

STATE OF MONTANA VENDOR CONTRACT

Department of Administration
 State Procurement Bureau
 165 Mitchell Building
 PO Box 200135
 Helena, MT 59620-0135
 Phone: (406) 444-2575 Fax: (406) 444-2529
 TTY Users-Dial 711
<http://gsd.mt.gov>

V.C. #: SPB12-2586A-G
Title: Overflow Aircraft Services

CONTRACT TERM	FROM	July 1, 2015	CONTRACT STATUS	NEW ()
	TO	June 30, 2016		RENEW (x) 3rd Renewal, 4th Year
VENDOR ADDRESS	Red Eagle Aviation, Inc. 1880 Highway 93 South Kalispell, MT 59901		ORDER ADDRESS	Red Eagle Aviation, Inc. 1880 Highway 93 South Kalispell, MT 59901
ATTN:	David Hoerner		ATTN:	David Hoerner
PHONE:	406-755-2376		PHONE:	406-755-2376
FAX:	406-755-5231		FAX:	406-755-5231
E-MAIL:			E-MAIL:	

PRICES:	PER CONTRACT
DELIVERY:	PER CONTRACT
F.O.B.:	PER CONTRACT
TERMS:	PER CONTRACT

REMARKS: Amendment #3

IFB/RFP NO.: IFB12-2586A	 Jeannie Lake, Contracts Officer	Date: June 11, 2015
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AUTHORIZED SIGNATURE

SPB12-2586A-G

1. PARTIES

THIS CONTRACT is entered into by and between the **State of Montana, Department of Administration, State Procurement Bureau** (the "State"), whose address and phone number are PO Box 200135, Helena MT 59620-0135, 406-444-2575 and **Red Eagle Aviation**, (the "Contractor"), whose address and phone number are 1880 Highway 93 South, Kalispell MT 59901 and phone number 406-755-2376.

THE PARTIES AGREE AS FOLLOWS:

2. EFFECTIVE DATE, DURATION, AND RENEWAL

2.1 Contract Term. This contract took effect on **July 1, 2012 or upon execution of the contract** and terminate on **June 30, 2016**, inclusive, unless terminated earlier in accordance with the terms of this contract.

2.2 Contract Renewal. This contract may, upon mutual agreement between the parties and according to the terms of the existing contract, be renewed in **one-year** intervals, or any interval that is advantageous to the State. This contract, including any renewals, may not exceed a total of **seven** years.

3. COST/PRICE ADJUSTMENTS

Cost Increase by Mutual Agreement. After the initial term of the contract, each renewal term may be subject to a cost increase by mutual agreement.

Price Adjustments Negotiated Based on Changes in Contractor's Costs. Price adjustments may be permitted at the time of contract renewal through a process of negotiation with the Contractor and the State. Any price increases must be based on demonstrated industry wide or regional increases in the Contractor's costs. Publications such as the Federal Bureau of Labor Statistics and the Consumer Price Index (CPI) for all Urban Consumers may be used to determine the increased value.

4. SERVICES AND/OR SUPPLIES

Contractor agrees to provide the following: overflow aircraft and pilot services throughout the State of Montana. The required air services could include low level abandoned mine inventory; low level active mine inspections; low level landscape surveys; remote location personnel and equipment transportation; low level wildlife surveys of various species; angler surveys, tracking diverse wildlife species using telemetric equipment; various law enforcement missions and if qualified, helicopter external load operations, with level flying and operating at minimal airspeed to facilitate visual inventory of various animals, counting anglers, tracking diverse wildlife species using telemetric equipment, or other requirements unique to the State of Montana. This contract also includes point-to-point charter or air taxi service. Passengers must be a State of Montana employee or a guest/client of the State of Montana on official state business and must be able to show a valid State of Montana Identification; any exceptions must be approved by the Risk Management & Tort Defense Division.

Additional aircraft and pilots who are not listed below must be approved by State of Montana, State Procurement Bureau, per Section 4 of IFB12-2586A. Approved aircraft and pilots will be added to this contract through an addendum.

Aircraft: Bell 206 BIII

Name of Pilot: James R. Pierce

Hourly rate: \$700.00

Locations Available: (List): Statewide

Type of Service: Any

Aircraft: CTU206 Airplane

Name of Pilot: Tom Glanville

Hourly rate: \$350.00

Locations Available: (List): Any (FOB Kalispell)

Type of Service: 135 Charter - Telemetry

5. CONSIDERATION/PAYMENT

5.1 Payment Schedule. In consideration for the overflow aircraft and pilot services throughout the State of Montana to be provided, the agency or entity requesting the service, shall pay by invoice, which will be submitted to the requesting agency within 15 days of the flight. Invoices must have an authorized aircraft unit overflow approval form or other agency approved form, which is signed by the Chief Pilot, and attached. If the approval documentation is not attached to the invoice, the Department reserves the right to withhold payment.

5.2 Withholding of Payment. The agency or entity may withhold payments to the Contractor if the Contractor has not performed in accordance with this contract. Such withholding cannot be greater than the additional costs to the State caused by the lack of performance.

6. ACCESS AND RETENTION OF RECORDS

6.1 Access to Records. The Contractor agrees to provide the State, Legislative Auditor or their authorized agents access to any records necessary to determine contract compliance. (Section 18-1-118, MCA)

6.2 Retention Period. The Contractor agrees to create and retain records supporting the overflow aircraft and pilot services throughout the State of Montana, for a period of three years after either the completion date of this contract or the conclusion of any claim, litigation, or exception relating to this contract taken by the State of Montana or a third party.

7. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING

The Contractor shall not assign, transfer, or subcontract any portion of this contract without the express written consent of the State. (Section 18-4-141, MCA) The Contractor shall be responsible to the State of Montana for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by the Contractor. No contractual relationships exist between any subcontractor and the State.

8. HOLD HARMLESS/INDEMNIFICATION

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

9. REQUIRED INSURANCE

9.1 General Requirements. The Contractor shall maintain for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by the Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

9.2 Primary Insurance. The Contractor's insurance coverage shall be primary insurance with respect to the State of Montana, its officers, officials, employees, and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State of Montana, its officers, officials, employees shall be excess of the Contractor's insurance and shall not contribute with it.

9.3 Specific Requirements for Commercial Aircraft Liability. The Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of **\$1,000,000** per occurrence to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns, or subcontractors.

The State of Montana, its officers, officials, and employees, are to be covered and listed as additional insureds; for liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; and aircraft or rotorcraft owned, leased, loaned, or borrowed. The contractor's commercial aircraft liability insurance shall contain no exclusions as respects contract aircraft flown on behalf of the state for reward or hire.

9.4 Specific Requirements for Automobile Liability. The Contractor did not own or operate any personal or commercial vehicles that could be available for transporting people at the time of execution of this contract. If at any time during this contract, the Contractor offers to transport employees, volunteers, or members of other cooperative agencies, the following insurance requirement must be met:

The Contractor will obtain prior approval by submitting a copy of the following insurance certificate to the assigned Contracts Officer at the State Procurement Bureau:

The Contractor shall purchase and maintain coverage with split limits of \$500,000 per person (personal injury), \$1,000,000 per accident occurrence (personal injury), and \$100,000 per accident occurrence (property damage), OR combined single limits of \$1,000,000 per occurrence to cover such claims as may be caused by any act, omission, or negligence of the contractor or its officers, agents, representatives, assigns, or subcontractors.

The State of Montana, its officers, officials, and employees, are to be covered and listed as additional insureds for automobiles leased, hired, or borrowed by the Contractor.

9.5 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be declared to and approved by the state agency. At the request of the agency either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State of Montana, its officers, officials,

and employees; or (2) at the expense of the Contractor, the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

9.6 Certificate of Insurance/Endorsements. A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverages, has been received by the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135. The Contractor must notify the State immediately, of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. The State reserves the right to require complete copies of insurance policies at all times.

10. COMPLIANCE WITH WORKERS' COMPENSATION ACT

Contractors are required to comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana in accordance with sections 39-71-401, 39-71-405, and 39-71-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither the contractor nor its employees are employees of the State of Montana. This insurance/exemption must be valid for the entire term of the contract. A renewal document must be sent to the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135, upon expiration.

11. COMPLIANCE WITH LAWS

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

12. CONTRACT TERMINATION

12.1 Termination for Cause. The State may, by written notice to the Contractor, terminate this contract in whole or in part at any time the Contractor fails to perform this contract.

12.2 Reduction of Funding. The State must terminate this contract if funds are not appropriated or otherwise made available to support the State's continuation of performance of this contract in a subsequent fiscal period. (See section 18-4-313(4), MCA.)

13. LIAISON AND SERVICE OF NOTICES

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

Jeannie Lake will be the liaison for the State.

PO Box 200135

Helena, MT 59620-0135

Telephone: 406-444-0110

Fax: 406-444-2529

E-mail: JeannieLake@mt.gov

Joe Rahn will be the liaison for the State of Montana/Fish, Wildlife, and Parks.
Chief Pilot- Aircraft Unit
PO Box 200701
Helena, MT 59620
Office-(406) 444-7700
Cell-(406) 370-2739
Email: jrahn@mt.gov

John Koerth will be the liaison for the State of Montana/Department of Environmental Quality.
P O Box 200901
Helena, MT 59620
Phone: (406) 841-5026
Email: jkoerth@mt.gov

Debbie Alke will be the liaison for the State of Montana/Transportation.
Aeronautics Division Administrator
Montana Department of Transportation
Phone: (406)444-9569
Email: dalke@mt.gov

David Hoerner will be the liaison for the Contractor.
1880 Highway 93 South
Kalispell, MT 59901
Telephone: (406) 755-2376
Fax: (406) 755-5231
E-mail:

The State's liaison and Contractor's liaison may be changed by written notice to the other party. Written notices, requests, or complaints will first be directed to Jeannie Lake.

14. MEETINGS

The Contractor is required to meet with the State's personnel, or designated representatives, to resolve technical or contractual problems that may occur during the term of the contract or to discuss the progress made by Contractor and the State in the performance of their respective obligations, at no additional cost to the State. Meetings will occur as problems arise and will be coordinated by the State. The Contractor will be given a minimum of three full working days notice of meeting date, time, and location. Face-to-face meetings are desired. However, at the Contractor's option and expense, a conference call meeting may be substituted. Consistent failure to participate in problem resolution meetings two consecutive missed or rescheduled meetings, or to make a good faith effort to resolve problems, may result in termination of the contract.

15. CONTRACTOR PERFORMANCE ASSESSMENTS

The State of Montana may do assessments of the Contractor's performance. This contract may be terminated for one or more poor performance assessments. Contractors will have the opportunity to respond to poor performance assessments. The State will make any final decision to terminate this contract based on the assessment and any related information, the Contractor's response and the severity of any negative performance assessment. The Contractor will be notified with a justification of contract termination. Performance assessments may be considered in future solicitations.

16. TRANSITION ASSISTANCE

If this contract is not renewed at the end of this term, or is terminated prior to the completion of a project, or if the work on a project is terminated, for any reason, the Contractor must provide for a reasonable period of time

after the expiration or termination of this project or contract, all reasonable transition assistance requested by the State, to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this contract, except for those terms or conditions that do not reasonably apply to such transition assistance. The State shall pay the Contractor for any resources utilized in performing such transition assistance at the most current rates provided by the contract.

If there are no established contract rates, then the rate shall be mutually agreed upon. If the State terminates a project or this contract for cause, then the State will be entitled to offset the cost of paying the Contractor for the additional resources the Contractor utilized in providing transition assistance with any damages the State may have otherwise accrued as a result of said termination.

17. CHOICE OF LAW AND VENUE

This contract is governed by the laws of Montana. The parties agree that any litigation concerning this bid, proposal or subsequent contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees. (See section 18-1-401, MCA.)

18. SCOPE, AMENDMENT, AND INTERPRETATION

18.1 Contract. This contract consists of eight numbered pages, any Attachments as required, IFB12-2586A, as amended and the Contractor's IFB response as amended. In the case of dispute or ambiguity about the minimum levels of performance by the Contractor the order of precedence of document interpretation is in the same order.

18.2 Entire Agreement. These documents contain the entire agreement of the parties. Any enlargement, alteration or modification requires a written amendment signed by both parties.

19. EXECUTION

The parties through their authorized agents have executed this contract on the dates set out below.

**Department of Administration
PO Box 200135
125 North Roberts Street
Room 165, Mitchell Building
Helena MT 59620-0135**

**Red Eagle Aviation, Inc.
1880 Highway 93 South
Kalispell, MT 59901
FEDERAL ID #84-1391807**

BY: Marvin Eicholtz / Administrator

BY: _____
(Name/Title)

(Signature)

(Signature)

DATE: _____

DATE: _____

Approved as to Legal Content:

Legal Counsel/ Mike Manion

Approved as to Form:

Procurement Officer/ Jeannie Lake
State Procurement Bureau