

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. #: COR #12-2201L
Title: Montana State Prison Oxygen Services

CONTRACT TERM	FROM	November 1, 2011	CONTRACT STATUS	NEW (x)
	TO	October 31, 2013		RENEW ()
VENDOR ADDRESS	Cpap Solutions, Inc. 401 South Alabama Butte, MT 59701		ORDER ADDRESS	
ATTN:	Monica L Schmook		ATTN:	
PHONE:	406-761-0706 ext. 304		PHONE:	
FAX:	406-761-0736		FAX:	
E-MAIL:	monica@cpapsolutionsinc.com		E-MAIL:	

PRICES: Per Contract Agreement
DELIVERY: Per Contract Agreement
F.O.B.: Per Contract Agreement
TERMS: Per Contract Agreement

REMARKS:

IFB/RFP NO.:IFB#1985L

Jill M. Lotter, Contracts Officer

Date:

AUTHORIZED SIGNATURE

Standard Terms and Conditions

By submitting a response to this invitation for bid, request for proposal, limited solicitation, or acceptance of a contract, the vendor agrees to acceptance of the following Standard Terms and Conditions and any other provisions that are specific to this solicitation or contract.

ACCEPTANCE/REJECTION OF BIDS, PROPOSALS, OR LIMITED SOLICITATION RESPONSES: The State reserves the right to accept or reject any or all bids, proposals, or limited solicitation responses, wholly or in part, and to make awards in any manner deemed in the best interest of the State. Bids, proposals, and limited solicitation responses will be firm for 30 days, unless stated otherwise in the text of the invitation for bid, request for proposal, or limited solicitation.

ACCESS AND RETENTION OF RECORDS: The contractor agrees to provide the department, Legislative Auditor, or their authorized agents, access to any records necessary to determine contract compliance. (Section 18-1-118, MCA). The contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of three years after either the completion date of the contract or the conclusion of any claim, litigation, or exception relating to the contract taken by the State of Montana or third party.

ALTERATION OF SOLICITATION DOCUMENT: In the event of inconsistencies or contradictions between language contained in the State's solicitation document and a vendor's response, the language contained in the State's original solicitation document will prevail. Intentional manipulation and/or alteration of solicitation document language will result in the vendor's disqualification and possible debarment.

ASSIGNMENT, TRANSFER AND SUBCONTRACTING: The contractor shall not assign, transfer or subcontract any portion of the contract without the express written consent of the department. (Section 18-4-141, MCA.)

AUTHORITY: The attached bid, request for proposal, limited solicitation, or contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

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

CONFORMANCE WITH CONTRACT: No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without prior written consent of the State Procurement Bureau. Supplies delivered which do not conform to the contract terms, conditions, and specifications may be rejected and returned at the contractor's expense.

DEBARMENT: The contractor certifies, by submitting this bid or proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the contractor cannot certify this statement, attach a written explanation for review by the State.

DISABILITY ACCOMMODATIONS: The State of Montana does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals who need aids,

alternative document formats, or services for effective communications or other disability related accommodations in the programs and services offered are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

FACSIMILE RESPONSES: Facsimile responses will be accepted for invitations for bids, small purchases, or limited solicitations ONLY if they are completely received by the State Procurement Bureau prior to the time set for receipt. Bids, or portions thereof, received after the due time will not be considered. Facsimile responses to requests for proposals are ONLY accepted on an exception basis with prior approval of the procurement officer.

FAILURE TO HONOR BID/PROPOSAL: If a bidder/offeror to whom a contract is awarded refuses to accept the award (PO/contract) or fails to deliver in accordance with the contract terms and conditions, the department may, in its discretion, suspend the bidder/offeror for a period of time from entering into any contracts with the State of Montana.

FORCE MAJEURE: Neither party shall be responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the nonperforming party, so long as such party is using its best efforts to remedy such failure or delays.

HOLD HARMLESS/INDEMNIFICATION: The contractor agrees to protect, defend, and save the State, 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, under this agreement.

LATE BIDS AND PROPOSALS: Regardless of cause, late bids and proposals will not be accepted and will automatically be disqualified from further consideration. It shall be solely the vendor's risk to ensure delivery at the designated office by the designated time. Late bids and proposals will not be opened and may be returned to the vendor at the expense of the vendor or destroyed if requested.

PAYMENT TERM: All payment terms will be computed from the date of delivery of supplies or services OR receipt of a properly executed invoice, whichever is later. Unless otherwise noted in the solicitation document, the State is allowed 30 days to pay such invoices. All contractors will be required to provide banking information at the time of contract execution in order to facilitate State electronic funds transfer payments.

RECIPROCAL PREFERENCE: The State of Montana applies a reciprocal preference against a vendor submitting a bid from a state or country that grants a residency preference to its resident businesses. A reciprocal preference is only applied to an invitation for bid for supplies or an invitation for bid for nonconstruction services for public works as defined in section 18-2-401(9), MCA, and then only if federal funds are not involved. For a list of states that grant resident preference, see <http://gsd.mt.gov/ProcurementServices/preferences.mcp.x>.

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 in a subsequent fiscal period. (See section 18-4-313(4), MCA.)

REFERENCE TO CONTRACT: The contract or purchase order number MUST appear on all invoices, packing lists, packages, and correspondence pertaining to the contract.

REGISTRATION WITH THE SECRETARY OF STATE: Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with sections 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://sos.mt.gov>.

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

SHIPPING: Supplies shall be shipped prepaid, F.O.B. Destination, unless the contract specifies otherwise.

SOLICITATION DOCUMENT EXAMINATION: Vendors shall promptly notify the State of any ambiguity, inconsistency, or error which they may discover upon examination of a solicitation document.

TAX EXEMPTION: The State of Montana is exempt from Federal Excise Taxes (#81-0302402).

TECHNOLOGY ACCESS FOR BLIND OR VISUALLY IMPAIRED: Contractor acknowledges that no state funds may be expended for the purchase of information technology equipment and software for use by employees, program participants, or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of the equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired. (Section 18-5-603, MCA.) Contact the State Procurement Bureau at (406) 444-2575 for more information concerning nonvisual access standards.

TERMINATION OF CONTRACT: Unless otherwise stated, the State may, by written notice to the contractor, terminate the contract in whole or in part at any time the contractor fails to perform the contract.

U.S. FUNDS: All prices and payments must be in U.S. dollars.

VENUE: This solicitation is governed by the laws of Montana. The parties agree that any litigation concerning this bid, request for proposal, limited solicitation, 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. (Section 18-1-401, MCA.)

WARRANTIES: The contractor warrants that items offered will conform to the specifications requested, to be fit and sufficient for the purpose manufactured, of good material and workmanship, and free from defect. Items offered must be new and unused and of the latest model or manufacture, unless otherwise specified by the State. They shall be equal in quality and performance to those indicated herein. Descriptions used herein are specified solely for the purpose of indicating standards of quality, performance, and/or use desired. Exceptions will be rejected.

Revised 2/10

**MONTANA STATE PRISON INFIRMARY OXYGEN SERVICES
COR12-2201L**

1. PARTIES

THIS CONTRACT is entered into by and between the State of Montana, Department of Corrections, Montana State Prison, (hereinafter referred to as "the State"), whose address and phone number are 500 Conley Lake Road, Deer Lodge, MT 59722, 406-846-1320 ext. 2401 and Cpap Solutions, Inc., (hereinafter referred to as the "Contractor"), whose address and phone number are 401 South Alabama, Butte, MT 59701 and 406-761-0706.

THE PARTIES AGREE AS FOLLOWS:

2. EFFECTIVE DATE, DURATION, AND RENEWAL

2.1 Contract Term. This contract shall take effect upon contract execution or November 1, 2011, whichever occurs later, and terminate on October 31, 2013, unless terminated earlier in accordance with the terms of this contract. (Section 18-4-313, MCA)

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

3.1 Taxes, Shipping, and Invoicing. The prices herein specified, unless otherwise expressly stated, shall exclude all taxes and duties of any kind which either party is required to pay with respect to the sale of products covered by this contract, but shall include all charges and expenses in connection with the packing of the products and their carriage to the place of delivery to the State unless specifically excluded. Prices shall include any and all transportation costs. The Contractor shall be paid, except as otherwise stated in this contract, upon submission of a proper invoice, the prices stipulated herein for products, and/or services delivered to and accepted at the specified State location(s).

3.2 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.

4. SERVICES AND/OR SUPPLIES

Contractor agrees to provide Montana State Prison (MSP) infirmary oxygen equipment, supplies, and services upon request per the terms and requirements incorporated within this contract.

4.1 General Prison Entrance Requirements

4.1.1 General Prison Entrance Requirements. Any time an individual will require access to any MSP property, the following guidelines must be followed throughout the term of this contract to include installation, start-up, equipment calibration and on-site warranty services. Any attempt to ignore or avoid these requirements could result in cancellation of this contract, or barring of an individual from MSP property.

4.1.2 Prior Security Clearance. Any individual entering MSP must receive a security clearance requiring a background check of their criminal history. Any individual who will require access to any MSP property will provide MSP staff with name, social security number, and birth date for use in a certified CJIN/NCIC (Criminal Justice Information Network/National Criminal Information Center) check a minimum of

10 days prior to visit. A security clearance will be required on the first visit only and will remain valid unless revoked by MSP security staff. However, 48-hour prior notification of any visit is required to MSP staff.

4.1.3 Entrance. MSP reserves the right to refuse entrance to any individual deemed to be a security risk. All individuals will be required to possess a picture ID to receive a Visitor's Pass. In addition, all individuals will be required to go through a metal detection system and/or possible pat-down search should security warrant. No cell phones, excess cash (over \$20), weapons, pocket knives, radios, tobacco, etc., are allowed entry to the confines of MSP. Contractor will be escorted by MSP staff at all times.

4.1.4 Tobacco Use. MSP is a tobacco free facility. All Contractors or subcontractors of this contract will follow Montana Department of Corrections Tobacco Use policy.

4.1.5 Dress. Individuals entering MSP will be required to adhere to the Dress Code policy, i.e., no shorts or shirts with logos of alcohol or drugs, etc. Individuals not meeting this code will not be admitted to facility until such a time that dress can be altered to meet policy requirements.

4.1.6 Tools. Individuals entering MSP will be required to strictly adhere to the Tool and Dangerous Material Control policy.

4.1.7 Emergencies. Should an emergency arise while on MSP property, Contractor will be advised as to the proper procedure for response to that emergency. Upon official emergency declaration, Contractor may not be allowed to enter or exit the compound for extended periods of time.

Adhering to additional policies may be required, and Contractor will be informed as the need arises. Contractors must agree to adhere to policies, procedures, and operational instructions as they are created or are revised, due to the security needs of MSP.

4.2 Delivery Requirements

4.2.1 Guaranteed Delivery. Due to the immediate need of the user agency, delivery must be within four hours.

4.2.2 Shipping. Weekends and holidays excepted, deliveries shall be **F.O.B. DESTINATION**, to the location shown below. The term "F.O.B. destination, within the State's premises," as used in this clause, means free of expense to the State and delivered to the location specified. The Contractor shall:

- Pack and mark the shipment to comply with specifications; or if the specifications do not contain specific packing or marking instructions, pack and mark the shipment in accordance with prevailing commercial practices and in such a manner as to ensure delivery in good condition;
- Prepare and distribute commercial bills of lading and Material Safety Data Sheets (MSDS) as appropriate;
- Deliver the shipment in good order and condition to the point of delivery specified in section 4.2.3;
- Be responsible for any loss of and/or damage to the goods occurring before receipt of the shipment by the State at the delivery point specified in section 4.2.3;
- Furnish a delivery schedule and designate the mode of delivering carrier; and
- Pay and bear all charges to the specified points of delivery.

4.2.3 Delivery Location.

Montana State Prison
500 Conley Lake Rd
Deer Lodge, MT 59722

4.3 On-Site Requirements/Cleanup. The Contractor shall adequately protect the work, adjacent property, and the public in all phases of the work. The Contractor shall be responsible for all damages or injury due to their action or neglect.

The Contractor shall respond within seven calendar days after notice of observed defects has been given and shall proceed to immediately remedy these defects. Should the Contractor fail to respond to the notice or not remedy the defects, the State may have the work corrected at the Contractor's expense.

In terms of cleanup, the Contractor shall keep the premises free from debris, spills and accumulation of waste.

5. CONSIDERATION/PAYMENT

5.1 Purchasing Card. The State of Montana has a Purchasing Card Program in place that gives agencies the ability to charge purchases made from these contracts. The State of Montana prefers this method of payment.

5.2 Payment Schedule. In consideration for the prison infirmary's oxygen needs, the State shall pay according to the schedule set forth in Attachment A, Oxygen Services Pricing Schedule. All necessary functional accessories are free of charge; including, but not limited to, cannulas, filters, smart cards, humidifier chambers, mouthpieces, adapters, reservoirs.

5.3 Withholding of Payment. The State 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.

5.4 Correct Invoice. The State agrees to pay Contractor within thirty (30) days following receipt of a correct invoice.

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 prison infirmary's oxygen needs 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 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, 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, 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, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be excess of the contractor's insurance and shall not contribute with it.

9.3 Specific Requirements for Commercial General 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 and \$2,000,000 aggregate per year 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, its officers, officials, employees, and volunteers 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; products, and completed operations; premises owned, leased, occupied, or used.

9.4 Specific Requirements for Automobile Liability. 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, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for automobiles leased, hired, or borrowed by the contractor.

9.5 Specific Requirements for Professional Liability. The contractor shall purchase and maintain occurrence coverage with combined single limits for each wrongful act of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, negligence of the contractor or its officers, agents, representatives, assigns, or subcontractors. Note: if "occurrence" coverage is unavailable or cost prohibitive, the contractor may provide "claims made" coverage provided the following conditions are met: (1) the commencement date of the contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future years; and (2) the claims made policy must have a three-year tail for claims that are made (filed) after the cancellation or expiration date of the policy.

9.6 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, its officers, officials, employees, or volunteers; 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.

9.7 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. 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 Convenience. The State may, by written notice to the Contractor, terminate this contract without cause. The State must give notice of termination to the Contractor at least 30 days prior to the effective date of termination.

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.

Cindy Hiner will be the liaison for the State.
500 Conley Lake Road
Deer Lodge, MT 59722
Telephone: 406-846-1320 ext. 2401
Fax: 406-846-2950
chiner@mt.gov

Monica L. Schmook will be the liaison for the Contractor.

401 South Alabama
Butte, MT 59701
Telephone: 406-761-0706
Fax: 406-761-0736
Monica@cpapsolutionsinc.com

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 the liaison.

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 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 12 numbered pages, any Attachments as required, IFB12-2201L, 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 CORRECTIONS
MONTANA STATE PRISON
500 Conley Lake Road
Deer Lodge, MT 59722**

**CPAP SOLUTIONS, INC
401 South Alabama
Butte, MT 59701
FEDERAL ID # 81-0540504**

BY: Ross Swanson, Acting Warden

BY: Monica L. Schmook, Administrator

(Signature)

(Signature)

DATE: _____

DATE: _____

Approved as to Legal Content:

Legal Counsel (Date)

Approved as to Form:

Procurement Officer (Date)
State Procurement Bureau

ATTACHMENT A

Oxygen Services Pricing Schedule

<u>Oxygen Service, Product, Supplies</u>	<u>Model</u>	<u>Cost Per Each</u>
<u>#1. Oxygen Concentrators</u>	Airsep Visionaire w/OPI	\$100.00
<u>#2. Oxygen Regulators 0-15lpm</u>	Roscoe Medical Mini	No Cost
<u>#3. Oxygen Regulators 0-8 lpm</u>	Roscoe Medical Mini	No Cost
<u>#4. Oxygen Regulators Conserving Device</u>	Western Medica	\$15.00
<u>#5. Portable Oxygen Conserving Devices</u>	Ever-Go Respironics	\$300.00
<u>#6. C/PAP</u>	1. Resmed S9 2. Respironics System One	\$70.00
<u>#7. Nebulizers</u>	Roscoe Medical	\$10.00
<u>#8. Humidifier Pre-Filled Water Bottles (500 ml)</u>		\$2.05
<u>#9. Travel Oxygen Containers S-Tanks</u>		\$45.00
<u>#10. Travel Oxygen Containers E-Tanks</u>		\$10.00
<u>#11. Travel Oxygen Containers A-Tanks</u>		\$10.00
<u>#12. Emergency Response for On-Site Repair or Replacement</u>		
<u>(a) Cost Per Call:</u> Regular Business Hours Monday thru Friday - 8 a.m. - 5 p.m.		\$25.00
<u>(b) Cost Per Call:</u> After Hours and Weekends		\$38.00

**CONTRACT AMENDMENT NO. 4
CONTRACT FOR MONTANA STATE PRISON INFIRMARY OXYGEN SERVICES
CONTRACT # COR12-2201L**

This CONTRACT AMENDMENT is to amend the above-referenced contract between the State of Montana, Department of Corrections, Montana State Prison (STATE), whose address and phone number are 500 Conley Lake Road, Deer Lodge, MT 59722, (406) 846-1320 ext. 2401 and CPAP Solutions, Inc. (CONTRACTOR), whose address and phone number are 700 West Gold St., Suite C, Butte, MT 59701 (406) 761-0706. This Contract is amended for the following purpose(s):

- 1) In accordance with the section entitled Effective Date, Duration, and Renewal, both parties mutually agree to extend this Contract for the period November 1, 2016, through April 30, 2017, per the terms, conditions, and prices agreed upon. This is the fourth renewal, sixth year of the Contract.
- 2) Services provided will be billed to Xerox on a HCFA-1500 claim form. Billing information shall include, but not be limited to: the inmate AO number, valid diagnosis codes, and Montana Medicaid's current procedure/service codes. Claims shall be submitted to:

Xerox-Claims Processing Unit
PO Box 8000
Helena, MT 59604
- 3) CONTRACTOR will be compensated by XEROX according to current fee schedules and limits. Only claims submitted by CONTRACTOR within one (1) year of date of service shall be processed.

Except as modified above, all other terms and conditions of Contract COR12-2201L remain unchanged.

Department of Corrections
Montana State Prison
500 Conley Lake Road
Deer Lodge, MT 59722

CPAP Solutions, Inc.
700 West Gold Street, Suite C
Butte, MT 59701
FEDERAL ID # 81-0540504

BY: Connie Winner
Clinical Services Administrator
Connie Winner
(Signature)

BY: Monica L. Schmeck CEO
Monica Schmeck
(Signature)

DATE: 8-26-16

DATE: 8/13/16

Approved as to Legal Content:
Colleen Ambrose 8/17/16
Legal Counsel (Date)

Approved as to Form:
Rhonda R. Grand
Procurement Officer (Date)
State Procurement Bureau

9/6/16