

PURCHASE AGREEMENT

THIS AGREEMENT is made and entered into this 1st day of December, 2020, by and between the **CITY OF MISSOULA, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, 435 Ryman, Missoula, Montana 59802, hereinafter referred to as “City,” and **Power Service of Montana**, whose principal place of business is located at 4025 1st Avenue South, Billings, Montana, 59101, hereinafter referred to as “Supplier.”

In consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. **Purpose:** City desires to obtain a rotary screw compressor as described in the Quote attached as Exhibit A. The terms and conditions of the Quote, and any promises, covenants, and warranties made in the Quote are hereby made part of this Agreement.
2. **Effective Date:** This Agreement is effective upon the date of its execution.
3. **Duration:** Supplier shall provide the product at the price identified in the Quote.
4. **Payment:** The City agrees to pay Supplier for the Product supplied pursuant to Exhibit A within 30 days of receiving an invoice.
5. **Insurance and Warranties:** Supplier shall provide any insurance or express warranty requirements outlined in the Request for Proposals or as stated in Supplier’s Proposal.
6. **Merchantability:** Supplier agrees that the products and services supplied will confirm to the specifications stated in the Request for Proposals and Supplier’s Proposal, and will function and conform to the standards of the industry.
7. **Nondiscrimination and Affirmative Action:** Consultant agrees and shall comply with the following Non-Discrimination and Affirmative Action policies:

NON-DISCRIMINATION. All hiring shall be on the basis of merit and qualification and there shall be no discrimination in employment on the basis race, ancestry, color, physical or mental disability, religion, national origin, sex, age, marital or familial status, creed, ex-offender status, physical condition, political belief, public assistance status or sexual orientation, gender identity or expression, except where these criteria are reasonable bona fide occupational qualifications.

AFFIRMATIVE ACTION POLICY. Suppliers, sub-Suppliers, sub-grantees, and other firms doing business with the City of Missoula must be in compliance with the City of Missoula's Affirmative Action Plan, and Title 49 Montana Codes Annotated, entitled "Human Rights" or forfeit the right to continue such business dealings.

The City's Affirmative Action Policy Statement is:

The Mayor of the City of Missoula or the Mayor's designee may adopt an affirmative action plan to provide all persons equal opportunity for employment without regard to race, ancestry, color, handicap, religion, creed, national origin, sex, age, marital status, or sexual orientation, gender identity or expression. In keeping with this commitment, we are assigning to all department heads and their staff the responsibility to actively facilitate equal employment opportunity for all present employees, applicants, and trainees. This responsibility shall include assurance that employment decisions are based on furthering the principle of equal employment opportunity by imposing only valid requirements for employment and assuring that all human resource actions are administered on the basis of job necessity.

Specific responsibility for developing, implementing, monitoring and reporting are assigned to the City Personnel staff under the supervision and direction of the Chief Administrative Officer and the Mayor.

It is the policy of the City of Missoula to eliminate any practice or procedure that discriminates illegally or has an adverse impact on an "affected" class. Equal opportunity shall be provided for all City employees during their terms of employment. All applicants for City employment shall be employed on the basis of their qualifications and abilities.

The City of Missoula, where practical, shall utilize minority owned enterprises and shall ensure that sub-Suppliers and vendors comply with this policy. Failure of sub-Suppliers and vendors to comply with this policy statement shall jeopardize initial, continued, or renewed funds.

Our commitment is intended to promote equal opportunity in all employment practices and provide a positive program of affirmative action for the City of Missoula, its employees, program participants, trainees and applicants.

8. Default and Termination: If either party fails to comply with any condition of this Agreement at the time or in the manner provided by Exhibit A or B, the other party, at its option, may terminate this Agreement and be released from all obligations if the default is not cured within ten days after written notice is provided to the defaulting party. Said notice shall set forth the items to be cured. Additionally, the non-defaulting party may bring suit for damages, specific performance, and any other remedy provided by law. These remedies are cumulative and not exclusive. Use of one remedy does not preclude use of the others.

City may terminate this Agreement at any time by giving 30 days' written notice to Supplier's liaison of such termination and specifying the effective date thereof at least thirty days before the effective date of such termination. If this Agreement is terminated by City as provided

herein, Supplier shall be paid for all products supplied pursuant to this Agreement until the date of termination.

Notices shall be provided in writing and hand-delivered or mailed to the parties at the addresses set forth in the first paragraph of this Agreement.

9. Modification and Assignability: This Agreement may not be enlarged, modified or altered except by written agreement signed by both parties hereto. The Supplier may not subcontract or assign Supplier's rights, including the right to compensation or duties arising hereunder, without the prior written consent of City. Any sub-Supplier or assignee will be bound by all of the terms and conditions of this Agreement.

10. Liaison: City's designated liaison with Supplier is Don Schmidt and Supplier's designated liaison with City is Jim Paul.

11. Applicability: This Agreement and any extensions hereof shall be governed and construed in accordance with the laws of the State of Montana.

12. Venue: Any litigation arising out of the terms of this Agreement shall be conducted in the Fourth Judicial District of Montana, Missoula County. Supplier expressly consents to the jurisdiction of this Court, and agrees to this venue.

13. Signing of Contract: The contract may be signed in counterparts and signed electronically by all parties.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

CITY OF MISSOULA

SUPPLIER

By _____
Mayor John Engen

Jim Paul, Power Service of Montana

ATTEST

Martha L. Rehbein, CMC, City Clerk