the window in the aircraft. Vendor shall attach a photograph showing the opening window (or proposed opening window location), its location in the aircraft, and if applicable FAA form 337 showing FAA field or STC approval.
8. A minimum of 6 hours operational flight range (preferred)
9. AC or DC power for powering lap top computers
10. Direct connection to aircraft GPS system for FWC laptop computer or external antenna connection for FWC GPS
11. IFR-certified
12. Extended overwater operations emergency equipment as listed in 14 CFR Part 135 §135.167, including registered 406mHz EPIRB capable of being removed from aircraft and operated in a marine environment
13. GPS navigation aids

ATTACHMENT A- SCOPE OF WORK (page 8 of 10)

14. Radios:

- a. Fully operational primary and secondary COMM (VHF radio including marine VHF capabilities) units (VHF stand alone linked to the intercom, NAV/COMM, GPS/COMM)
- b. Aircraft mounted marine VHF radio

15. Intercom (static free, clear communications) for all occupants of aircraft

- a. Vendor is responsible for pilot headsets
- b. Intercom linkage to VHF marine radio that can be operated by biologists in rear seat

Aircraft with faulty or suspect avionics will not be accepted for use.

Cessna Skymaster 337 and 337-2 are preferred and considered acceptable platforms for marine mammal surveys due to high wing configuration, retractable landing gear, and window orientation allowing for good visibility from rear seats. Other examples of acceptable aircraft include Partenavia and DeHavilland Twin Otter.

Additional Equipment Requirements

Fire extinguisher(s), as required by 14 CFR 135, shall be a hand-held bottle with a minimum 2-B:C rating mounted and accessible to the flight crew.

Shoulder harness and lap belt for front seat occupants and both occupants in tandem seat airplanes are required. The shoulder strap and lap belt will fasten with a metal to metal, single-point, quick-release mechanism.

One automatic-portable/automatic-fixed ELT, utilizing an external antenna and meeting the requirements of 14 CFR 91.207 (excluding section f.), shall be installed per the manufacturer's installation manual, in a conspicuous or marked location.

High-visibility, pulsating, forward facing, conspicuity lighting installed on aircraft.

Aircraft must be able to accommodate the use of a Class B AIS receiver, including, but not limited to, an external VHF antenna (in addition to the VHF antenna for the marine band VHF radio.)

Approved provisions (i.e., mounting brackets, coaxial cables, connectors, etc.) for attachment of VHF wildlife tracking antennas and receiver shall be installed on the aircraft and be operational. Vendor shall provide a copy of FAA Form 337 showing FAA Field or Supplemental Type Certificate (STC) Approval if applicable. If Bidder is unfamiliar with this equipment or unsure about what is needed to satisfy this requirement they should submit questions in accordance with the calendar of events.

The aircraft must be equipped with an FAA Technical Standard Order (TSO) approved traffic awareness and avoidance system (TCAS/TAS/TCAD/etc.) featuring active interrogation of threat aircraft. The system must be equipped with antennas mounted on both the top and bottom of the aircraft to minimize airframe shadowing and provide 360-degree coverage. The system must also incorporate visual alerts for both pilot and co-pilot and an aural alerting feature which announces an alert of threat aircraft whenever such aircraft enter a zone of a programmable size with range selections from no more than two nautical miles to at least ten nautical miles around the aircraft. The audio alert output must be interconnected to the aircraft's audio system in such a manner that all ICS-equipped positions will receive the alert. If the aircraft is equipped with a Multi-Function Display (MFD), GPS, or other system capable of displaying threat aircraft output data, the system must be also be interfaced to such. The system must be installed in accordance with an STC or

ATTACHMENT A- SCOPE OF WORK (page 9 of 10)

FAA Field Approval based upon an existing STC and the manufacturer's installation manual. Installation of the system must be accomplished by a certified avionics repair station which has been approved for such by the system's manufacturer. The system must be maintained for continued airworthiness, but may be listed in an approved Minimum Equipment List (MEL), provided the MEL does not permit the system to be inoperable for a period exceeding 15 days. Vendor must provide a copy of FAA Form 337 showing FAA Field or STC Approval.

The Vendor shall assist FWC staff with the installation of their scientific equipment to ensure proper installation and integration with aircraft equipment, as well as secure wires and cords.

Maintenance Requirements

The Vendor must ensure that the aircraft and all required equipment are operated and maintained in accordance with the manufacturer's specifications.

The Vendor shall keep FWC staff apprised of anticipated aircraft maintenance even if the planned maintenance is not anticipated to affect survey time or availability of aircraft.

Aircraft shall be maintained in accordance with all applicable Manufacturers' Mandatory Service Bulletins as required by the Vendor's Operations Specifications, and all applicable FAA Airworthiness Directives (AD).

A functional maintenance test flight shall be performed, at the Vendor's expense, following installation, overhaul, major repair, or replacement of any engine, propeller, or primary flight control. The pilot shall enter the result of this test flight in the aircraft maintenance record.

The Vendor must immediately notify FWC staff of any change to any engine, power train, flight control or major airframe component or of any major repair following an incident or accident and must describe the circumstances involved.

Fuel and Servicing Requirements

All fuel must be commercial (or military) grade aviation fuel approved for use by the airframe and engine manufacturer.

FWC biologists (passengers) shall not be involved with any refueling of aircraft.

Aircraft shall not be refueled while engines are running and propellers are turning.

B. BACKGROUND

The FWC is involved in the recovery of endangered marine mammals, including the North Atlantic right whale, *Eubalaena glacialis*. Most of this work is supported by grant funding provided by the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration (NOAA Fisheries). FWC is dedicated to assisting NOAA Fisheries in its efforts to protect this species as outlined in the North Atlantic Right Whale Recovery Plan (http://www.nmfs.noaa.gov/pr/pdfs/recovery/whale_right_northatlantic.pdf). With a population estimated at fewer than 500 individuals, the North Atlantic right whale is one of the most endangered large whales in the world. Vessel collisions and entanglement in fishing gear are the leading known causes of death in this species. Since 1987, FWC has conducted aerial surveys to monitor seasonal presence of right whales, mitigate vessel-whale collisions, and assess population dynamics. An Early Warning System communication network, coordinated by NOAA Fisheries

ATTACHMENT A- SCOPE OF WORK (page 10 of 10)

Service with assistance from FWC staff, is designed to protect right whales from vessel collisions by notifying key agencies, ports, and mariners via email, text message, or pager when and where right whales have been sighted. This near real-time information allows ships to take action if necessary to avoid whales. Photographs taken by aerial observers are used to identify individual right whales based on the callosity pattern (a natural growth of rough, cornified skin) on their heads as well as other natural marks and human-related scars. Over time, population demographics, reproductive success, mortality, and trends in health are monitored in part through this photo-identification research. FWC is one of a handful of major contributors to the North Atlantic Right Whale Identification Database—the central repository for archiving and maintaining photographs and sighting data on right whales. FWC has also worked closely with federal, state, and non-governmental organization partners to compile years of aerial survey data into a GIS program. Analysis of these spatial data help scientists and managers to evaluate right whale distribution patterns in the calving grounds in relation to environmental factors, such as sea surface temperatures and water depth, and human activities, such as vessel traffic.

C. SUPPORT OF COMMISSION MISSION

The mission of the FWC is to manage fish and wildlife resources for their long-term well-being and the benefit of people. The FWC recognizes that scientific data drives management decisions for fish and wildlife populations and their habitats. The North Atlantic right whale is a Federally-designated endangered species. The only known calving grounds for this species are off the coast of northeast Florida and southeast Georgia and have been designated by NOAA Fisheries as Critical Habitat.

DELIVERABLES

Pilot (PIC and SIC) resumes shall be provided to FWC for review on or before November 15th of the contract year(s) and each renewal year. Updated pilot resumes, if needed, shall be provided to FWC on or before November 28th unless prior arrangements have been made with the Contract Manager.

Aircraft and pilots or vendor representative shall be available on or before November 30th of the contract year and each renewal year at the designated airport for equipment installation and visual inspection of aircraft. Equipment installation and visual inspection can be expected to last 2-3 hours and must be completed during daylight hours.

Contracted aircraft and pilots must be available daily during daylight hours from December 1st through March 31st.

Flight hours (based on Hobbs meter) will be recorded and confirmed by pilots before and after each flight.

See additional details about required services in the Goods and Services Section of this SOW.

Minimum Level of Performance as outlined under Deliverables.

ATTACHMENT B- CERTIFICATE OF CONTRACT COMPLETION (page 1 of 1)

FWC 13/14-112
ATTACHMENT E
FLORIDA FISH & WILDLIFE CONSERVATION COMMISSION
CERTIFICATES OF CONTRACT COMPLETION

Project: _____
Contractor: _____
Cont # or DO #: _____
FEID #: _____
(Or Social Security #)
Contract Date: _____ Total Amount \$ _____

CONTRACTOR'S AFFIDAVIT

I solemnly swear (or affirm): That the work under the above-named contract and all amendments thereto have been satisfactorily completed; that all amounts payable for materials, labor and other charges against project have been paid; that no liens have been attached against the project; that no suits are pending by reason of work on the project under the contract; that all Workers' Compensation claims are covered by Workers' Compensation Insurance as required by law; and that all public liability claims are covered by insurance. I further certify that all just and lawful bills against the undersigned and his subcontractors for labor, material and equipment employed in the performance of this Contract have been paid in full accordance with their terms and conditions.

CONTRACTOR

Name:
Title:
Date:

NOTARY

STATE OF:
COUNTY OF:

Personally appeared before me this _____ day of _____, 20 _____
_____, known (or made known) to me to be

the _____
(Owner) (Partner) (Corporate Officer-give title)

of _____, Contractor (s), who
subscribed and swore to the above instrument in my presence.

Personally known _____ Or Produced _____
Identification _____ Notary Public _____ (Seal)
Type of Identification Produced _____
Type Name:
My Commission Expires:

COMMISSION'S CERTIFICATION

I certify: That, to the best of my knowledge and belief, the work on the above named project has been satisfactorily completed under terms and conditions of the contract.

Contract Manager: _____
Division/Office: _____
Signature: _____
Title: _____
Date: _____

CERTIFICATIONS AND ASSURANCES

The Commission will not award this Contract unless Contractor completes the CERTIFICATIONS AND ASSURANCES contained in this Attachment. In performance of this Contract, Contractor provides the following certifications and assurances:

- A. Debarment and Suspension Certification (2 CFR Part 1400)**
- B. Certification Regarding Lobbying (31 U.S.C. 1352)**
- C. Certification Regarding Public Entity Crimes (section 287.133, F.S.)**
- D. Certification Regarding Drug-Free Workplace Requirements (41 U.S.C. 701 et. seq.) (as applicable to recipients and subrecipients of federal financial assistance)**
- E. Certification Regarding the Scrutinized Companies List (section 287.135, F.S.) (as applicable)**

A. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTION.

The undersigned Contractor certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a Federal department or agency;
2. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph A.2. of this certification; and/or
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause of default.

If Contractor is unable to certify to any of the statements in this certification, CONTRACTOR shall attach an explanation to this Contract.

B. CERTIFICATION REGARDING LOBBYING – Certification for Contracts, Grants, Loans, and Cooperative Agreements.

The undersigned Contractor certifies, to the best of his or her knowledge and belief, that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employees of Congress, or employee of a Member of Congress in connection with a Federal contract, grant, loan, or cooperative agreement, the undersigned shall also complete and submit Standard Form – LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

ATTACHMENT C- CERTIFICATION AND ASSURANCES (page 2 of 3)

The undersigned shall require that language of this certification be included in the documents for all subcontracts at all tiers (including subcontracts, sub-grants and contracts under grants, loans and cooperative agreements) and that all sub-recipients and contractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this Contract was made or entered into. Submission of this certification is a prerequisite for making or entering into this Contract imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

C. CERTIFICATION REGARDING PUBLIC ENTITY CRIMES, SECTION 287.133, F.S.

Contractor hereby certifies that neither it, nor any person or affiliate of Contractor, has been convicted of a Public Entity Crime as defined in section 287.133, F.S., nor placed on the convicted vendor list.

Contractor understands and agrees that it is required to inform the Commission immediately upon any change of circumstances regarding this status.

**D. CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS
(If Contractor is a Recipient of Subrecipient of Federal Financial Assistance)**

Pursuant to the Drug-Free Workplace Act of 1988, the undersigned attests and certifies that the Contractor (if not an individual) will provide a drug-free workplace by the following actions:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in Contractor's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
2. Establishing an ongoing drug-free awareness program to inform employees concerning:
 - a. The dangers of drug abuse in the workplace.
 - b. The policy of maintaining a drug-free workplace.
 - c. Any available drug counseling, rehabilitation and employee assistance programs.
 - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
 - e. Making it a requirement that each employee to be engaged in the performance of the Contract be given a copy of the statement required by paragraph D.1. of this certification.
4. Notifying the employee in the statement required by paragraph D.1. of this certification that, as a condition of employment under the Contract, the employee will:
 - a. Abide by the terms of the statement.
 - b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction.
5. Notifying the Commission in writing ten (10) calendar days after receiving notice under subparagraph 4.b. from an employee or otherwise receiving actual notice of such conviction. Provide such notice of convicted employees, including position title, to every Contract Manager on whose Contract activity the convicted employee was working. The notice shall include the identification number(s) of each affected Contract.
6. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph 4.b. herein, with respect to any employee who is so convicted:
 - a. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 as amended.
 - b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local, health, law enforcement, or other appropriate agency.
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of this entire certification.

If the Contractor is an individual, the Contractor certifies that:

