

SERVICE AGREEMENT NO. 3330

Self-Contained Breathing Apparatus (SCBA) for CCFD

THIS **Self-Contained Breathing Apparatus (SCBA) for CCFD Agreement** ("Agreement") is entered into by and between the City of Corpus Christi, a Texas home-rule municipal corporation ("City") and HEAT Safety Equipment, LLC ("Contractor"), effective upon execution by the City Manager or the City Manager's designee ("City Manager").

WHEREAS, Contractor has bid to provide Self-Contained Breathing Apparatus (SCBA) for CCFD in response to Request for Bid/Proposal No. 3330 ("RFB/RFP"), which RFB/RFP includes the required scope of work and all specifications and which RFB/RFP and the Contractor's bid or proposal response, as applicable, are incorporated by reference in this Agreement as Exhibits 1 and 2, respectively, as if each were fully set out here in its entirety.

NOW, THEREFORE, City and Contractor agree as follows:

1. **Scope.** Contractor will provide Self-Contained Breathing Apparatus (SCBA) for CCFD ("Services") in accordance with the attached Scope of Work, as shown in Attachment A, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety, and in accordance with Exhibit 2.
2. **Term.** This Agreement is for six months, with performance commencing upon the date of issuance of a notice to proceed from the Contract Administrator or the Contracts and Procurement Department, or the performance date listed in the notice to proceed, whichever is later. The parties may mutually extend the term of this Agreement for up to zero additional zero-month periods ("Option Period(s)"), provided, the parties do so by written amendment prior to the expiration of the original term or the then-current Option Period. The City's extension authorization must be executed by the City Manager or designee.
3. **Compensation and Payment.** This Agreement is for an amount not to exceed \$1,044,489.23, subject to approved extensions and changes. Payment will be made for Services completed and accepted by the City within 30 days of acceptance, subject to receipt of an acceptable invoice. Contractor shall invoice no more frequently than once per month. All pricing must be in accordance with the attached Bid/Pricing Schedule, as shown in Attachment B, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety. Any amount not expended during the initial term or any option period may, at the City's discretion, be allocated for use in the next option period.

Invoices will be mailed to the following address with a copy provided to the Contract Administrator:

City of Corpus Christi
Attn: Accounts Payable
P.O. Box 9277
Corpus Christi, Texas 78469-9277

- 4. Contract Administrator.** The Contract Administrator designated by the City is responsible for approval of all phases of performance and operations under this Agreement, including deductions for non-performance and authorizations for payment. The City's Contract Administrator for this Agreement is as follows:

Enrique Mirelez
Fire Department
Phone: 361-826-8422
EnriqueM@cctexas.com

5. Insurance; Bonds.

(A) Before performance can begin under this Agreement, the Contractor must deliver a certificate of insurance ("COI"), as proof of the required insurance coverages, to the City's Risk Manager and the Contract Administrator. Additionally, the COI must state that the City will be given at least 30 days' advance written notice of cancellation, material change in coverage, or intent not to renew any of the policies. The City must be named as an additional insured. The City Attorney must be given copies of all insurance policies within 10 days of the City Manager's written request. Insurance requirements are as stated in Attachment C, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety.

(B) In the event that a payment bond, a performance bond, or both, are required of the Contractor to be provided to the City under this Agreement before performance can commence, the terms, conditions, and amounts required in the bonds and appropriate surety information are as included in the RFB/RFP or as may be added to Attachment C, and such content is incorporated here in this Agreement by reference as if each bond's terms, conditions, and amounts were fully set out here in its entirety.

- 6. Purchase Release Order.** For multiple-release purchases of Services to be provided by the Contractor over a period of time, the City will exercise its right to specify time, place and quantity of Services to be delivered in the following manner: any City department or division may send to Contractor a purchase release order signed by an authorized agent of the department or division. The

purchase release order must refer to this Agreement, and Services will not be rendered until the Contractor receives the signed purchase release order.

- 7. Inspection and Acceptance.** City may inspect all Services and products supplied before acceptance. Any Services or products that are provided but not accepted by the City must be corrected or re-worked immediately at no charge to the City. If immediate correction or re-working at no charge cannot be made by the Contractor, a replacement service may be procured by the City on the open market and any costs incurred, including additional costs over the item's bid/proposal price, must be paid by the Contractor within 30 days of receipt of City's invoice.

8. Warranty.

(A) The Contractor warrants that all products supplied under this Agreement are new, quality items that are free from defects, fit for their intended purpose, and of good material and workmanship. The Contractor warrants that it has clear title to the products and that the products are free of liens or encumbrances.

(B) In addition, the products purchased under this Agreement shall be warranted by the Contractor or, if indicated in Attachment D by the manufacturer, for the period stated in Attachment D. Attachment D is attached to this Agreement and is incorporated by reference into this Agreement as if fully set out here in its entirety.

(C) Contractor warrants that all Services will be performed in accordance with the standard of care used by similarly situated contractors performing similar services.

- 9. Quality/Quantity Adjustments.** Any Service quantities indicated on the Bid/Pricing Schedule are estimates only and do not obligate the City to order or accept more than the City's actual requirements nor do the estimates restrict the City from ordering less than its actual needs during the term of the Agreement and including any Option Period. Substitutions and deviations from the City's product requirements or specifications are prohibited without the prior written approval of the Contract Administrator.

- 10. Non-Appropriation.** The continuation of this Agreement after the close of any fiscal year of the City, which fiscal year ends on September 30th annually, is subject to appropriations and budget approval specifically covering this Agreement as an expenditure in said budget, and it is within the sole discretion of the City's City Council to determine whether or not to fund this Agreement. The City does not represent that this budget item will be adopted, as said determination is within the City Council's sole discretion when adopting each budget.

- 11. Independent Contractor.** Contractor will perform the work required by this Agreement as an independent contractor and will furnish such Services in its own manner and method, and under no circumstances or conditions will any agent, servant or employee of the Contractor be considered an employee of the City.
- 12. Subcontractors.** In performing the Services, the Contractor will not enter into subcontracts or utilize the services of subcontractors.
- 13. Amendments.** This Agreement may be amended or modified only in writing executed by authorized representatives of both parties.
- 14. Waiver.** No waiver by either party of any breach of any term or condition of this Agreement waives any subsequent breach of the same.
- 15. Taxes.** The Contractor covenants to pay payroll taxes, Medicare taxes, FICA taxes, unemployment taxes and all other applicable taxes. Upon request, the City Manager shall be provided proof of payment of these taxes within 15 days of such request.
- 16. Notice.** Any notice required under this Agreement must be given by fax, hand delivery, or certified mail, postage prepaid, and is deemed received on the day faxed or hand-delivered or on the third day after postmark if sent by certified mail. Notice must be sent as follows:

IF TO CITY:

City of Corpus Christi
Attn: Enrique Mirelez
Fire Captain
1501 Holly Road, Corpus Christi, TX 78417
Phone: 361-826-8422
Fax: n/a

IF TO CONTRACTOR:

HEAT Safety Equipment LLC
Attn: Jimmie John Durant
Manager
5465 Curran Road, Von Ormy, TX 78073
Phone: 210-624-2320
Fax: n/a

- 17. CONTRACTOR SHALL FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY OF CORPUS CHRISTI AND ITS OFFICERS, EMPLOYEES AND AGENTS ("INDEMNITEES") FROM AND AGAINST ANY AND ALL LIABILITY, LOSS, CLAIMS, DEMANDS, SUITS, AND CAUSES OF ACTION OF WHATEVER NATURE, CHARACTER, OR DESCRIPTION ON ACCOUNT OF**

PERSONAL INJURIES, PROPERTY LOSS, OR DAMAGE, OR ANY OTHER KIND OF INJURY, LOSS, OR DAMAGE, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, ATTORNEYS' FEES AND EXPERT WITNESS FEES, WHICH ARISE OR ARE CLAIMED TO ARISE OUT OF OR IN CONNECTION WITH A BREACH OF THIS AGREEMENT OR THE PERFORMANCE OF THIS AGREEMENT BY THE CONTRACTOR OR RESULTS FROM THE NEGLIGENT ACT, OMISSION, MISCONDUCT, OR FAULT OF THE CONTRACTOR OR ITS EMPLOYEES OR AGENTS. CONTRACTOR MUST, AT ITS OWN EXPENSE, INVESTIGATE ALL CLAIMS AND DEMANDS, ATTEND TO THEIR SETTLEMENT OR OTHER DISPOSITION, DEFEND ALL ACTIONS BASED THEREON WITH COUNSEL SATISFACTORY TO THE CITY ATTORNEY, AND PAY ALL CHARGES OF ATTORNEYS AND ALL OTHER COSTS AND EXPENSES OF ANY KIND ARISING OR RESULTING FROM ANY SAID LIABILITY, DAMAGE, LOSS, CLAIMS, DEMANDS, SUITS, OR ACTIONS. THE INDEMNIFICATION OBLIGATIONS OF CONTRACTOR UNDER THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

18. Termination.

(A) The City Manager may terminate this Agreement for Contractor's failure to comply with any of the terms of this Agreement. The Contract Administrator must give the Contractor written notice of the breach and set out a reasonable opportunity to cure. If the Contractor has not cured within the cure period, the City Manager may terminate this Agreement immediately thereafter.

(B) Alternatively, the City Manager may terminate this Agreement for convenience upon 30 days advance written notice to the Contractor. The City Manager may also terminate this Agreement upon 24 hours written notice to the Contractor for failure to pay or provide proof of payment of taxes as set out in this Agreement.

19. Owner's Manual and Preventative Maintenance. Contractor agrees to provide a copy of the owner's manual and/or preventative maintenance guidelines or instructions if available for any equipment purchased by the City pursuant to this Agreement. Contractor must provide such documentation upon delivery of such equipment and prior to receipt of the final payment by the City.

20. Limitation of Liability. The City's maximum liability under this Agreement is limited to the total amount of compensation listed in Section 3 of this Agreement. In no event shall the City be liable for incidental, consequential or special damages.

21. Assignment. No assignment of this Agreement by the Contractor, or of any right or interest contained herein, is effective unless the City Manager first gives written

consent to such assignment. The performance of this Agreement by the Contractor is of the essence of this Agreement, and the City Manager's right to withhold consent to such assignment is within the sole discretion of the City Manager on any ground whatsoever.

- 22. Severability.** Each provision of this Agreement is considered to be severable and, if, for any reason, any provision or part of this Agreement is determined to be invalid and contrary to applicable law, such invalidity shall not impair the operation of nor affect those portions of this Agreement that are valid, but this Agreement shall be construed and enforced in all respects as if the invalid or unenforceable provision or part had been omitted.
- 23. Order of Precedence.** In the event of any conflicts or inconsistencies between this Agreement, its attachments, and exhibits, such conflicts and inconsistencies will be resolved by reference to the documents in the following order of priority:
- A. this Agreement (excluding attachments and exhibits);
 - B. its attachments;
 - C. the bid solicitation document including any addenda (Exhibit 1); then,
 - D. the Contractor's bid response (Exhibit 2).
- 24. Certificate of Interested Parties.** Contractor agrees to comply with Texas Government Code Section 2252.908, as it may be amended, and to complete Form 1295 "Certificate of Interested Parties" as part of this Agreement if required by said statute.
- 25. Governing Law.** Contractor agrees to comply with all federal, Texas, and City laws in the performance of this Agreement. The applicable law for any legal disputes arising out of this Agreement is the law of the State of Texas, and such form and venue for such disputes is the appropriate district, county, or justice court in and for Nueces County, Texas.
- 26. Public Information Act Requirements.** This paragraph applies only to agreements that have a stated expenditure of at least \$1,000,000 or that result in the expenditure of at least \$1,000,000 by the City. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the Contractor agrees that the contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.
- 27. Entire Agreement.** This Agreement constitutes the entire agreement between the parties concerning the subject matter of this Agreement and supersedes all prior negotiations, arrangements, agreements and understandings, either oral or written, between the parties.

CONTRACTOR

DocuSigned by:
Signature: 
467139E71FEB454...

Printed Name: Jimmie-John Durant

Title: owner

Date: 3/1/2021

CITY OF CORPUS CHRISTI

Josh Chronley
Interim Assistant Director, Contracts and Procurement

Date: _____

Attached and Incorporated by Reference:

Attachment A: Scope of Work
Attachment B: Bid/Pricing Schedule
Attachment C: Insurance and Bond Requirements
Attachment D: Warranty Requirements

Incorporated by Reference Only:

Exhibit 1: RFB/RFP No. 3330
Exhibit 2: Contractor's Bid/Proposal Response

Attachment A: Scope of Work

1.1 General Requirements/Background Information

The Corpus Christi Fire Department (CCFD) is upgrading their current Self-Contained Breathing Apparatus equipment (SEMS II). This includes air cylinders, software upgrades and snap change valves for quick filling of units.

1.2 Scope of Work

- A. Contractor shall provide equipment that is compliant with the 2018 NFPA (National Fire Protection Association) 1981 Standard on Open Circuit Self-Contained Breathing Apparatus and NFPA 1982 Standard on Personal Alert Safety Systems.
- B. SCBA must be manufactured by Scott with the following specifications.
 - 1. Air Packs – Model X3 Pro X8914025301A03, 4.5 SC, UEBSS, SEMS II, QD regulator
 - 2. X3 Pro Spare Harness
 - 3. Snap-Change carbon wrapped 45-minute cylinder valve – 200129-01
 - 4. Snap-Change valves – 805783-01
 - 5. RFID Cards – 200774-01
 - 6. All logo cylinders with the CCFD patch – embedded logo onto the cylinder
 - 7. Upgrade of five Rapid Intervention Team (RIT) packs.
- C. Contractor shall include initial flow testing on all air packs.

1.3 Training

- A. Contractor shall provide onsite operator training of all uniformed personnel of the CCFD by an authorized trainer.
- B. Contractor shall work with Contract Administrator to schedule training dates, which shall consist of six full days on onsite training and three make up days for CCFD staff.
- C. Training shall be held at the CCFD Training Division: 4101 Old Brownsville Rd. Corpus Christi, TX 78408.

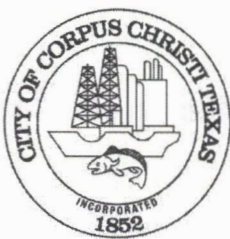
- D. Two days of Advanced Specialist Training for six support services personnel by and authorized specialist trainer.
- E. Two-year reach back support, technical support for all Scott equipment for the lifetime of the equipment.

1.4 Contractor Quality Control and Superintendence

The Contractor shall establish and maintain a complete Quality Control Program that is acceptable to the Contract Administrator to assure that the requirements of the Contract are provided as specified. The Contractor will also provide supervision of the work to insure it complies with the contract requirements.

1.5 Warranty

- A. Equipment warranted to be free from defects in material and workmanship from the date of purchase.
- B. Lifetime Reach back warranty to include the following:
 - 1. Repairs: Labor, parts, and return shipping covering equipment if equipment is damaged under standard manufacturer recommended/trained use.
 - 2. Support: Consisting of 24/7 access to technicians, and Scott staff to assist with troubleshooting, and technical issues.

Attachment B: Bid/Pricing Schedule

CONTRACTS AND PROCUREMENT DEPARTMENT BID FORM

RFB No. 3330
Self-Contained Breathing Apparatus (SCBA) for
CCFD

PAGE
1 OF 1

Date: 2/16/21

Bidder: HEAT Safety Equipment LLC

Authorized
Signature: [Signature]

1. Refer to "Instructions to Bidders" and Contract Terms and Conditions before completing bid.
 2. Quote your best price for each item.
 3. In submitting this bid, Bidder certifies that:
 - a. the prices in this bid have been arrived at independently, without consultation, communication, or agreement with any other Bidder or competitor, for the purpose of restricting competition with regard to prices.
 - b. Bidder is an Equal Opportunity Employer, and the Disclosure of Interest information on file with City's Contracts and Procurement office, pursuant to the Code of Ordinances, is current and true.
 - c. Bidder is current with all taxes due and company is in good standing with all applicable governmental agencies.
 - d. Bidder acknowledges receipt and review of all addenda for this RFB.
- Shipping Fees must be included in the unit price for items on the bid form. Contractor will not add additional shipping fees to invoices.

Item	Description	Unit	Qty	Unit Price	Total Price
1	Air Pack-X3 Pro X8914025305A03	EA	120	5987.63	718515.60
2	Air Pack-X3 Pro w/spare harness X8914025301A03	EA	20	6555.45	131109.00
* 3	Snap-Change carbon wrapped 45-minute cylinder valve-200129-01	EA	280	899.25	125895.00
4	Snap-Change Valves	EA	120	400.389	48046.68
5	RFID Card	Pack	10	96.525	965.25
6	Upgrade of RIT Packs	EA	5	351.54	1757.70
7	Logo for Air Cylinders	EA	280	65	18200
TOTAL					1044489.23

Line 3 - 140 Snap-change carbon wrapped cylinder valve was bid at \$899.25. Vendor did not bid for additional 140 cylinder valve due to vendor's promotional event. (140 at no charge)

Addendum No. 2

Attachment C: Insurance Requirements

Insurance is not required for this service agreement; therefore, Section 5 – Insurance; Bonds, subsection 5(A) and 5(B) is null and void.

Attachment D: Warranty Requirements

1. Equipment warranted to be free from defects in material and workmanship from the date of purchase.
2. Lifetime Reach back warranty to include the following:
 - A. Repairs: Labor, parts, and return shipping covering equipment if equipment is damaged under standard manufacturer recommended/trained use.
 - B. Support: Consisting of 24/7 access to technicians, and Scott staff to assist with troubleshooting, and technical issues.