



Deschutes County

## **REQUEST FOR PROPOSAL**

For

Vending Machine Operations at  
Deschutes County Health Services

Proposals must be received no later than 3:00 p.m.  
Friday, May 20, 2011

Deschutes County Health Services  
2577 NE Courtney Drive  
Bend, Oregon 97701  
(541) 322-7446

An Equal Opportunity Employer

# Deschutes County Government

Deschutes County encompasses 3,055 square miles located in the central portion of Oregon. In the last several years, Deschutes County has been the fastest growing county in the state. As the population in the County has grown, the Deschutes County government has grown as well. Currently, there are more than 900 people employed by the county operating in facilities throughout the county.

Deschutes County is governed by the Board of County Commissioners (BOCC). The BOCC consists of three commissioners, elected at-large, responsible for establishing policies and setting priorities for the county. The other elected officials for the county include the District Attorney, County Assessor, County Clerk, County Treasurer, and County Sheriff. The County Administrator oversees the daily functions and activities of the various county departments.

Deschutes County consists of a variety of departments providing public services that include health and human services, public safety and emergency services, planning and zoning, community justice, public works and solid waste. The county also has a number of internal and support services such as finance, information technology, risk management and legal services. Deschutes County, through its Health Benefits Trust, provides health coverage for county employees, their eligible dependents and retired employees.

For more information, please visit [www.deschutes.org](http://www.deschutes.org).

# Deschutes County Vending Machine Services Request for Proposals

## 1.0 PURPOSE OF RFP

Deschutes County, a political subdivision of the State of Oregon, is soliciting proposals for a qualified, full service Contractor, "Vendor", to provide all equipment, materials, supplies and services required for the vending of food items and beverages at the following location:

Deschutes County Health Services  
2577 NE Courtney Drive  
Bend, OR 97701

In addition to the facility listed above, Deschutes County may use this contract for vending machine services at other county locations in the future.

**Proposals in response to this RFP must be received no later than 3:00 p.m. on Friday, May 20, 2011. Proposals received after this time will not be considered.**

Deschutes County is committed to equal opportunity in its procurement and contracting process.

## 2.0 GENERAL REQUIREMENTS

Deschutes County Health Services is soliciting proposals that provide access to healthy food and beverage items for employees, clients and visitors. The selected Vendor shall purchase and sell, on a profit and loss basis, food products and beverages in vending machines at specified location(s). At least 75% of the food/beverage products provided under this contract will meet or exceed the specified nutrition standards set forth below:

### 2.1 Food and Beverage Minimum Product Guidelines

#### VENDING FOODS/SNACKS

- *Packages will be single serving sizes.*
- *Items will provide < 300 calories per serving.*
- *At least 75% of grains offered will be whole grain.*
- *Items will contain < 30% of calories from total fat (excluding nuts, seeds, nut butters, and reduced fat cheeses).*
- *Items will contain <10% of calories from saturated fat (excluding reduced fat cheeses).*
- *Items will contain <30% sugar by weight (excluding naturally occurring sugars and low fat yogurts).*
- *Items will not contain sugar as the first ingredient.*
- *Items will provide minimal to none, trans fatty acids.*
- *Duplication of product in same machine shall be minimal.*

#### VENDING BEVERAGES

- *Plain water (any size).*
- *Flavored water with no sugars or artificial sweeteners (any size).*

- *Flavored water with artificial sweeteners (17 oz or less size; may not make up more than 25% of water and juice selections).*
- *100% fruit and/or vegetable juice (12 oz or less size).*
- *Carbonated beverages with 70 -100% pure juice with no added ingredients except water.*
- *Milk (flavored or unflavored).*
  - *1% fat or less*
  - *12 oz or less size*
- *No more than 30 grams sugar per 8 oz (as written on the label).*
- *Duplication of product in same machine shall be minimal.*

## **2.2 Product Pricing**

- Product pricing will be competitive so as to be affordable to staff, clients and visitors.
- Strategic pricing shall be implemented to encourage sales of healthier choices, e.g. higher priced unhealthy foods and lower priced healthy options, healthier items located in the top 1/3 of the machine (at eye level) and/or point of sale designation (labeling) indicating the healthier choices.
- Advertising display signage on vending machines will reflect healthier choices.
- Any pricing adjustments will require county approval.

## **2.3 Machines**

- Space will be provided for two vending machines; one for food items and one for beverages.
- Automatic vending machines should be new and/or of good quality.
- Machines will be installed by the Vendor at no charge to Deschutes County. Machines must accept coins and be equipped with a bill validator in order to accept bills.
- There will be no charge to Deschutes County for using, adding or removing vending machines.
- Vending machines are to be serviced weekly or biweekly, dependent on sales volume.
- Vendor is required to maintain clean and sanitary machines.
- Vending machines shall remain the property of the Vendor.

## **2.4 Repairs and Refunds**

The Vendor shall, at all times, and at own expense, be responsible for all service, maintenance and repair of its vending machines.

- Each machine will be clearly marked with the Vendor's contact information.
- Requests for repairs must be acknowledged within 24 hours.
- Repairs must be completed within 2 business days.
- Refunds are to be made by the Vendor at time of machine repair.

## **2.5 Taxes/Licenses/Fees/Insurance**

The Vendor, their employees, agents and vehicles shall provide and maintain valid insurance, permits and licenses as required by law for the execution of services related to this agreement.

- The Vendor shall pay all taxes, licenses, insurance fees and/or assessments applicable to vending services.
- Vendor acknowledge of all relevant insurance coverage must be included in proposal.
- The selected vendor will be required to provide proof of coverage before finalization of a contract for service.

## **2.6 Commission Payment**

The Vendor shall remit a ten percent (10%) commission of total gross sales to Deschutes County Health Services.

- Commissions shall be paid monthly, no later than the fifteenth (15<sup>th</sup>) day of the following month.
- Commission check shall be accompanied by a detailed, itemized financial report.

## **2.7 Reporting**

The selected vendor shall be responsible for providing Deschutes County Health Services with detailed monthly, quarterly and annual reports that include, at a minimum, the following information:

- List of items sold and prices, by vending machine location.
- Accounting of gross sales.
- Reports must be received, by mail, no later than the 15<sup>th</sup> of the following month.
- Commission payment to Deschutes County Health Services must accompany the monthly report.

## **3.0 RFP SCHEDULE AND PROPOSAL SUBMITTAL**

### **3.1 Time Line**

The following chart shows the schedule of key events in this RFP process. All posted dates are subject to change. The key events and deadlines for this process are as follows, some of which are set forth in more detail in the sections that follow:

April 15, 2011	Issuance of RFP
April 29, 2011	Request for Proposal Acknowledgement
May 6, 2011	Deadline for Submission of Written Questions
May 13, 2011	Deadline for Responses to Written Questions
May 20, 2011	Proposal Submittal
May 23-27, 2011	Review of Proposals/Possible Interviews
June 1, 2011	Projected Contract Award
June 15, 2011	Projected Vendor Start Date

### **3.2 Proposal Acknowledgment**

All vendors intending to respond to this RFP are asked to provide an acknowledgement by Friday, April 29, 2011 at 5:00pm. Although this acknowledgement is not mandatory, receipt of this form will ensure that the vendor is informed of any changes to the RFP or the RFP process. The proposal acknowledgement form is included in this RFP as **Attachment A.**

**3.3 Written Questions**

Bidders may submit questions in writing to [Therese\\_Madrigal@co.deschutes.or.us](mailto:Therese_Madrigal@co.deschutes.or.us) up until Friday, May 6, 2011 at 5:00pm. Answers to questions will be provided as questions are received. Submitted questions will be answered no later than 5:00pm on Friday, May 13, 2011.

Therese Madrigal shall be the only point of contact for this RFP process. Any questions or issues that may arise regarding the specifications, the solicitation process, or the selection process shall be directed to Therese at (541) 322-7446 or [Therese\\_Madrigal@co.deschutes.or.us](mailto:Therese_Madrigal@co.deschutes.or.us). Oral instructions or information concerning this RFP given by officers, employees or agents of Deschutes County to prospective bidders will not be binding.

**3.4 Proposal Submittal**

For consideration, vendors must submit a comprehensive response to the RFP via email only (maximum 10 MB). This proposal must meet the minimum requirements included in this RFP and the corresponding attachments. All vendors are required to respond to this RFP as outlined in Section 4.0, to allow for a fair and timely evaluation of all proposals. Any supporting information not specifically requested in this RFP shall be clearly identified and included in a section titled, "Documentation." The following chart provides critical submission guidelines:

Proposal Deadline	Friday, May 20, 2011 at 3:00 p.m.
Electronic Submission	1 signed copy must be emailed to: Therese Madrigal <a href="mailto:Therese_Madrigal@co.deschutes.or.us">Therese_Madrigal@co.deschutes.or.us</a>
Contact	Therese Madrigal (541) 322-7446 <a href="mailto:Therese_Madrigal@co.deschutes.or.us">Therese_Madrigal@co.deschutes.or.us</a>

**No proposals received after 3:00 p.m. on Friday, May 20, 2011 will be accepted. Any responses received after the deadline will not be considered.** Deschutes County Health Services will verify official receipt of proposals via an e-mail to the e-mail address specified by the vendor. Deschutes County Health Services is not liable for any costs incurred by vendors for the preparation and presentation of their proposal. This includes any costs in the submission of a proposal or in making the necessary studies or designs as part of the preparation.

**3.5 Contract Award**

Final selection of the successful vendor is targeted for June 1, 2011. The selected vendor will be expected to enter contract negotiations with Deschutes County Health Services. This target date is subject to revision. Deschutes County reserves the right to cancel this service contract upon 30 days written notice to the Vendor.

**3.6 Period of Performance**

The period of performance shall begin on or before June 15, 2011 and end on June 15, 2013. Deschutes County Health Services may extend the agreement, on an annual basis, for up to three (3) years based on vendor performance, County need and resource availability.

#### **4.0 PROPOSAL FORMAT**

All proposals shall be valid for 90 days after the RFP closing date. The selected vendor will be expected to enter into a service contract with Deschutes County. A copy of a generic Deschutes County personal services contract appears in this RFP as **Attachment B**. Additional provisions to the contract can be found in this RFP as **Attachment C**.

All proposals must be submitted in 10-point Arial font, 1.5 line spacing with one inch margins. Proposals should be no more than 30 single-sided pages. All information included in the optional section titled "Documentation" will not be included as part of the 30-page maximum.

#### **4.1 Vendor Qualifications and Experience**

- a. **Cover Letter** – The proposal must include an introductory letter attesting to the accuracy of the proposal, signed by an individual authorized to execute binding legal documents on behalf of the vendor. The letter should present the vendor's understanding of the services requested in the RFP, a brief summary of the approach to be taken in performing the services, highlights of the vendor's expertise and history. This letter should be signed by the authorized representative for the vendor.
- b. **Contact Person** – Provide a contact person for this RFP process, including name, title, mailing address, telephone number, fax number and e-mail address.
- c. **General Information** – List the vendor name, address, tax-ID number, evidence of business license(s) held, fax number, phone number, e-mail and the name and title of the authorized representative.
- d. **Company Description**, including the following:
  - Brief Company History
  - Indicate whether the company is registered as a Business Enterprise Program organization with The Oregon Commission for the Blind. If so, list the registration/certification number.
  - List the name and address of any subcontractors that will be utilized on this account, state which services they will provide and whether they are registered as a Business Enterprise Program organization with The Oregon Commission for the Blind.
  - Last two years of financial statements

#### **4.2 References**

- The proposal must include references from a minimum of three clients of a similar size and scope to Deschutes County Health Services (approximately 250 employees). The list must include each reference's name, address, contact person, length of the relationship, number of employees and a description of the services provided. Preference will be given for vendors providing public sector references.

- Each proposal must include a list of clients currently being administered by the vendor.

#### **4.3 Contract Consideration / Litigation Warranty**

Deschutes County Health Services will negotiate a contract with the successful vendor. The vendor, by proposing, warrants that it is not currently involved in litigation or arbitration concerning the materials or vendor's performance in supplying the same or similar materials, unless such fact is disclosed in the proposal. Disclosure will not automatically disqualify the vendor. Deschutes County Health Services reserves the right to evaluate the proposal with consideration for any litigation or arbitration by the vendor.

#### **4.4 Administration**

**Reporting** – Each proposal must include at least one sample monthly report that the vendor provides to current clients that meets the specifications outlined in Section 2.7.

#### **4.5 Pricing**

Each proposal must include a list of available products, including prices, for each vending machine.

- All products listed in response to this RFP will constitute a binding offer. Signature by the authorized representative on the cover letter also certifies that the vendor has read, fully understands, and agrees with all terms and conditions. Comprehension of the pricing requirements shall be the responsibility of the vendor. Claims regarding a failure to comprehend pricing requirements will not be considered. Any proposal that does not include a list of available products, including prices, will be disqualified from consideration. All pricing adjustments will require county approval.

### **5.0 PROPOSAL QUALIFICATIONS AND EVALUATION CRITERIA**

#### **5.1 Qualification Requirements**

Any qualified company, firm or corporation that is licensed to conduct business, a member of the Business Enterprise Program through The Oregon Commission for the Blind, and that can provide services in accordance with the specifications of the RFP is invited to submit a proposal.

#### **5.2 Proposal Evaluation Criteria**

All proposals will be reviewed for completeness and compliance with the terms and conditions of the RFP. Proposals inconsistent with the RFP requirements will be eliminated from further consideration.

Proposals that are complete and compliant will be rated by an Evaluation Committee comprised of no less than three Deschutes County Health Improvement Program committee members. Each proposal will be rated based on the following criteria:

<b>Criteria</b>	<b>Considerations</b>	<b>Maximum Points</b>
1. Vendor Qualifications and Experience	Does the vendor currently provide similar services to other clients? How extensively is this service offered? How long has the vendor provided these services? Does the vendor have proper licensure and registration to provide these services?	20 points
2. Operations and Services	To what extent does the vendor provide all the services identified in Section 2.0? What additional, if any, services does the vendor provide?	25 points
3. Pricing	How do product prices compare to other proposals? Are the prices appropriate for the products provided?	25 points
	<b>TOTAL POINTS AVAILABLE</b>	<b>70 POINTS</b>

Vendors are encouraged to describe any additional services that have not been requested specifically by the RFP. Although points will not be directly awarded for this portion of the proposal, it may be used to improve evaluation score for one or more of the five criteria.

Additionally, Deschutes County may opt to incorporate part or all of these services into the contract with the selected vendor.

Each evaluation committee member (evaluator) will assign a proposal score to each criteria. The combined scores for the above criteria will constitute the total evaluator score for each proposal. Based on the total evaluator score, each evaluator will rank proposals. Both ratings and rankings will be used to identify up to three proposals for final consideration.

No two proposals may receive the same rank. If necessary, a second stage of evaluation will take place to determine final consideration. Final consideration may require vendors to respond to additional questions, clarify or elaborate on certain aspects of their proposal, and/or deliver oral presentations to the evaluation committee. All vendors submitting proposals will be notified as to whether there will be a second evaluation stage and whether they will take part. Detailed explanations of the final consideration process will be provided to those vendors invited to participate.

### **5.3 Selection**

A selected vendor will be the one best able to meet the needs of Deschutes County Health Services, based on the information outlined in this RFP. The determination of the selected vendor will be based on the information supplied by the vendor in response to the RFP, as well as any supplemental documentation provided by the Vendor and/or requested by Deschutes County Health Services, as part of the final consideration

process. Deschutes County Health Services will utilize the selected vendor as the sole source for operation of onsite vending machines at this location.

SAMPLE

**ATTACHMENT A: Request for Proposals Acknowledgement Form**

This form is to acknowledge that the vendor hereby identified plans to submit a proposal in response to Deschutes County's Request for Proposal for Vending Machine Operations at Deschutes County Health Services. Although not mandatory, receipt of this form will ensure that the vendor is provided answers to submitted questions by all vendors and is updated on the progress of this RFP process. This acknowledgement must be received by April 29, 2011 at 5:00pm. This form can be submitted by email to Therese Madrigal at: [Therese\\_Madrigal@co.deschutes.or.us](mailto:Therese_Madrigal@co.deschutes.or.us).

Authorized Signature: \_\_\_\_\_

Contact Name : \_\_\_\_\_

Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Company Name: \_\_\_\_\_

Company Address: \_\_\_\_\_

**Attachment B: Generic Personal Services Contract**

**DESCHUTES COUNTY SERVICES CONTRACT  
CONTRACT NO. 2011-192**

This Contract is between DESCHUTES COUNTY, a political subdivision, acting by and through the \_\_\_\_\_ Department (County) and \_\_\_\_\_ (Contractor). The parties agree as follows:

**Effective Date and Termination Date.** The effective date of this Contract shall be \_\_\_\_\_ or the date, on which each party has signed this Contract, whichever is later. Unless extended or terminated earlier in accordance with its terms, this Contract shall terminate when County accepts Contractor's completed performance or on \_\_\_\_\_, \_\_\_\_\_, whichever date occurs last. Contract termination shall not extinguish or prejudice County's right to enforce this Contract with respect to any default by Contractor that has not been cured.

**Statement of Work.** Contractor shall perform the work described in Exhibit 1.

**Payment for Work.** County agrees to pay Contractor in accordance with Exhibit 1.

**Contract Documents.** This Contract includes Page 1-9 and Exhibits 1, 2, 3, 4, 5 and 6.

**CONTRACTOR DATA AND SIGNATURE**

Contractor Address:

Federal Tax ID# or Social Security #: \_\_\_\_\_

Is Contractor a nonresident alien?  Yes  No

Business Designation (check one):  Sole Proprietorship  Partnership  
 Corporation-for profit  Corporation-non-profit  Other, describe

A Federal tax ID number or Social Security number is required to be provided by the Contractor and shall be used for the administration of state, federal and local tax laws. Payment information shall be reported to the Internal Revenue Service under the name and Federal tax ID number or, if none, the Social Security number provided above.

I have read this Contract including the attached Exhibits. I understand this Contract and agree to be bound by its terms. **NOTE: Contractor shall also sign Exhibits 3 and 4 and, if applicable, Exhibit 6.**

\_\_\_\_\_  
Signature Title  
\_\_\_\_\_  
Name (please print) Date

**DESCHUTES COUNTY SIGNATURE**

Contracts with a maximum consideration of not greater than \$25,000 are not valid and not binding on the County until signed by the appropriate Deschutes County Department Head. Additionally, Contracts with a maximum consideration greater than \$25,000 but less than \$150,000 are not valid and not binding on the County until signed by the County Administrator or the Board of County Commissioners.

Dated this \_\_\_\_\_ of \_\_\_\_\_, 20\_\_ Dated this \_\_\_\_\_ of \_\_\_\_\_, 20\_\_

DESCHUTES COUNTY DIRECTOR OF COUNTY ADMINISTRATOR

Scott Johnson David Kanner

## STANDARD TERMS AND CONDITIONS

1. **Time is of the Essence.** Contractor agrees that time is of the essence in the performance of this Contract.
2. **Compensation.** Payment for all work performed under this Contract shall be made in the amounts and manner set forth in Exhibit 1.
  - a. Payments shall be made to Contractor following County's review and approval of billings and deliverables submitted by Contractor.
  - b. All Contractor billings are subject to the maximum compensation amount of this contract.
  - c. Contractor shall not submit billings for, and County shall not pay, any amount in excess of the maximum compensation amount of this Contract, including any reimbursable expenses, (See Exhibit 5).
    - 1) If the maximum compensation amount is increased by amendment to this Contract, the amendment shall be signed by both parties and fully executed before Contractor performs work subject to the amendment.
    - 2) No payment shall be made for any services performed before the beginning date or after the expiration date of this contract.
  - d. This Contract shall not be amended after the expiration date.
  - e. Unless otherwise specifically provided in Exhibit 5, Contractor shall submit monthly invoices for work performed. The invoices shall describe all work performed with particularity and by whom it was performed and shall itemize and explain all expenses for which reimbursement is claimed.
  - f. The invoices also shall include the total amount invoiced to date by Contractor prior to the current invoice.
  - g. Prior to approval or payment of any billing, County may require and Contractor shall provide any information which County deems necessary to verify work has been properly performed in accordance with the Contract.
3. **Delegation, Subcontracts and Assignment.** Contractor shall not delegate or subcontract any of the work required by this Contract or assign or transfer any of its interest in this Contract, without the prior written consent of County.
  - a. Any delegation, subcontract, assignment, or transfer without prior written consent of County shall constitute a material breach of this contract.
  - b. Any such assignment or transfer, if approved, is subject to such conditions and provisions as the County may deem necessary.
  - c. No approval by the County of any assignment or transfer of interest shall be deemed to create any obligation of the County to increase rates of payment or maximum Contract consideration.
  - d. Prior written approval shall not be required for the purchase by the Contractor of articles, supplies and services which are incidental to the provision of services under this Contract that are necessary for the performance of the work.
  - e. Any subcontracts that the County may authorize shall contain all requirements of this contract, and unless otherwise specified by the County the Contractor shall be responsible for the performance of the subcontractor.
4. **No Third Party Beneficiaries.**
  - a. County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms.
  - b. Nothing in this Contract gives or provides any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name in this Contract and expressly described as intended beneficiaries of this Contract.
5. **Successors in Interest.** The provisions of this Contract shall be binding upon and inure to the benefit of the parties and their successors and approved assigns, if any.
6. **Early Termination.** This Contract may be terminated as follows:
  - a. Mutual Consent. County and Contractor, by mutual written agreement, may terminate this Contract at any time.
  - b. Party's Convenience. County or Contractor may terminate this Contract for any reason upon 30 calendar days written notice to the other party.

- c. For Cause. County may also terminate this Contract effective upon delivery of written notice to the Contractor, or at such later date as may be established by the County, under any of the following conditions:
  - 1) If funding from state or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services as required in this Contract.
  - 2) This Contract may be modified to accommodate the change in available funds.
  - 3) If state laws, regulations or guidelines are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Contract or are no longer eligible for the funding proposed for payments authorized by this Contract.
  - 4) In the event sufficient funds shall not be appropriated for the payment of consideration required to be paid under this Contract, and if County has no funds legally available for consideration from other sources.
  - 5) If any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Contract is for any reason denied, revoked, suspended, not renewed or changed in such a way that the Contractor no longer meets requirements for such license or certificate.
- d. Contractor Default or Breach. The County, by written notice to the Contractor, may immediately terminate the whole or any part of this Contract under any of the following conditions:
  - 1) If the Contractor fails to provide services called for by this Contract within the time specified or any extension thereof.
  - 2) If the Contractor fails to perform any of the other requirements of this Contract or so fails to pursue the work so as to endanger performance of this Contract in accordance with its terms, and after receipt of written notice from the County specifying such failure, the Contractor fails to correct such failure within 10 calendar days or such other period as the County may authorize.
  - 3) Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis.
- e. County Default or Breach.
  - 1) Contractor may terminate this Contract in the event of a breach of this Contract by the County. Prior to such termination, the Contractor shall give to the County written notice of the breach and intent to terminate.
  - 2) If the County has not entirely cured the breach within 10 calendar days of the date of the notice, then the Contractor may terminate this Contract at any time thereafter by giving notice of termination.

**7. Payment on Early Termination.** Upon termination pursuant to paragraph 6, payment shall be made as follows:

- a. If terminated under subparagraphs 6 a. through c. of this Contract, the County shall pay Contractor for work performed prior to the termination date if such work was performed in accordance with the Contract. Provided however, County shall not pay Contractor for any obligations or liabilities incurred by Contractor after Contractor receives written notice of termination.
- b. If this Contract is terminated under subparagraph 6 d. of this Contract, County obligations shall be limited to payment for services provided in accordance with this Contract prior to the date of termination, less any damages suffered by the County.
- c. If terminated under subparagraph 6 e of this Contract by the Contractor due to a breach by the County, then the County shall pay the Contractor for work performed prior to the termination date if such work was performed in accordance with the Contract:
  - 1) with respect to services compensable on an hourly basis, for unpaid invoices, hours worked within any limits set forth in this Contract but not yet billed, authorized expenses incurred if payable according to this Contract and interest within the limits set forth under ORS 293.462, and
  - 2) with respect to deliverable-based Work, the sum designated for completing the deliverable multiplied by the percentage of Work completed and accepted by County, less previous amounts paid and any claim(s) that County has against Contractor.
  - 3) Subject to the limitations under paragraph 8 of this Contract.

- 8. Remedies.** In the event of breach of this Contract the parties shall have the following remedies:
- a. Termination under subparagraphs 6 a. through c. of this Contract shall be without prejudice to any obligations or liabilities of either party already reasonably incurred prior to such termination.
    - 1) Contractor may not incur obligations or liabilities after Contractor receives written notice of termination.
    - 2) Additionally, neither party shall be liable for any indirect, incidental, consequential or special damages under this Contract or for any damages of any sort arising solely from the termination of this Contract in accordance with its terms.
  - b. If terminated under subparagraph 6 d. of this Contract by the County due to a breach by the Contractor, County may pursue any remedies available at law or in equity.
    - 1) Such remedies may include, but are not limited to, termination of this contract, return of all or a portion of this Contract amount, payment of interest earned on this Contract amount, and declaration of ineligibility for the receipt of future contract awards.
    - 2) Additionally, County may complete the work either by itself, by agreement with another Contractor, or by a combination thereof. If the cost of completing the work exceeds the remaining unpaid balance of the total compensation provided under this Contract, then the Contractor shall be liable to the County for the amount of the reasonable excess.
  - c. If amounts previously paid to Contractor exceed the amount due to Contractor under this Contract, Contractor shall repay any excess to County upon demand.
  - d. Neither County nor Contractor shall be held responsible for delay or default caused by fire, civil unrest, labor unrest, riot, acts of God, or war where such cause was beyond reasonable control of County or Contractor, respectively; however, Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Contract. For any delay in performance as a result of the events described in this subparagraph, Contractor shall be entitled to additional reasonable time for performance that shall be set forth in an amendment to this Contract.
  - e. The passage of this Contract expiration date shall not extinguish or prejudice the County's or Contractor's right to enforce this Contract with respect to any default or defect in performance that has not been cured.
  - f. County's remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.
- 9. Contractor's Tender upon Termination.** Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract unless County expressly directs otherwise in such notice of termination.
- a. Upon termination of this Contract, Contractor shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had this Contract been completed.
  - b. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research, objects or other tangible things needed to complete the work.
- 10. Work Standard.**
- a. Contractor shall be solely responsible for and shall have control over the means, methods, techniques, sequences and procedures of performing the work, subject to the plans and specifications under this Contract and shall be solely responsible for the errors and omissions of its employees, subcontractors and agents.
  - b. For goods and services to be provided under this contract, Contractor agrees to:
    - 1) perform the work in a good, workmanlike, and timely manner using the schedule, materials, plans and specifications approved by County;
    - 2) comply with all applicable legal requirements;
    - 3) comply with all programs, directives, and instructions of County relating to safety, storage of equipment or materials;
    - 4) take all precautions necessary to protect the safety of all persons at or near County or Contractor's facilities, including employees of Contractor, County and any other contractors or subcontractors and to protect the work and all other property against damage.
- 11. Drugs and Alcohol.** Contractor shall adhere to and enforce a zero tolerance policy for the use of alcohol and the unlawful selling, possession or use of controlled substances while performing work

under this Contract.

12. **Insurance.** Contractor shall provide insurance in accordance with Exhibit 2 attached hereto and incorporated by reference herein.
13. **Expense Reimbursement.** If the consideration under this Contract provides for the reimbursement of Contractor for expenses, in addition to Exhibit 5, Exhibit 1 shall state that Contractor is or is not entitled to reimbursement for such expenses.
  - a. County shall only reimburse Contractor for expenses reasonably and necessarily incurred in the performance of this contract.
  - b. Expenses reimbursed shall be at the actual cost incurred; including any taxes paid, and shall not include any mark-up unless the mark-up on expenses is specifically agreed to in this Contract.
  - c. The cost of any subcontracted work approved in this Contract shall not be marked up.
  - d. Contractor shall not bill County for any time expended to complete the documents necessary for reimbursement of expenses or for payment under this contract.
  - e. The limitations applicable to reimbursable expenses are set forth in Exhibit "5," attached hereto and by reference incorporated herein.
14. **Criminal Background Investigations.** Contractor understands that Contractor and Contractor's employees and agents are subject to periodic criminal background investigations by County and, if such investigations disclose criminal activity not disclosed by Contractor, such non-disclosure shall constitute a material breach of this Contract and County may terminate this Contract effective upon delivery of written notice to the Contractor, or at such later date as may be established by the County.
15. **Confidentiality.** Contractor shall maintain confidentiality of information obtained pursuant to this Contract as follows:
  - a. Contractor shall not use, release or disclose any information concerning any employee, client, applicant or person doing business with the County for any purpose not directly connected with the administration of County's or the Contractor's responsibilities under this Contract except upon written consent of the County, and if applicable, the employee, client, applicant or person.
  - b. The Contractor shall ensure that its agents, employees, officers and subcontractors with access to County and Contractor records understand and comply with this confidentiality provision.
  - c. Contractor shall treat all information as to personal facts and circumstances obtained on Medicaid eligible individuals as privileged communication, shall hold such information confidential, and shall not disclose such information without the written consent of the individual, his or her attorney, the responsible parent of a minor child, or the child's guardian, except as required by other terms of this Contract.
  - d. Nothing prohibits the disclosure of information in summaries, statistical information, or other form that does not identify particular individuals.
  - e. Personally identifiable health information about applicants and Medicaid recipients will be subject to the transaction, security and privacy provisions of the Health Insurance Portability and Accountability Act ("HIPAA").
  - f. Contractor shall cooperate with County in the adoption of policies and procedures for maintaining the privacy and security of records and for conducting transactions pursuant to HIPAA requirements.
  - g. This Contract may be amended in writing in the future to incorporate additional requirements related to compliance with HIPAA.
  - h. If Contractor receives or transmits protected health information, Contractor shall enter into a Business Associate Agreement with County, which, if attached hereto, shall become a part of this Contract.
16. **Reports.** Contractor shall provide County with periodic reports at the frequency and with the information prescribed by County. Further, at any time, County has the right to demand adequate assurances that the services provided by Contractor shall be in accordance with the Contract. Such assurances provided by Contractor shall be supported by documentation in Contractor's possession from third parties.
17. **Access to Records.** Contractor shall maintain fiscal records and all other records pertinent to this Contract.

- a. All fiscal records shall be maintained pursuant to generally accepted accounting standards, and other records shall be maintained to the extent necessary to clearly reflect actions taken.
  - 1) All records shall be retained and kept accessible for at least three years following the final payment made under this Contract or all pending matters are closed, whichever is later.
  - 2) If an audit, litigation or other action involving this Contract is started before the end of the three year period, the records shall be retained until all issues arising out of the action are resolved or until the end of the three year period, whichever is later.
- b. County and its authorized representatives shall have the right to direct access to all of Contractor's books, documents, papers and records related to this Contract for the purpose of conducting audits and examinations and making copies, excerpts and transcripts.
  - 1) These records also include licensed software and any records in electronic form, including but not limited to computer hard drives, tape backups and other such storage devices. County shall reimburse Contractor for Contractor's cost of preparing copies.
  - 2) At Contractor's expense, the County, the Secretary of State's Office of the State of Oregon, the Federal Government, and their duly authorized representatives, shall have license to enter upon Contractor's premises to access and inspect the books, documents, papers, computer software, electronic files and any other records of the Contractor which are directly pertinent to this Contract.
  - 3) If Contractor's dwelling is Contractor's place of business, Contractor may, at Contractor's expense, make the above records available at a location acceptable to the County.

**18. Ownership of Work.** All work of Contractor that results from this Contract (the "Work Product") is the exclusive property of County.

- a. County and Contractor intend that such Work Product be deemed "work made for hire" of which County shall be deemed author.
- b. If, for any reason, the Work Product is not deemed "work made for hire," Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine.
- c. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County.
- d. Contractor forever waives any and all rights relating to Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.
- e. County shall have no rights in any pre-existing work product of Contractor provided to County by Contractor in the performance of this Contract except an irrevocable, non-exclusive, perpetual, royalty-free license to copy, use and re-use any such work product for County use only.
- f. If this Contract is terminated prior to completion, and County is not in default, County, in addition to any other rights provided by this Contract, may require Contractor to transfer and deliver all partially completed work products, reports or documentation that Contractor has specifically developed or specifically acquired for the performance of this Contract.
- g. In the event that Work Product is deemed Contractor's Intellectual Property and not "work made for hire," Contractor hereby grants to County an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Contractor Intellectual Property, and to authorize others to do the same on County's behalf.
- h. In the event that Work Product is Third Party Intellectual Property, Contractor shall secure on the County's behalf and in the name of the County, an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Third Party Intellectual Property, and to authorize others to do the same on County's behalf.

**19. County Code Provisions.** Except as otherwise specifically provided, the provisions of Deschutes County Code, Section 2.37.150 are incorporated herein by reference. Such code section may be found at the following URL address:

<http://www.co.deschutes.or.us/dccode/Title2/html/Chapter2.37.htm>.

**20. Partnership.** County is not, by virtue of this contract, a partner or joint venture with Contractor in connection with activities carried out under this contract, and shall have no obligation with respect to Contractor's debts or any other liabilities of each and every nature.

**21. Indemnity and Hold Harmless.**

- a. To the fullest extent authorized by law Contractor shall defend, save, hold harmless and indemnify the County and its officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities costs and expenses of any nature resulting from or arising out of, or relating to the activities of Contractor or its officers, employees, contractors, or agents under this Contract, including without limitation any claims that the work, the work product or any other tangible or intangible items delivered to County by Contractor that may be the subject of protection under any state or federal intellectual property law or doctrine, or the County's use thereof, infringes any patent, copyright, trade secret, trademark, trade dress, mask work utility design or other proprietary right of any third party.
- b. Contractor shall have control of the defense and settlement of any claim that is subject to subparagraph a of this paragraph; however neither contractor nor any attorney engaged by Contractor shall defend the claim in the name of Deschutes County or any department or agency thereof, nor purport to act as legal representative of the County or any of its departments or agencies without first receiving from the County's legal counsel, in a form and manner determined appropriate by the County's legal counsel, authority to act as legal counsel for the County, nor shall Contractor settle any claim on behalf of the Count without the approval of the County's legal counsel.
- c. To the extent permitted by Article XI, Section 10, of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, County shall defend, save, hold harmless and indemnify Contractor and its officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities costs and expenses of any nature resulting from or arising out of, or relating to the activities of County or its officers, employees, contractors, or agents under this Contract.

**22. Waiver.**

- a. County's delay in exercising, or failure to exercise any right, power, or privilege under this Contract shall not operate as a waiver thereof, nor shall any single or partial exercise or any right, power, or privilege under this Contract preclude any other or further exercise thereof or the exercise of any other such right, power, or privilege.
- b. The remedies provided herein are cumulative and not exclusive of any remedies provided by law.

**23. Governing Law.** This Contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law.

- a. Any claim, action, suit or proceeding (collectively, "Claim") between County and Contractor that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of Deschutes County for the State of Oregon; provided, however, if a Claim shall be brought in federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.
- b. CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. The parties agree that the UN Convention on International Sales of Goods shall not apply.

**24. Severability.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Contract did not contain the particular term or provision held invalid.

**25. Counterparts.** This Contract may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Contract so executed shall constitute an original.

**26. Notice.** Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing, to Contractor or County at the address or number set forth below or to such other addresses or numbers as either party may hereafter indicate in writing. Delivery may be by personal delivery, facsimile, or mailing the same, postage prepaid.

- a. Any communication or notice by personal delivery shall be deemed delivered when actually given to the designated person or representative.
- b. Any communication or notice sent by facsimile shall be deemed delivered when the transmitting machine generates receipt of the transmission. To be effective against County, such facsimile transmission shall be confirmed by telephone notice to the County Administrator.
- c. Any communication or notice mailed shall be deemed delivered five (5) days after mailing. Any notice under this Contract shall be mailed by first class postage or delivered as follows:

To Contractor:

\*

Fax No.

To County:

Therese Madrigal  
Deschutes County Health Services  
2577 NE Courtney Drive  
Bend, Oregon 97701  
Fax No. 541-322-7467

**27. Merger Clause.** This Contract and the attached exhibits constitute the entire agreement between the parties.

- a. All understandings and agreements between the parties and representations by either party concerning this Contract are contained in this Contract.
- b. No waiver, consent, modification or change in the terms of this Contract shall bind either party unless in writing signed by both parties.
- c. Any written waiver, consent, modification or change shall be effective only in the specific instance and for the specific purpose given.

**28. Identity Theft Protection.** Contractor and subcontractors shall comply with the Oregon Consumer Identity Theft Protection Act (ORS 646A.600 et seq.).

**29. Survival.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Sections 4, 5, 8, 9, 15, 17, 18, 20-27, 28 and 30.

**30. Representations and Warranties.**

- a. **Contractor's Representations and Warranties.** Contractor represents and warrants to County that:
  - 1) Contractor has the power and authority to enter into and perform this Contract;
  - 2) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms;
  - 3) Contractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Contractor will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with standards prevalent in Contractor's industry, trade or profession;
  - 4) Contractor shall, at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work;
  - 5) Contractor prepared its proposal related to this Contract, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty; and
  - 6) Contractor's making and performance of this Contract do not and will not violate any provision of any applicable law, rule or regulation or order of any court, regulatory commission, board or other administrative agency.
- b. **Warranties Cumulative.** The warranties set forth in this paragraph are in addition to, and not in lieu of, any other warranties provided

**EXHIBIT 1**  
**DESCHUTES COUNTY SERVICES CONTRACT**  
**Contract No. 2011-192**  
**STATEMENT OF WORK, COMPENSATION**  
**PAYMENT TERMS and SCHEDULE**

**1. Contractor shall perform the following work:**

- a. Deschutes County, a political subdivision of the State of Oregon, is soliciting proposals for a qualified, full service Contractor, "Vendor", to provide all equipment, materials, supplies and services required for the vending of food items and beverages at the following location: Deschutes County Health Services, 2577 NE Courtney Drive, Bend, OR 97701.

**2. County Services.** County shall provide Contractor, at county's expense, with material and services described as follows:

- a. A physical location for two vending machines; one for food and one for beverages

**3. Consideration.**

- a. County shall pay Contractor on a fee-for-service basis at the rate of \$0.
- b. Contractor shall be entitled to reimbursement for expenses as set forth in Exhibit 5  
 YES  NO [Check one]

**4. The maximum compensation.**

- a. The maximum compensation under this contract, including allowable expenses, is \$150,000.
- b. Contractor shall not submit invoices for, and County shall not pay for any amount in excess of the maximum compensation amount set forth above.
- 1) If this maximum compensation amount is increased by amendment of this contract, the amendment shall be fully effective before contractor performs work subject to the amendment.
- 2) Contractor shall notify County in writing of the impending expiration of this Contract thirty (30) calendar days prior to the expiration date.

**5. Schedule of Performance or Delivery.**

- a. County's obligation to pay depends upon Contractor's delivery or performance in accordance with the following schedule:
- b. County will only pay for completed work that conforms to this schedule.

**EXHIBIT 2**  
**DESCHUTES COUNTY SERVICES CONTRACT**  
**Contract No. 2011-192**  
**INSURANCE REQUIREMENTS**

Contractor shall at all times maintain in force at Contractor's expense, each insurance noted below. Insurance coverage must apply on a primary or non-contributory basis. All insurance policies, except Professional Liability, shall be written on an occurrence basis and be in effect for the term of this contract. Policies written on a "claims made" basis must be approved and authorized by Deschutes County.

Contractor Name \_\_\_\_\_

**Workers Compensation** insurance in compliance with ORS 656.017, requiring Contractor and all subcontractors to provide workers' compensation coverage for all subject workers, or provide certification of exempt status. Employer's Liability Insurance with coverage limits of not less than \$500,000 must be included.

**Professional Liability** insurance with an occurrence combined single limit of not less than:

Per Occurrence limit	Annual Aggregate limit
----------------------	------------------------

- |  |  |
|--|--|
| <input type="checkbox"/> \$500,000<br><input type="checkbox"/> \$1,000,000<br><input type="checkbox"/> \$2,000,000 | <input type="checkbox"/> \$500,000<br><input type="checkbox"/> \$1,000,000<br><input type="checkbox"/> \$2,000,000 |
|--|--|

Professional Liability insurance covers damages caused by error, omission, or negligent acts related to professional services provided under this Contract. The policy must provide extended reporting period coverage, sometimes referred to as "tail coverage" for claims made within two years after the contract work is completed.

- Required by County                       Not required by County (one box must be checked)

**Commercial General Liability** insurance with a combined single limit of not less than:

<u>Per Single Claimant and Incident</u>	<u>All Claimants Arising from Single Incident</u>
---	---

- |  |  |
|--|--|
| <input type="checkbox"/> Oregon Tort Claims Act limits<br><input type="checkbox"/> \$1,000,000<br><input type="checkbox"/> \$2,000,000 | <input type="checkbox"/> Oregon Tort Claims Act limits<br><input type="checkbox"/> \$2,000,000<br><input type="checkbox"/> \$3,000,000 |
|--|--|

Commercial General Liability insurance includes coverage for personal injury, bodily injury, advertising injury, property damage, premises, operations, products, completed operations and contractual liability. The Oregon Legislature has adopted legislation which establishes tort claims limits for actions against local public bodies, including their officers, agents and employees. The tort claims act limits are automatically adjusted on July 1 every year.

The policy shall be endorsed to name ***Deschutes County, its officers, agents, employees and volunteers as an additional insured***. The additional insured endorsement shall not include declarations that reduce any per occurrence or aggregate insurance limit. The contractor shall provide additional coverage based on any outstanding claim(s) made against policy limits to ensure that minimum insurance limits required by the County are maintained. Construction contracts may include aggregate limits that apply on a "per location" or "per project" basis.

- Required by County                       Not required by County (One box must be checked)

**Automobile Liability** insurance with a combined single limit of not less than:

Per Occurrence

- \$500,000
- \$1,000,000
- \$2,000,000

Automobile Liability insurance includes coverage for bodily injury and property damage resulting from operation of a motor vehicle. Commercial Automobile Liability Insurance shall provide coverage for *any* motor vehicle (symbol 1 on some insurance certificates) driven by or on behalf of Contractor during the course of providing services under this contract. Commercial Automobile Liability is required for contractors that own business vehicles registered to the business. Examples include: plumbers, electricians or construction contractors. An Example of an acceptable personal automobile policy is a contractor who is a sole proprietor that does not own vehicles registered to the business.

- Required by County       Not required by County    (one box must be checked)

**Additional Requirements.** Contractor shall pay all deductibles and self-insured retentions. A cross-liability clause or separation of insured's condition must be included in all commercial general liability policies required by this Contract. Contractor's coverage will be primary in the event of loss.

**Certificate of Insurance Required.** Contractor shall furnish a current Certificate of Insurance to the County with the signed Contract. Contractor shall notify the County in writing at least 30 days in advance of any cancellation, termination, material change, or reduction of limits of the insurance coverage. The Certificate shall also state the deductible or, if applicable, the self-insured retention level. Contractor shall be responsible for any deductible or self-insured retention. If requested, complete copies of insurance policies shall be provided to the County.

Risk Management review

Date

\_\_\_\_\_

\_\_\_\_\_

**EXHIBIT 3  
DESCHUTES COUNTY SERVICES CONTRACT  
Contract No. 2011-192  
CERTIFICATION STATEMENT FOR CORPORATION  
OR INDEPENDENT CONTRACTOR**

**NOTE: Contractor Shall Complete A or B in addition to C below:**

A. CONTRACTOR IS A CORPORATION, LIMITED LIABILITY COMPANY OR A PARTNERSHIP.

**I certify under penalty of perjury that Contractor is a [check one]:**

Corporation    Limited Liability Company    Partnership   authorized to do business in the State of Oregon.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

B. CONTRACTOR IS A SOLE PROPRIETOR WORKING AS AN INDEPENDENT CONTRACTOR.

**Contractor certifies under penalty of perjury that the following statements are true:**

1. If Contractor performed labor or services as an independent Contractor last year, Contractor filed federal and state income tax returns last year in the name of the business (or filed a Schedule C in the name of the business as part of a personal income tax return), **and**
2. Contractor represents to the public that the labor or services Contractor provides are provided by an independently established business registered with the State of Oregon, **and**
3. All of the statements checked below are true.

**NOTE: Check all that apply. You shall check at least three (3) - to establish that you are an Independent Contractor.**

- \_\_\_ A.    The labor or services I perform are primarily carried out at a location that is separate from my residence or primarily carried out in a specific portion of my residence that is set aside as the location of the business.
- \_\_\_ B.    I bear the risk of loss related to the business or provision of services as shown by factors such as: (a) fixed-price agreements; (b) correcting defective work; (c) warranties over the services or (d) indemnification agreements, liability insurance, performance bonds or professional liability insurance.
- \_\_\_ C.    I have made significant investment in the business through means such as: (a) purchasing necessary tools or equipment; (b) paying for the premises or facilities where services are provided; or (c) paying for licenses, certificates or specialized training.
- \_\_\_ D.    I have the authority to hire other persons to provide or to assist in providing the services and if necessary to fire such persons.
- \_\_\_ E.    Each year I perform labor or services for at least two different persons or entities or I routinely engage in business advertising, solicitation or other marketing efforts reasonably calculated to obtain new contracts to provide similar services.

\_\_\_\_\_  
Contractor Signature

\_\_\_\_\_  
Date

**C. Representation and Warranties.**

**Contractor certifies under penalty of perjury that the following statements are true to the best of Contractor's knowledge:**

1. Contractor has the power and authority to enter into and perform this contract;
2. This contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms;
3. The services under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and
4. Contractor shall, at all times during the term of this contract, be qualified, professionally competent, and duly licensed to perform the services.
5. To the best of Contractor's knowledge, Contractor is not in violation of any tax laws described in ORS 305.380(4),
6. Contractor understands that Contractor is responsible for any federal or state taxes applicable to any consideration and payments paid to Contractor under this contract; and
7. Contractor has not discriminated against minority, women or small business enterprises in obtaining any required subcontracts.

\_\_\_\_\_  
Contractor Signature

\_\_\_\_\_  
Date

**EXHIBIT 4**  
**DESCHUTES COUNTY SERVICES CONTRACT**  
**Contract No. 2011-192**  
**Workers' Compensation Exemption Certificate**

(To be used only when Contractor claims to be exempt from Workers' Compensation coverage requirements)

Contractor is exempt from the requirement to obtain workers' compensation insurance under ORS Chapter 656 for the following reason (*check the appropriate box*):

**SOLE PROPRIETOR**

- Contractor is a sole proprietor, and
- Contractor has no employees, and
- Contractor shall not hire employees to perform this contract.

**CORPORATION - FOR PROFIT**

- Contractor's business is incorporated, and
- All employees of the corporation are officers and directors and have a substantial ownership interest\* in the corporation, and
- The officers and directors shall perform all work. Contractor shall not hire other employees to perform this contract.

**CORPORATION - NONPROFIT**

- Contractor's business is incorporated as a nonprofit corporation, and
- Contractor has no employees; all work is performed by volunteers, and
- Contractor shall not hire employees to perform this contract.

**PARTNERSHIP**

- Contractor is a partnership, and
- Contractor has no employees, and
- All work shall be performed by the partners; Contractor shall not hire employees to perform this contract, and
- Contractor is not engaged in work performed in direct connection with the construction, alteration, repair, improvement, moving or demolition of an improvement to real property or appurtenances thereto.

**LIMITED LIABILITY COMPANY**

- Contractor is a limited liability company, and
- Contractor has no employees, and
- All work shall be performed by the members; Contractor shall not hire employees to perform this contract, and
- If Contractor has more than one member, Contractor is not engaged in work performed in direct connection with the construction, alteration, repair, improvement, moving or demolition of an improvement to real property or appurtenances thereto.

\*NOTE: Under OAR 436-050-050 a shareholder has a "substantial ownership" interest if the shareholder owns 10% of the corporation or, if less than 10% is owned, the shareholder has ownership that is at least equal to or greater than the average percentage of ownership of all shareholders.

\*\*NOTE: Under certain circumstances partnerships and limited liability companies can claim an exemption even when performing construction work. The requirements for this exemption are complicated. Consult with County Counsel before an exemption request is accepted from a contractor who shall perform construction work.

\_\_\_\_\_  
Contractor Printed Name

\_\_\_\_\_  
Contractor Signature

\_\_\_\_\_  
Contractor Title

\_\_\_\_\_  
Date

**EXHIBIT 5**  
**DESCHUTES COUNTY SERVICES CONTRACT**  
**Contract No. 2011-192**  
**Expense Reimbursement**

1. **Travel and Other Expenses.** (When travel and other expenses are reimbursed.)
  - a. It is the policy of the County that all travel shall be allowed only when the travel is essential to the normal discharge of the County responsibilities.
    - 1) All travel shall be conducted in the most efficient and cost effective manner resulting in the best value to the County.
    - 2) Travel expenses shall be reimbursed for official County business only.
    - 3) County shall not reimburse Contractor for any item that is not otherwise available for reimbursement to an employee of Deschutes County per Deschutes County Finance Policy F-1, "REIMBURSEMENT FOR MISCELLANEOUS EXPENSES AND EXPENSES INCURRED WHILE TRAVELING ON COUNTY BUSINESS," dated 11/8/06.
    - 4) County may approve a form other than the County Employee Reimbursement Form for Contractor to submit an itemized description of travel expenses for payment.
    - 5) Personal expenses shall not be authorized at any time.
    - 6) All expenses are included in the total maximum contract amount.
  - b. Travel expenses shall be reimbursed only in accordance with rates approved by the County and only when the reimbursement of expenses is specifically provided for in Exhibit 1, paragraph 3 of this contract.
  - c. The current approved rates for reimbursement of travel expenses are set forth in the above described policy.
  - d. County shall not reimburse for any expenses related to alcohol consumption or entertainment.
  - e. Except where noted, detailed receipts for all expenses shall be provided.
  - f. Charge slips for gross amounts are not acceptable.
  - g. County shall not reimburse Contractor for any item that is not otherwise available for reimbursement to an employee of Deschutes County.
  
2. **Approved reimbursements:**
  - a. Mileage. Contractor shall be entitled to mileage for travel in a private automobile while Contractor is acting within the course and scope of Contractor's duties under this Contract and driving over the most direct and usually traveled route to and from Bend, Oregon.
    - 1) Reimbursement for mileage shall be equal to but not exceed those set by the United States General Services Administration ("GSA") and are subject to change accordingly.
    - 2) To qualify for mileage reimbursement, Contractor shall hold a valid, current driver's license for the class of vehicle to be driven and carry personal automobile liability insurance in amounts not less than those required by this contract.
    - 3) No mileage reimbursement shall be paid for the use of motorcycles or mopeds.
  - b. Meals.
    - 1) Any reimbursement for meals shall be for actual cost of meals incurred by Contractor while acting within the course and scope of Contractor's duties under this contract.
    - 2) For purposes of calculating individual meals where the Contractor is entitled only to a partial day reimbursement, the following maximum allocation of the meal expenses applies:
      - a) Breakfast, \$10;
      - b) Lunch, \$12;
      - c) Dinner, \$22.
    - 3) Except in the event of necessary overnight travel as provided below, partial day meal expenses shall be reimbursed as follows and only while Contractor is acting within the course and scope of Contractor's duties under this contract:

- a) Breakfast expenses are reimbursable if Contractor is required to travel more than two (2) hours: before the start Contractor's regular workday (i.e. 8:00 a.m.).
  - b) Lunch expenses are reimbursable only if Contractor is required to travel overnight and begins the journey before 11:00 am or ends the journey after 11:00 a.m.
  - c) Dinner expenses are reimbursable only if Contractor is required to travel more than two (2) hours after Contractor's regular workday (i.e. 5:00 p.m.).
  - 4) Breakfast and dinner expenses are reimbursable during Contractor's necessary overnight travel while acting within the course and scope of Contractor's duties under this contract and shall not exceed those set by the GSA. and are subject to change accordingly.
- c. Lodging.
- 1) County shall reimburse Contractor for Contractor's actual cost of lodging necessary to provide service to the County and shall not exceed the maximum lodge set by the GSA for Bend, Oregon.
  - 2) Reimbursement rates for lodging are not considered "per diem" and receipts are required for reimbursement.
  - d County shall not reimburse Contractor in excess of the lowest fair for any airline ticket or vehicle rental charges.
3. **Exceptions.** Contractor shall obtain separate written approval of the County Administrator for any exceptions to the expense items listed above prior to incurring any expense for which reimbursement shall be sought.

**EXHIBIT 6**  
**DESCHUTES COUNTY SERVICES CONTRACT**  
**Contract No. 2011-192**  
**Compliance with provisions, requirements of funding source and**  
**Federal and State laws, statutes, rules, regulations, executive orders and policies.**

**Conflicts of Interest**

**Contractor certifies under penalty of perjury that the following statements are true to the best of Contractor's knowledge:**

1. If Contractor is currently performing work for the County, State of Oregon or federal government, Contractor, by signature to this Contract, declares and certifies that Contractor's Work to be performed under this Contract creates no potential or actual conflict of interest as defined by ORS 244 and no rules or regulations of Contractor's employee agency (County State or Federal) would prohibit Contractor's Work under this Contract. Contractor is not an "officer," "employee," or "agent" of the County, as those terms are used in ORS 30.265.
2. No federally appropriated funds have been paid or shall be paid, by or on behalf of Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, 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.
  - a. If any funds other than federally appropriated funds have been paid or shall 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 employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, Contractor agrees to complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.
    - 1) Standard Form-LLL and instructions are located in 45 CFR Part 93 Appendix B.
    - 2) If instructions require filing the form with the applicable federal entity, Contractor shall then as a material condition of this Contract also file a copy of the Standard Form-LLL with the Department.
    - 3) This filing shall occur at the same time as the filing in accordance with the instructions.
  - b. Contractor understands this certification is a material representation of fact upon which the County and the Department has relied in entering into this Contract. Contractor further understands that submission of this certification is a prerequisite, imposed by 31 USC 1352 for entering into this Contract.
  - c. 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.
  - d. Contractor shall include the language of this certification in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.
  - e. Contractor is solely responsible for all liability arising from a failure by Contractor to comply with the terms of this certification.
  - f. Contractor promises to indemnify County for any damages suffered by County as a result of Contractor's failure to comply with the terms of this certification.
3. Contractor understands that, if this Contract involves federally appropriated funds, this certification is a material representation of facts upon which reliance was placed when this Contract was made or entered into, submission of this certification is a prerequisite for make or entering into this Contract imposed by Section 1352, Title 311, U.S. Code and that 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 failure.

\_\_\_\_\_  
Contractor Signature

\_\_\_\_\_  
Date

## **ATTACHMENT C: Additional Provisions**

### **1. ASSIGNMENT**

Neither the resultant contract nor any of the requirements, rights, or privileges demanded by it may be sold, assigned, sublet, contracted, or transferred by the Contractor without the express written consent of Deschutes County. The granting or withholding of such consent shall be at the County's sole discretion.

### **2. CANCELLATION**

Deschutes County reserves the right to cancel award of the contract any time before execution of the contract by both parties if cancellation is deemed to be in Deschutes County's best interest. In no event shall Deschutes County have any liability for the cancellation of award. The respondent assumes the sole risk and responsibility for all expenses connected with the preparation of its proposal.

### **3. CLARIFICATION OF RESPONSES**

Deschutes County or its agent reserves the right to obtain clarification of any point in a firm's proposal or to obtain additional information necessary for properly evaluating a particular proposal. Failure of a respondent to respond to such a request for additional information or clarification could result in rejection of that firm's response or responses.

### **4. COLLUSION**

A respondent submitting a proposal hereby certifies that no officer, agent, or employee of Deschutes County has a pecuniary interest in this proposal; that the proposal is made in good faith without fraud, collusion, or connection of any kind with any other respondent; the respondent is competing solely in its own behalf without connection with, or obligation to, any undisclosed person or firm.

### **5. COMPLAINTS**

Any vendor who has submitted a proposal to Deschutes County and is adversely affected by the award of the contract to another vendor has the right to submit a protest. The vendor has seven days after the issuance of a Notice of Intent to Award the Contract, to submit a written protest of the award to Deschutes County. Such right to protest shall conform to the requirements of OAR 137-047-0740 and Deschutes County Code 2.37.140 and specify the grounds upon which the protest is based.

### **6. COST OF PREPARATION OF RESPONSE**

Costs incurred by any respondent in the preparation of their response to this Request for Proposal is the responsibility of the respondent and will not be reimbursed by the County.

## **7. DISPUTES**

In case of any doubt or differences of opinions as to the items or service to be furnished hereunder, or the interpretation of the provisions of the RFP, the decision of Deschutes County shall be final and binding upon all parties.

## **8. LOBBYING**

Commencing with the issuance of this RFP, Contractors or others acting on their behalf are cautioned not to undertake any activities or actions to promote their proposals. Respondent or others acting on their behalf shall not make direct or indirect (through others) contact with members of the Deschutes County Board of Commissioners, County staff, or others to promote their proposals. Violation of this requirement may, in County's discretion, be grounds for disqualifying the respondent from further consideration

## **9. NON-APPROPRIATION**

Notwithstanding any provision of this Request for Proposals or resultant contract to the contrary: In the event insufficient funds are appropriated for this clinic or County has no other lawfully available funds, then the County may terminate any resultant agreements and contracts at the end of its then-current fiscal year, with no further liability or penalty. The County shall deliver written notice to the contractor of such termination no later than thirty (30) days from the determination by the County of the event of non-appropriation.

## **10. NON-DISCRIMINATION IN EMPLOYMENT**

The successful respondent's attention is directed to the provisions of Oregon Revised Statutes, Chapter 659, and prohibiting discrimination in employment.

## **11. PROPOSALS ARE PUBLIC RECORDS**

All materials submitted in response to this RFP shall be considered the property of Deschutes County. The County shall not be required to return the proposal after it is submitted. All submitted information will be considered public information unless the vendor requests that information be treated as confidential, and the information is considered exempt under ORS 192.501 or 192.502. If a vendor declares any information contained in its bid submittal to be confidential, the vendor must specifically identify those sections containing as "Confidential Information" and briefly explain how and why the information is exempt from disclosure to the public pursuant to ORS 192.501 or 192.502. The request must also include the name, address, and telephone number of the person authorized by the vendor to respond to any inquires by the County concerning the confidential status of the materials.

Any documents submitted and any documents exchanged between the parties that contain Confidential Information shall be marked on the outside as containing Confidential Information, and each page upon which Confidential Information appears must be marked as containing Confidential Information. The Confidential Information should be clearly identifiable to the reader wherever it appears. All copies submitted, as well as the original proposal, must be marked in this manner. The Oregon Public Records Law exempts from disclosure only certain types of public records, and the exemption from disclosure will not apply if "the public interest requires disclosure in the particular instance," ORS 192.501. Therefore, non-disclosure of documents or any portion of a document submitted as part of a bid may depend upon official or judicial determinations made based upon the Public Records Law.

## **12. PROPOSAL NOT A CONTRACT**

Neither this request for proposals nor responses to it constitute a contract between the County and the respondent. County reserves the right to negotiate specific contract terms with the selected contractor, however should such negotiation fail to arrive at a mutually agreeable contract, the selected contractor shall abide by the terms and conditions generally specified in this request for proposals.

## **13. PROTEST OF AWARD**

Any vendor who submitted a proposal and is adversely affected or aggrieved by Deschutes County's awarding the contract to another vendor has seven days after issuance of a Notice of Intent to Award, to submit a written protest of the award. Such protest shall conform to the requirements of OAR 137-047-0740 and specify the grounds upon which the protest is based. Deschutes County will not consider protests which are not submitted in conformance with these procedures. This protest procedure constitutes the sole administrative remedy available to vendors. Protests must be submitted by mail to:

Therese Madrigal  
Deschutes County Health Services  
2577 NE Courtney Dr.  
Bend, Oregon 97701

## **14. REJECTION OF PROPOSALS**

Deschutes County reserves the right to reject any or all proposals, to reject or accept any or all the items in a proposal, and to award the contract in whole or in part as deemed to be in the best interest of the county. No proposals will be considered that fail to contain the required information. There will be no changes to the content of this request for proposals except by written notification to the bidders who respond in

accordance with the criteria herein. Deschutes County reserves the right to negotiate with any vendor if such action is deemed to be in the best interest of the county.

**15. RIGHT TO MODIFY OR CANCEL**

Deschutes County reserves the right to cancel this procurement or reject any and all proposals in accordance with ORS 279B.100. Deschutes County also reserves the right to modify the proposal process and timelines as it deems necessary.

**16. STATE AND FEDERAL LAW COMPLIANCE**

Respondent must comply with all applicable requirements of federal and state civil rights law and rehabilitation statutes. The successful respondent agrees to comply with all applicable provisions of Oregon public contracting law (Oregon Revised Statutes, Chapter 279).

**17. VENDOR RESPONSIBILITY FOR PROPOSAL COSTS**

The vendor shall be fully responsible for all proposal development and submission costs. Deschutes County assumes no contractual or financial obligation as a result of the issuance of this RFP, the preparation and submission of a proposal by a vendor, the evaluation of any accepted proposal or the selection of finalists.