



Amendment No. 7
to
Contract No. NS120000029
for
Continuum Access Control System Maintenance
between
Entech Sales & Service, Inc.
and the
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be April 16, 2020 through April 15, 2021. One option will remain.
- 2.0 The total contract amount is increased by \$18,659.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 04/16/2012 – 04/15/2017	\$87,748.00	\$87,748.00
Amendment No. 1: Option 1 – Extension 04/16/2017 – 04/15/2018	\$16,149.00	\$103,897.00
Amendment No. 2: Option 2 – Extension 04/16/2018 – 04/15/2019	\$16,957.00	\$120,854.00
Amendment No. 3: Name Change 07/10/2018	\$0.00	\$120,854.00
Amendment No. 4: Administrative Increase 02/15/2019	\$30,213.50	\$151,067.50
Amendment No. 5: Option 3 – Extension 04/16/2019 – 04/15/2020	\$17,805.00	\$168,872.50
Amendment No. 6: Administrative Increase 09/30/2019 - \$8,770.00 10/2/2019 - \$42,304.00	\$51,081.00	\$219,953.50
Amendment No. 7: Option 4 – Extension 04/16/2020 – 04/15/2021	\$18,695.00	\$238,648.50

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment, the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: Mark Brazier 2/19/2020

Printed Name: Mark Brazier, VP
Authorized Representative

Entech Sales & Service, Inc.
2136 Rutland Drive, Suite E
Austin, Texas 78758

Sign/Date: Bridney Stewart

Bridney Stewart
Procurement Specialist II
City of Austin
Purchasing Office
124 W. 8th Street, Ste. 310
Austin, Texas 78701

This field is signed by Bridney Stewart
Bridney Stewart is City of Austin, Purchasing Office.
Signed: 2/20/2020 10:05:44 AM
Date: 2/20/2020 10:05:44 AM

(512) 719-5191



Amendment No. 6
to
Contract No. MA 8700 NS120000029 for
Continuum Access Control System Maintenance
between
Entech Sales & Service, Inc.
and the
City of Austin, Texas

1.0 The total contract amount is increased by \$51,081.

2.0 The total Contract amount is recapped below:

Term	Contract Amount for the Item	Total Contract Amount
Basic Term: 04/16/2012 - 04/15/2017	\$87,748.00	\$87,748.00
Amendment No. 1: Option 1 – Extension 04/16/2017 – 04/15-2018	\$16,149.00	\$103,897.00
Amendment No. 2: Option 1 – Extension 04/16/2018 – 04/15-2019	\$16,957.00	\$120,854.00
Amendment No. 3: Name Change 07/10/2018	\$0.00	\$120,854.00
Amendment No. 4: Administrative Increase 02/15/2019	\$30,213.50	\$151,067.50
Amendment No. 5: Option 3 – Extension 04/16/2019 – 04/15-2020	\$17,805.00	\$168,872.50
Amendment No. 6: Administrative Increase 09/30/2019 - \$8,777.00 10/2/2019 - \$42,304.00	\$51,081.00	\$219,953.50

4.0 MBE/WBE goals were not established for this contract.

5.0 By signing this Amendment, the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

6.0 ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

BY THE SIGNATURE(S) affixed below, this Amendment is hereby incorporated and made a part of the above referenced contract.

Signature & Date:

Mark Bruce 10/3/2019

Printed Name: Mark Bruce
Authorized Representative

Entech Sales & Service, Inc.
2136 Rutland Drive, Suite E
Austin, TX 78758

D. Dellemonache 10/8/19

Daniel Dellemonache, Procurement Specialist III
~~City of Austin Purchasing Office~~



Amendment No. 5
to
Contract No. NS120000029
for
Continuum Access Control System Maintenance
between
Entech Sales & Service, Inc.
and the
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be April 16, 2019 through April 15, 2020. Two options will remain.
- 2.0 The total contract amount is increased by \$17,805.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 04/16/2012 – 04/15/2017	\$87,748.00	\$87,748.00
Amendment No. 1: Option 1 – Extension 04/16/2017 – 04/15/2018	\$16,149.00	\$103,897.00
Amendment No. 2: Option 2 – Extension 04/16/2018 – 04/15/2019	\$16,957.00	\$120,854.00
Amendment No. 3: Name Change 07/10/2018	\$0.00	\$120,854.00
Amendment No. 4: Administrative Increase 02/15/2019	\$30,213.50	\$151,067.50
Amendment No. 5: Option 3 – Extension 04/16/2019 – 04/15/2020	\$17,805.00	\$168,872.50

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment, the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: Mark R. Braziel 5/20/2019

Printed Name: Mark Braziel, VP
Authorized Representative

Entech Sales & Service, Inc.
2136 Rutland Drive, Suite E
Austin, Texas 78758
(512) 719-5191

Sign/Date: Erin D'Vincent 5-20-19

Erin D'Vincent
Purchasing Supervisor
City of Austin
Purchasing Office
124 W. 8th Street, Ste. 310
Austin, Texas 78701



Amendment No. # 4
to
Contract No. NS120000029
for
Continuum Access Control System Maintenance and Repair
between
Entech Sales & Services Inc.
and the
City of Austin, Texas

1.0 The City hereby amends the above referenced contract to increase available authorization in an amount of \$30,213.50 effective February 15, 2019.

2.0 The total Contract amount is recapped below:

Term	Contract Amount for the Item	Total Contract Amount
Basic Term: 04/16/2012 – 04/15/2017	\$87,748.00	\$87,748.00
Amendment No. #1: Option 1 - Extension 04/16/2017 – 04/15/2018	\$16,149.00	\$103,897.00
Amendment No. #2: Option 2 - Extension 04/16/2018 – 04/15/2019	\$16,957.00	\$120,854.00
Amendment No. #3: Vendor change From: Entech Sales & Services Inc. To: Entech Sales & Services LLC.	\$0.00	\$120,854.00
Amendment No. #4: Administrative Increase 02/15/2019	\$30,213.50	\$151,067.50

3.0 MBE/WBE goals were not established for this contract.

4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

Revised 8/4/2014

5.0 ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

BY THE SIGNATURE(S) affixed below, this Amendment is hereby incorporated and made a part of the above referenced contract.

Signature & Date:

Mark Bravies 2/21/19

Printed Name: Mark Bravies
Authorized Representative

Entech Sales & Services Inc.
2136 Rutland Drive, Ste, E
Austin, Texas 78758

Signature & Date:

B. Stewart

Bridney Stewart, Procurement Specialist II
City of Austin Purchasing Office



Amendment No. 3
to
Contract No. NS120000029
for
CONTINUUM ACCESS CONTROL SYSTEM MAINTENANCE AND REPAIR
Between
ENTECH SALES & SERVICE INC
and the
City of Austin

1.0 The Contract is hereby amended as follows: Change the vendor information as requested and documented by the vendor.

	From	To
Vendor Name	ENTECH SALES & SERVICE INC	ENTECH SALES & SERVICE LLC
Vendor Code	ENT7054645	ENT7054645
FEIN	[REDACTED]	[REDACTED]

2.0 All other terms and conditions of the Contract remain unchanged and in full force and effect.

BY THE SIGNATURE affixed below, this Amendment No. 3 is hereby incorporated into and made a part of the Contract.

A handwritten signature in cursive script, reading "Linell Goodin-Brown".

Linell Goodin-Brown
Contract Management Supervisor II
City of Austin, Purchasing Office

Date

7-10-18



Amendment No. 2
to
Contract No. NS120000029
for
Continuum Access Control System Maintenance
between
Entech Sales & Service, Inc.
and the
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be April 16, 2018 through April 15, 2019. Three options will remain.
- 2.0 The total contract amount is increased by \$16,957.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 04/16/2012 – 04/15/2017	\$87,748.00	\$87,748.00
Amendment No. 1: Option 1 – Extension 04/16/2017 – 04/15/2018	\$16,149.00	\$103,897.00
Amendment No. 2: Option 2 – Extension 04/16/2018 – 04/15/2019	\$16,957.00	\$120,854.00

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment, the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract

Sign/Date: Mark Braciel 3/23/2018

Printed Name: Mark Braciel
Authorized Representative

Entech Sales & Service, Inc.
2136 Rutland Drive, Suite E
Austin, Texas 78758
(512) 719-5191
jackie.crawley@entechsales.com

Sign/Date: Cindy Reyes

Cindy Reyes
Contract Management Specialist III
City of Austin
Purchasing Office
124 W. 8th Street, Ste. 310
Austin, Texas 78701



Amendment No. 1
to
Contract No. NS120000029
for
Continuum Access Control System Maintenance
between
Entech Sales & Service, Inc.
and the
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be April 16, 2017 through April 15, 2018. Four options will remain.
- 2.0 The total contract amount is increased by \$16,149.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 04/16/2012 – 04/15/2017	\$87,748.00	\$87,748.00
Amendment No. 1: Option 1 – Extension 04/16/2017 – 04/15/2018	\$16,149.00	\$103,897.00

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date: 7 Feb 63 Sept 1/27/12

Printed Name: Mark Bravick
Authorized Representative

Entech Sales & Service, Inc.
2136 Rutland Drive, Suite E
Austin, Texas 78758
(512) 719-5191
jackie.crawley@entechsales.com

Sign/Date: MAA 3.29.2017

Linell Goodin-Brown MIKE ZAMBRANO
Contract Compliance Supervisor Contract Mgmt Spec. III

City of Austin
Purchasing Office
124 W. 8th Street, Ste. 310
Austin, Texas 78701



Financial and Administrative Service Department
Purchasing Office
PO Box 1088, Austin, Texas, 78767

March 16, 2012

Entech Sales & Service Inc.
Eric Robb
2136 Rutland Dr. Ste E
Austin, TX 78758

Dear Mr. Robb:

The City of Austin has approved the award and execution of a contract for Continuum Access Control System Maintenance and Repair for APD.

Responsible Department:	Austin Police Department
Department Contact Person:	Irene Sanchez
Department Contact Email:	irene.sanchez@austintexas.gov
Department Contact Telephone:	(512) 974-5273
Project Name:	Continuum Access Control System Maintenance and Repair
Contractor Name:	Entech Sales & Service Inc.
Contract Number:	NS120000029
Contract Period:	04/16/12 – 04/15/17
Contract Period Amount	\$87,748.00
Extension Options:	(5) 12-month Options
Requisition Number:	8700
Agenda Item Number:	11
Council Approval Date:	04/12/12

Thank you for your interest in doing business with the City of Austin. If you have any questions regarding this contract, please contact the person referenced under Department Contact Person above.

Sincerely,

Colleen Athey,
Purchasing Office

**CONTRACT BETWEEN THE CITY OF AUSTIN
AND
Entech Sales & Service, Inc.
for
Continuum Access Control System Annual Repair**

This Contract is made by and between the City of Austin ("City"), a home-rule municipality incorporated by the State of Texas, and Entech Sales & Service, Inc. ("Contractor"), having offices at ~~10139 Metropolitan Dr., Austin, TX 78758.~~ 7700 2136 Rutland Dr Suite E

SECTION 1. GRANT OF AUTHORITY, SERVICES AND DUTIES

1.1 **Engagement of the Contractor.** Subject to the general supervision and control of the City and subject to the provisions of the Terms and Conditions contained herein, the Contractor is engaged to provide the services set forth in Section 2, Scope of Work.

1.2 **Responsibilities of the Contractor.** The Contractor shall provide all technical and professional expertise, knowledge, management, and other resources required for accomplishing all aspects of the tasks and associated activities identified in the Scope of Work. In the event that the need arises for the Contractor to perform services beyond those stated in the Scope of Work, the Contractor and the City shall negotiate mutually agreeable terms and compensation for completing the additional services.

1.3 **Responsibilities of the City.** The City's Contract Manager will be responsible for exercising general oversight of the Contractor's activities in completing the Scope of Work. Specifically, the City's Contract Manager will represent the City's interests in resolving day-to-day issues that may arise during the term of this Contract, shall participate regularly in conference calls or meetings for status reporting, shall promptly review any written reports submitted by the Contractor, and shall approve all invoices for payment, as appropriate. The City's Contract Manager shall give the Contractor timely feedback on the acceptability of progress and task reports.

1.4 **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Eric Robb; Phone: 512-719-5191; Email: eric.robbs@entechsales.com. The City's Contract Manager for the engagement shall be Irene Sanchez; Phone: 512-974-5078; Email: irene.sanchez@austintexas.gov. The City and the Contractor resolve to keep the same key personnel assigned to this engagement throughout its term. In the event that it becomes necessary for the Contractor to replace any key personnel, the replacement will be an individual having equivalent experience and competence in executing projects such as the one described herein. Additionally, the Contractor will promptly notify the City Contract Manager and obtain approval for the replacement. Such approval shall not be unreasonably withheld.

SECTION 2. SCOPE OF WORK

2.1 **Contractor's Obligations.** The Contractor shall fully and timely provide all deliverables described herein and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.

2.2 **Tasks.** Contractor shall provide maintenance and repair services for the Schneider Electric Tour Andover Control (TAC) continuum access control security system installed at all Austin Police Department (APD) facilities. Specifics of the services are set forth on Exhibit A attached hereto.

SECTION 3. COMPENSATION

3.1 **Contract Amount.** The Contractor will be paid for time and material per repair in accordance with Exhibit A for a total not-to-exceed amount of \$87,748 for the initial term of the Contract with five (5) twelve (12) month extension options in estimated amounts not to exceed \$16,149 for the first extension option, \$16,957 for the second extension option, \$17,805 for the third extension option, \$18,695 for the fourth extension option, and \$19,630 for the fifth extension option, for a total estimated Contract amount not to exceed \$176,984.

3.2 **Invoices.**

3.2.1 The Contractor shall submit separate invoices in duplicate on each purchase order or delivery order after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.

3.2.2 **Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department.** Invoices shall be itemized. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice. Invoices received without all required information cannot be processed and will be returned to the Contractor. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. Invoices shall be mailed to the below address:

	City of Austin
Department	Austin Police Department
Attn:	Irene Sanchez
Address:	P.O. Box 1088
City, State, Zip Code	Austin, TX 78767

3.2.3 Invoices for labor shall include a copy of all time-sheets with trade labor rate and deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.

3.2.4 Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.

3.2.5 Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

3.3 **Payment.**

3.3.1 All proper invoices received by the City will be paid within thirty (30) calendar days of the City's receipt of the invoice. Contractor shall submit monthly invoices indicating the amount of hours for labor plus the hourly rate as shown on Exhibit A. In addition to the labor costs, Contractor shall submit invoices for the parts used to make the repairs.

3.3.2 **If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.**

3.3.3 The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of;

3.3.3.1 delivery of defective or non-conforming deliverables by the Contractor;

3.3.3.2 third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;

3.3.3.3 failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;

3.3.3.4 damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;

3.3.3.5 reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

3.3.3.6 failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or

3.3.3.7 failure of the Contractor to comply with any material provision of the Contract Documents.

3.3.4 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

3.3.5 Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic transfer of funds.

3.4 **Non-Appropriation.** The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this Contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

3.5 **Travel Expenses.** All travel, lodging, and per diem expenses in connection with the Contract for which reimbursement may be claimed by the Contractor under the terms of the Contract will be reviewed against the City's Travel Policy and the current United States General Services Administration Domestic Per Diem Rates (the "Rates") as published and maintained on the Internet at:

<http://www.gsa.gov/portal/category/21287>

No amounts in excess of the Travel Policy or Rates shall be paid. All invoices must be accompanied by copies of itemized receipts (e.g. hotel bills, airline tickets). No reimbursement will be made for expenses not actually incurred. Airline fares in excess of coach or economy will not be reimbursed. Mileage charges may not exceed the amount permitted as a deduction in any year under the Internal Revenue Code or Regulation.

3.6 **Final Payment and Close-Out**

3.6.1 If an MBE/WBE Program Compliance Plan is required, and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the project manager or City Contract Manager no later than the 15th calendar day after completion of all work under the Contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements of the Compliance Plan as accepted by the City.

3.6.2 The making and acceptance of final payment will constitute:

3.6.2.1 a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and

3.6.2.2 a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

SECTION 4. TERM AND TERMINATION

4.1 **Term of Contract.** The Contract shall be in effect for an initial term of sixty (60) months and may be extended thereafter for up to five (5) additional twelve (12) month periods, subject to the approval of the Contractor and the City Purchasing Officer or his designee.

4.1.1 Upon expiration of the initial term or period of extension, the Contractor agrees to hold over under the terms and conditions of this Contract for such a period of time as is reasonably necessary to re-solicit and/or complete the project (not to exceed 120 calendar days unless mutually agreed on in writing).

4.2 **Right To Assurance.** Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

4.3 **Default.** The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under the "Right to Assurance paragraph herein, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by Contractor to the City.

4.4 **Termination For Cause.** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. The City may place Contractor on probation for a specified period of time within which the Contractor must correct any non-compliance issues. Probation shall not normally be for a period of more than nine (9) months, however, it may be for a longer period, not to exceed one (1) year depending on the circumstances. If the City determines the Contractor has failed to perform satisfactorily during the probation period, the City may proceed with suspension. In the event of a default by the Contractor, the City may suspend or debar the Contractor in accordance with the "City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors" and remove the Contractor from the City's vendor list for up to five (5) years and any Offer submitted by the Contractor may be disqualified for up to five (5) years. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.

4.5 **Termination Without Cause.** The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.

4.6 **Fraud.** Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

SECTION 5. OTHER DELIVERABLES

5.1 **Insurance.** The following insurance requirements apply.

5.1.1 General Requirements

5.1.1.1 The Contractor shall at a minimum carry insurance in the types and amounts indicated herein for the duration of the Contract and during any warranty period.

5.1.1.2 The Contractor shall provide a Certificate of Insurance as verification of coverages required below to the City at the below address prior to Contract execution and within fourteen (14) calendar days after written request from the City.

5.1.1.3 The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or holdover period is exercised, as verification of continuing coverage.

5.1.1.4 The Contractor shall not commence work until the required insurance is obtained and has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.

5.1.1.5 The Contractor must submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.

5.1.1.6 The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better. The City will accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.

5.1.1.7 All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall be mailed to the following address:

City of Austin
Purchasing Office
P. O. Box 1088
Austin, Texas 78767

5.1.1.8 The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.

5.1.1.9 If insurance policies are not written for amounts specified in Paragraph 5.1.2, Specific Coverage Requirements herein, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

5.1.1.10 The City shall be entitled, upon request, at an agreed upon location, and without expense to the Contractor, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

5.1.1.11 The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.

5.1.1.12 The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.

5.1.1.13 The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.

5.1.1.14 The Contractor shall endeavor to provide the City thirty (30) calendar days written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.

5.1.2 **Specific Coverage Requirements**. The Contractor shall at a minimum carry insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These insurance coverages are required minimums and are not intended to limit the responsibility or liability of the Contractor.

5.1.2.1 **Commercial General Liability Insurance**. The minimum bodily injury and property damage per occurrence are \$500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injuries). The policy shall contain the following provisions and endorsements.

5.1.2.1.1 Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.

5.1.2.1.2 Contractors/Subcontracted Work

5.1.2.1.3 Products/Completed Operations Liability for the duration of the warranty period.

5.1.2.1.4 Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage

5.1.2.1.5 Thirty (30) calendar days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage.

5.1.2.1.6 The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage.

5.1.2.2 **Business Automobile Liability Insurance**. The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident. The policy shall contain the following endorsements:

5.1.2.2.1 Waiver of Subrogation, Endorsement TE 2046A, or equivalent coverage.

5.1.2.2.2 Thirty (30) calendar days Notice of Cancellation, Endorsement TE 0202A, or equivalent coverage.

5.1.2.2.3 The City of Austin listed as an additional insured, Endorsement TE 9901B, or equivalent coverage.

5.1.2.3 **Worker's Compensation and Employers' Liability Insurance**. Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee. The policy shall contain the following provisions and endorsements:

5.1.2.3.1 The Contractor's policy shall apply to the State of Texas.

5.1.2.3.2 Waiver of Subrogation, Form WC 420304, or equivalent coverage.

5.1.2.3.3 Thirty (30) calendar days Notice of Cancellation, Form WC 420601, or equivalent coverage.

5.1.2.4 **Endorsements**. The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.

5.2 **Equal Opportunity.**

5.2.1 **Equal Employment Opportunity:** No Contractor or Contractor's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid or Offer submitted to the City shall be considered, nor any Purchase Order issued, or any contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit B. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the Contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

5.2.2 **Americans With Disabilities Act (ADA) Compliance:** Contractor, nor Contractor's agent shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

5.3 **Acceptance of Incomplete or Non-Conforming Deliverables.** If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

5.4 **Delays.**

5.4.1 The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified herein. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

5.4.2 Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such party. In the event of default or delay in Contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

5.5 **Rights to Proposal and Contractual Material.** All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.

5.6 **Publications.** All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

SECTION 6. WARRANTIES

6.1 Warranty – Price.

6.1.1 The Contractor warrants the prices quoted on Exhibit A are no higher than the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

6.1.2 The Contractor certifies that the prices listed on Exhibit A have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.

6.1.3 In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

6.2 **Warranty – Services.** The Contractor warrants and represents that all services to be provided the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.

6.2.1 The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.

6.2.2 Unless otherwise specified in the Contract, the warranty period shall be at least one year from the acceptance date. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.

6.2.3 If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

SECTION 7. MISCELLANEOUS

7.1 **Place and Condition of Work.** The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the Contract. The Contractor hereby releases and holds the City harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

7.2 Workforce

7.2.1 The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.

7.2.2 The Contractor, its employees, subcontractors, and subcontractor's employees may not while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Austin contract or on the City's property:

7.2.2.1 use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the contract; or

7.2.2.1.1 use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.

7.2.3 If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

7.3 Workforce Security Clearance and Identification (ID)

- A. Contractor is required to obtain a certified criminal background report with fingerprinting (referred to as the "report") for all persons performing on the Contract, including all Contractor, Subcontractor, and supplier personnel (for convenience referred to as "Contractor's personnel").
- B. The report may be obtained by reporting to one of the below governmental entities, submitting to fingerprinting and requesting the report [requestors may anticipate a two-week delay for State reports and up to a four to six week delay for receipt of a Federal report].
 - i. Texas Department of Public Safety for any person currently residing in the State of Texas and having a valid Texas driver's license or photo ID card;
 - ii. The appropriate governmental agency from either the U.S. state or foreign nation in which the person resides and holds either a valid U.S. state-issued or foreign national driver's license or photo ID card; or
 - iii. A Federal Agency. A current Federal security clearance obtained from and certified by a Federal agency may be substituted.
- C. Contractor shall obtain the reports at least thirty (30) days prior to any onsite work commencement. Contractor also shall attach to each report the project name, Contractor's personnel name(s), current address(es), and a copy of the U.S. state-issued or foreign national driver's license or photo ID card.
- D. Contractor shall provide the City a Certified Criminal Background Report affirming that Contractor has conducted required security screening of Contractor's personnel to determine those appropriate for execution of the work and for presence on the City's property. A list of all Contractor Personnel requiring access to the City's site shall be attached to the affidavit.
- E. Upon receipt by the City of Contractor's affidavit described in (D) above and the list of the Contractor's personnel, the City will provide each of Contractor's personnel a contractor ID badge that is required for access to City property that shall be worn at all times by Contractor's personnel during the execution of the work.

- F. The City reserves the right to deny an ID badge to any Contractor personnel for reasonable cause, including failure of a Criminal History background check. The City will notify the Contractor of any such denial no more than twenty (20) days after receipt of the Contractor's reports. Where denial of access by a particular person may cause the Contractor to be unable to perform any portion of the work of the contract, the Contractor shall so notify the City's Contract Manager, in writing, within ten (10) calendar days of the receipt of notification of denial.
- G. Contractor's personnel will be required to wear the ID badge at all times while on the work site. Failure to wear or produce the ID badge may be cause for removal of an individual from the work site, without regard to Contractor's schedule. Lost ID badges shall be reported to the City's Contract Manager. Contractor shall reimburse the City for all costs incurred in providing additional ID badges to Contractor Personnel.
- H. ID badges to enter and/or work on the City property may be revoked by the City at any time. ID badges must be returned to the City at the time of project completion and acceptance or upon removal of an individual from the work site.
- I. Contractor is not required to obtain reports for delivery personnel, including but not limited to FedEx, UPS, Roadway, or other materials delivery persons, however all delivery personnel must present company/employer-issued photo ID and be accompanied by at least one of Contractor's personnel at all times while at the work site.
- J. The Contractor shall retain the reports and make them available for audit by the City during regular business hours.

7.4 Compliance with Health, Safety, and Environmental Regulations. The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

7.5 Significant Event. The Contractor shall immediately notify the City Contract Manager of any current or prospective "significant event" on an ongoing basis. All notifications shall be submitted in writing to the City Contract Manager. As used in this provision, a "significant event" is any occurrence or anticipated occurrence which might reasonably be expected to have a material effect upon the Contractor's ability to meet its contractual obligations. Significant events may include but not be limited to the following:

7.5.1 disposal of major assets;

7.5.2 any major computer software conversion, enhancement or modification to the operating systems, security systems, and application software, used in the performance of this Contract;

7.5.3 any significant termination or addition of provider contracts;

7.5.4 the Contractor's insolvency or the imposition of, or notice of the intent to impose, a receivership, conservatorship or special regulatory monitoring, or any bankruptcy proceedings, voluntary or involuntary, or reorganization proceedings;

7.5.5 strikes, slow-downs or substantial impairment of the Contractor's facilities or of other facilities used by the Contractor in the performance of this Contract;

7.5.6 reorganization, reduction and/or relocation in key personnel;

7.5.7 known or anticipated sale, merger, or acquisition;

7.5.8 known, planned or anticipated stock sales;

7.5.9 any litigation against the Contractor; or

7.5.10 significant change in market share or product focus.

7.6 Right To Audit.

7.6.1 The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.

7.6.2 The Contractor shall include this provision in all subcontractor agreements entered into in connection with this Contract.

7.7 Stop Work Notice. The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon written notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.

7.8 Indemnity.

7.8.1 Definitions:

7.8.1.1 "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for:

7.8.1.1.1 damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or

7.8.1.1.2 death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties).

7.8.1.2 "Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct, or a breach of any legally imposed strict liability standard.

7.8.2 THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.

7.9 Claims. If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse affect on the Contractor's ability to perform hereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2nd Street, 4th Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

7.10 Notices: Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:
City of Austin, Purchasing Office
ATTN: Contract Administrator
P O Box 1088
Austin, TX 78767

To the Contractor:
Entech Sales & Service, Inc.
ATTN: Eric Robb
~~40139 Metropolitan Drive~~ 2136 Rutland Drive
Austin, TX 78758 Suite E

7.11 Confidentiality. In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Contract, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

7.12 Advertising. The Contractor shall not advertise or publish, without the City's prior written consent, the fact that the City has entered into the Contract, except to the extent required by law.

7.13 No Contingent Fees. The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

7.14 Gratuities. The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City of Austin with a view toward securing the Contract or securing

favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

7.15 Prohibition Against Personal Interest in Contracts. No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.

7.16 Independent Contractor. The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.

7.17 Assignment-Delegation. The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Contract.

7.18 Waiver. No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

7.19 Modifications. The Contract can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any of the Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.

7.20 Interpretation. The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

7.21 Dispute Resolution.

7.21.1 If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written

agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

7.21.2 If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

7.22 Minority And Women Owned Business Enterprise (MBE/WBE) Procurement Program.

7.22.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C and 2-9D of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

7.22.2 The City of Austin has determined that no goals are appropriate for this Contract. **Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBE/WBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified.**

7.22.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) at (512) 974-7600 to obtain a list of MBE and WBE firms available to perform the service or provide the supplies or materials. The Contractor must also make a Good Faith Effort to use available MBE and WBE firms. Good Faith Efforts include but are not limited to contacting the listed MBE and WBE firms to solicit their interest in performing on the Contract; using MBE and WBE firms that have shown an interest, meet qualifications, and are competitive in the market; and documenting the results of the contacts.

7.23 Subcontractors.

7.23.1 If the Contractor identified Subcontractors in an MBE/WBE Program Compliance Plan or a No Goals Utilization Plan, the Contractor shall comply with the provisions of Chapters 2-9A, 2-9B, 2-9C, and 2-9D, as applicable, of the Austin City Code and the terms of the Compliance Plan or Utilization Plan as approved by the City (the "Plan"). The Contractor shall not initially employ any Subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing in accordance with the provisions of Chapters 2-9A, 2-9B, 2-9C and 2-9D, as applicable. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the City Contract Manager and the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.

7.23.2 Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract, and shall contain provisions that:

7.23.2.1 require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;

7.23.2.2 prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

7.23.2.3 require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;

7.23.2.4 require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and

7.23.2.5 require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.

7.23.3 The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.

7.23.4 The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) days after receipt of payment from the City.

7.24 Living Wages and Benefits.

7.24.1 In order to help assure low employee turnover, quality services, and to reduce costs for health care provided to uninsured citizens, the Austin City Council is committed to ensuring fair compensation for City employees and those persons employed elsewhere in Austin. This commitment has been supported by actions to establish a "living wage" and affordable health care protection. Currently, the minimum wage for City employees is \$11.00 per hour. This minimum wage is required for any Contractor employee directly assigned to this City Contract, unless Published Wage Rates are included in the solicitation. In addition, the City may stipulate higher wage rates in certain contracts in order to assure quality and continuity of service.

7.24.2 Additionally, the City provides health insurance for its employees, and for a nominal rate, employees may obtain coverage for their family members. Contractors must offer health insurance with optional family coverage for all Contractor employees directly assigned to this Contract. Proof of the health care plan shall be provided prior to award of a contract. In addition, an insurance certificate for Workers' Compensation Insurance Coverage must be provided if required by the solicitation.

7.24.3 The City requires Contractors to provide a signed certification within five (5) calendar days of contract execution certifying that all employees directly assigned to this City Contract will be paid a minimum living wage equal to or greater than \$11.00 per hour and are offered a health care plan (see Exhibit C, Living Wages and Benefits Contractor Certification). The certification shall include a list of all employees directly assigned to providing services under the resultant contract including their name and job title. The list shall be updated and provided to the City as necessary throughout the term of the Contract.

7.24.4 The Contractor shall maintain throughout the term of the Contract basic employment and wage information for each employee as required by the Fair Labor Standards Act (FLSA). Basic employment records shall at a minimum include:

7.24.4.1 employee's full name, as used for social security purposes, and on the same record, the employee's identifying symbol or number if such is used in place of name on any time, work, or payroll records;

7.24.4.2 time and date of week when employee's workweek begins;

7.24.4.3 hours worked each day and total hours worked each workweek;

7.24.4.4 basis on which employee's wages are paid;

7.24.4.5 regular hourly pay rate;

7.24.4.6 total daily or weekly straight-time earnings;

7.24.4.7 total overtime earnings for the workweek;

7.24.4.8 all additions to or deductions from the employee's wages;

7.24.4.9 total wages paid each pay period; and

7.24.4.10 date of payment and the pay period covered by the payment.

7.24.5 The Contractor shall provide with the first invoice and as requested by the City's Contract Manager, individual Employee Certifications for all employees directly assigned to the Contract containing (see Exhibit D, Living Wages and Benefits Employee Certification):

7.24.5.1 the employee's name and job title;

7.24.5.2 a statement certifying that the employee is paid at a rate equal to or greater than the Living Wage of \$11.00 per hour;

7.24.5.3 a statement certifying that the employee is offered a health care plan with optional family coverage.

7.24.6 The employee certifications shall be signed by each employee directly assigned to the Contract.

7.24.7 Contractor shall submit employee certifications quarterly with the respective invoice to verify that employees are paid the Living Wage throughout the term of the Contract.

7.24.8 The City's Contract Manager will periodically review the employee data submitted by the Contractor to verify compliance with this Living Wage provision. The City retains the right to review employee records identified above in this paragraph to verify compliance with this provision.

7.25 **Jurisdiction And Venue.** The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

7.26 **Invalidity.** The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to

replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.

7.27 Survivability of Obligations. All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.

7.28 Non-Suspension or Debarment Certification. The City is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin contracts. By accepting a contract with the City, the Contractor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

7.29 Incorporation of Documents. **Section 0100, Standard Purchase Definitions**, is hereby incorporated into this Contract by reference, with the same force and effect as if they were incorporated in full text. The full text versions of this Section are available, on the Internet at the following online address: <http://www.austintexas.gov/sites/default/files/files/Finance/Purchasing/standard-purchase-definitions.pdf>.

In witness whereof, the parties have caused duly authorized representatives to execute this Contract on the dates set forth below.

ENTECH SALES & SERVICE, INC.

By: *[Signature]*
Signature

Name: *Mark Brattel*
Printed Name

Title: *Division Manager*

Date: *3/17/2012*

CITY OF AUSTIN

By: *[Signature]*
Signature

Name: *Colleen Athey*
Printed Name

Title: *Senior Buyer*

Date: *4/16/12*

List of Exhibits

Exhibit A	Scope of Work
Exhibit B	Non Discrimination Certification
Exhibit C	Living Wages and Benefits Contractor Certification
Exhibit D	Living Wages and Benefits Employee Certification

Exhibit A Statement of Work

A. Scope. Contractor will provide repairs for the Tour Andover Control (TAC) Continuum Access Control System as detailed below.

B. Location. Austin Police Department Facilities:

Headquarters, 715 E. 8th St., Austin TX 78701

Forensic Center, 812 Springdale Rd., Austin, TX 78702

North Substation, 12425 Lamplight Village Ave., Austin, TX 78758

South Substation, 404 Ralph Ablanedo Drive, Austin, TX 78748

APD Admin Bld., 4800 Shaw Lane, Austin, TX

Additional locations may be added as needed, with same or similar access control system.

C. Contractor Requirements. Contractor must provide on-site repair services at the locations listed above.

1. Contractor is required to provide repair of all components of the TAC system. Some repairs made in the past include but are not limited to the following: Fuse replacement, Power Supply replacement, BCX, CX Replacement, Cylenoid Replacement, Trouble Shooting Wire Shortage, AC-1 Replacement.
2. Required repairs must have written authorization prior to repair being performed. The repair must be performed at the location affected and specified in the authorization.
3. Contractor shall provide the repairs on an hourly basis (multiplied by the hourly rate) plus the cost of the part(s).
4. Contractor shall provide sixteen (16) hours of training per year at no additional cost to the City. Annual training will be broken up into four (4) sessions of four (4) hours and can be used at the discretion of APD. Training topics will include but not be limited to system update tools, data mining, report generation, basic operation and usage skills, and system schedules. Additional training may be added as needed.

D. Response Times.

1. **Normal Business Hours.** Contractor must respond to service calls during normal business hours Monday through Friday 8 a.m. – 5 p.m., within two (2) hours of receiving a phone call or email from APD. Contractor must be equipped and ready to perform maintenance/repair upon arrival at the designated location. In the event Contractor cannot meet the specified response time, Contractor shall notify APD Building Services, Miguel Galindo or his designee within one (1) hour of the request for service. Miguel Galindo or his designee and Contractor will coordinate and reschedule a time convenient and feasible to meet APD's needs.
2. **After Hours.** Contractor shall respond to after hour's service repair calls within three (3) hours from receiving a phone call or email from APD. Contractor must be equipped and ready to perform maintenance/repair upon arrival at the designated location. In the event Contractor cannot meet the specified response time, Contractor shall notify APD Building Services, Miguel Galindo, Frank Linden or their designee within one (1) hour of request for service. Miguel Galindo or his designee and Contractor will coordinate and reschedule a time convenient and feasible to meet the unit's needs.
3. **Weekend and Holidays.** Contractor shall respond to Weekends and City Observed holidays repair calls within four (4) hours from receiving a phone call or email from APD. Contractor must be equipped and ready to perform maintenance/repair upon arrival at the designated location. In the event Contractor cannot meet the specified response time, Contractor shall notify APD Building Services,

Miguel Galindo, Frank Linden or their designee within one (1) hour of request for service. Miguel Galindo or his designee and Contractor will coordinate and reschedule a time convenient and feasible to meet the unit's needs.

4. Contractor's failure to meet the required response time twice within a thirty (30) day period may result in termination of the Contract.
5. There will be a two (2) hour minimum charge per trip.

E. Hourly Rate Provisions

Charges for the repair service covered by the Contract shall include the labor charge for the time during which the maintenance personnel are actually engaged in work and the charge for the required parts. **TRAVEL TIME TO AND FROM THE WORK SITE IS NOT BILLABLE.** When the sum of the charges is less than the minimum charge per call, the stated minimum charge shall apply. Following are the hourly rates which shall remain firm during the initial term of the Contract.

<u>Day of Week/Time</u>	<u>Rate per Hour</u>	<u>Minimum Hours</u>
Monday – Friday (8am – 5pm)	70.00	2
Monday – Friday (5pm – 10pm)	105.00	2
Monday – Friday (10pm – 6am)	105.00	2
Monday – Friday (6am – 8am)	105.00	2
Saturday – Sunday (6am – 10pm)	105.00	2
Saturday – Sunday after 10pm/Holidays	140.00	4

Subject Matter Expert standard rates are billed at \$80.00 per hour.

F. Personnel Qualifications

1. Contractor personnel shall have at least three (3) years experience in the repair of the TAC system. Personnel shall be certified in accordance with Continuum Certificate of Excellence Program and hold current and up to date State of Texas Security licensing.
2. Contractor shall have at least one Subject Matter Expert (SME) on staff within the Austin operating office at all times. The SME shall have the following experience: Risk Mitigation, Physical Security Design, Systems Integration, Information Technology, Physical Security Systems Installation and Operations Experience specific to the TAC software and hardware.
3. Contractor shall submit resumes for all service/repair technicians, including any replacement technicians, at least thirty (30) days in advance for the City's approval.
4. All personnel performing work on APD premises must undergo a Criminal Background Check, as outlined in Section 7.3 of the Contract, prior to performing work on this Contract.

G. Parts Requirements

1. All parts shall be new, unused and meet all industry standards. Parts that may be replaced and included in this Contract are card readers, AC1, CX Master Control Panel, Electric Strike, Magnetic Lock, and Solenoid Actuated Panic Bars. Other common replacement parts shall be discounted at a 25% discount of MSRP.
2. It is estimated that the annual spend on replacement parts will be approximately \$10,500.

H. Service Procedures

1. Upon completion of a repair or service call, the City will acknowledge that the repair has been performed and the equipment is serviceable by signing an acknowledgement to that effect. If the designated City representative is not present at the time of the service, the field report will be left on-site at a location predetermined by the City and Contractor.
2. Cutting and patching of building surfaces when required to make repairs on concealed or inaccessible equipment, piping and wiring is NOT covered under this Contract.
3. Defective parts replaced in the equipment covered by this Contract will become Contractor's property. Any material or equipment containing information deemed confidential or sensitive material such as hard disk space shall be erased or cleaned by the City before the equipment is removed from the City premises.

Exhibit B
City of Austin, Texas
EQUAL EMPLOYMENT/FAIR HOUSING OFFICE
NON-DISCRIMINATION CERTIFICATION

City of Austin, Texas
Human Rights Commission

To: City of Austin, Texas, ("OWNER")

I hereby certify that our firm conforms to the Code of the City of Austin, Section 5-4-2 as reiterated below:

Chapter 5-4. Discrimination in Employment by City Contractors.

Sec. 4-2 Discriminatory Employment Practices Prohibited. As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations and agrees:

- (B) (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter. Such affirmative action shall include, but not be limited to: all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising; selection for training and apprenticeship, rates of pay or other form of compensation, and layoff or termination.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by OWNER setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, veteran status, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with OWNER's Human Rights Commission in connection with any investigation or conciliation effort of said Human Rights Commission to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require compliance with provisions of this chapter by all subcontractors having fifteen or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with OWNER subject to the terms of this chapter.

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Nondiscrimination Policy set forth below.

City of Austin
Minimum Standard Non-Discrimination in Employment Policy:

As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.

The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.

Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.

Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE A COPY TO THE CITY OF THE CONTRACTOR'S NON-DISCRIMINATION POLICY ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION POLICY, AS SET FORTH HEREIN, **OR** THIS NON-DISCRIMINATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES (THE FORM OF WHICH HAS BEEN APPROVED BY THE CITY'S EQUAL EMPLOYMENT/FAIR HOUSING OFFICE), WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

Sanctions:

Our firm understands that non-compliance with Chapter 5-4 may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4.

Term:

The Contractor agrees that this Section 0800 Non-Discrimination Certificate or the Contractor's separate conforming policy, which the Contractor has executed and filed with the Owner, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payments, the Contractor's Non-Discrimination Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this 13th day of March, 2012

CONTRACTOR

Authorized
Signature

Title

Entech Sales & Service

[Signature]

Division Manager

EXHIBIT C
CITY OF AUSTIN, TEXAS
Living Wages and Benefits Contractor Certification
(Please duplicate as needed)

Pursuant to the Living Wages and Benefits the Contractor is required to pay to all employees directly assigned to providing Services pursuant to this Contract a minimum Living Wage equal to or greater than \$11.00 per hour.

I hereby certify under penalty of perjury that all of the below listed employees of the Contractor who are directly assigned to this Contract:

are compensated at wage rates equal to or greater than \$11.00 per hour; and
are offered a health care plan with optional family coverage.

Employee Name	Employee Job Title
Jeff Hirst	Service Manager
Robert Jackson	Service Tech
Lyle Munnis	Service Tech
Enrique Gutierrez	Service Tech
Tyrone Eliza	Service Tech
James Johnson	Service Tech

all future employees assigned to this Contract will be paid a minimum Living Wage equal to or greater than \$11.00 per hour and offered a health care plan with optional family coverage.

Our firm will not retaliate against any employee claiming non-compliance with the Living Wage provision.

If Contractor violates this Living Wage provision Contractor shall pay each employee affected the amount of the deficiency for each day the violation continues. Willful or repeated violations of the provision may result in termination of this Contract for Cause and subject the Contractor to possible suspension or debarment.

Company Name <u>Entech Sales & Service</u>		
Signature of Officer or Authorized Representative	Title	Date
<u>[Signature]</u>	<u>Division Manager</u>	<u>3/19/2012</u>
Type or Print Name <u>Mark Bratton</u>		

EXHIBIT D
CITY OF AUSTIN, TEXAS
Living Wages and Benefits Employee Certification

Contract Number:	Description of Services:
Contractor Name: <i>Entech Sales and Service</i>	

Pursuant to the Living Wages and Benefits provision of the Contract, the Contractor is required to pay to all employees directly assigned to providing Services pursuant to this Contract a minimum Living Wage equal to or greater than \$11.00 per hour. In addition, employees are required to certify that they are compensated in accordance with the Living Wage provision. Contractors are prohibited from retaliating against any employee claiming non-compliance with the Living Wage provision.

I hereby certify under penalty of perjury that I am directly assigned to this Contract and that I am:

- (1) compensated at wage rates equal to or greater than \$11.00 per hour; and
- (2) offered a health care plan with optional family coverage.

Employee Name <i>Jeff Hirst</i>	Title <i>Service Manager</i>
Signature of Employee <i>[Signature]</i>	Date <i>3-10-12</i>
Type or Print Name <i>Jeff Hirst</i>	

[Signature]
(Witness Signature)

Mark Brazier
(Printed Name)

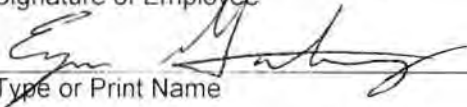
EXHIBIT D
CITY OF AUSTIN, TEXAS
Living Wages and Benefits Employee Certification


Contract Number:	Description of Services:
Contractor Name: <u>Entech Sales and Service</u>	

Pursuant to the Living Wages and Benefits provision of the Contract, the Contractor is required to pay to all employees directly assigned to providing Services pursuant to this Contract a minimum Living Wage equal to or greater than \$11.00 per hour. In addition, employees are required to certify that they are compensated in accordance with the Living Wage provision. Contractors are prohibited from retaliating against any employee claiming non-compliance with the Living Wage provision.

I hereby certify under penalty of perjury that I am directly assigned to this Contract and that I am:

- (1) compensated at wage rates equal to or greater than \$11.00 per hour; and
- (2) offered a health care plan with optional family coverage.

Employee Name	Title
<u>Enrique Gutierrez</u>	<u>Technician</u>
Signature of Employee	Date
	<u>3/20/2012</u>
Type or Print Name	
<u>Enrique Gutierrez</u>	


(Witness Signature)

Jeff Hirst
(Printed Name)

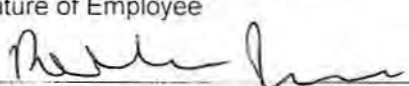
EXHIBIT D
CITY OF AUSTIN, TEXAS
Living Wages and Benefits Employee Certification


Contract Number:	Description of Services:
Contractor Name: <u>Entech</u>	

Pursuant to the Living Wages and Benefits provision of the Contract, the Contractor is required to pay to all employees directly assigned to providing Services pursuant to this Contract a minimum Living Wage equal to or greater than \$11.00 per hour. In addition, employees are required to certify that they are compensated in accordance with the Living Wage provision. Contractors are prohibited from retaliating against any employee claiming non-compliance with the Living Wage provision.

I hereby certify under penalty of perjury that I am directly assigned to this Contract and that I am:

- (1) compensated at wage rates equal to or greater than \$11.00 per hour; and
- (2) offered a health care plan with optional family coverage.

Employee Name <u>Robert Jackson</u>	Title <u>Technician</u>
Signature of Employee 	Date <u>21 MAR 2012</u>
Type or Print Name <u>Robert Jackson</u>	



(Witness Signature)

Jeff Host

(Printed Name)

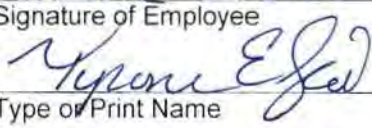
EXHIBIT D
CITY OF AUSTIN, TEXAS
Living Wages and Benefits Employee Certification

Contract Number:	Description of Services:
Contractor Name: <u>ENTECH</u>	

Pursuant to the Living Wages and Benefits provision of the Contract, the Contractor is required to pay to all employees directly assigned to providing Services pursuant to this Contract a minimum Living Wage equal to or greater than \$11.00 per hour. In addition, employees are required to certify that they are compensated in accordance with the Living Wage provision. Contractors are prohibited from retaliating against any employee claiming non-compliance with the Living Wage provision.

I hereby certify under penalty of perjury that I am directly assigned to this Contract and that I am:

- (1) compensated at wage rates equal to or greater than \$11.00 per hour; and
- (2) offered a health care plan with optional family coverage.

Employee Name <u>Tyrone Elzia</u>	Title <u>SERVICE TECH</u>
Signature of Employee 	Date <u>03-21-12</u>
Type or Print Name <u>Tyrone Elzia</u>	



(Witness Signature)

Jeff Hirst

(Printed Name)

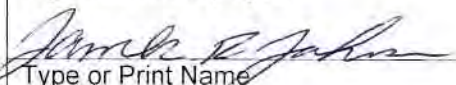
EXHIBIT D
CITY OF AUSTIN, TEXAS
Living Wages and Benefits Employee Certification

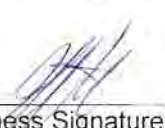
Contract Number:	Description of Services:
Contractor Name: <u>Entech</u>	

Pursuant to the Living Wages and Benefits provision of the Contract, the Contractor is required to pay to all employees directly assigned to providing Services pursuant to this Contract a minimum Living Wage equal to or greater than \$11.00 per hour. In addition, employees are required to certify that they are compensated in accordance with the Living Wage provision. Contractors are prohibited from retaliating against any employee claiming non-compliance with the Living Wage provision.

I hereby certify under penalty of perjury that I am directly assigned to this Contract and that I am:

- (1) compensated at wage rates equal to or greater than \$11.00 per hour; and
- (2) offered a health care plan with optional family coverage.

Employee Name	Title
<u>James Johnson</u>	<u>Service tech</u>
Signature of Employee	Date
	<u>3/21/12</u>
Type or Print Name	
<u>James Johnson</u>	


(Witness Signature)

Jeff Hirst
(Printed Name)

**PURCHASING OFFICE
CITY OF AUSTIN**

REQUEST FOR SOLE OR SINGLE SOURCE PROCUREMENT

DATE: 1/20/11

TO: Purchasing Officer or Designee

FROM: Irene Sanchez

NAME: Colleen Athey

PHONE: 512-974-5078

1. Request approval for Sole Source or Single Source Procurement of goods and/or services for the reasons as described in Section 3 herein.
2. Describe item/service to be purchased. Include cost, name, and telephone number of vendor and other descriptive information.

\$87,747.00, Entech Sales & Service (512) 719-5191, 10139 Metropolitan Dr., Austin, Tx. 78758; Service Repair and Parts of Tour Andover Controls (TAC) Continuum Access Control System..

3. Procurement is: (Check only one)

<input checked="" type="checkbox"/>	Sole Source (Complete appropriate section A – D)
<input type="checkbox"/>	Single Source (Complete Section E)

This procurement is necessary because:

Sole Source	A.	There is no competitive product. The good/service is a one-of-a-kind or patented product, a copyrighted publication available from only one source or a unique item such as an artwork. Detail Explanation:
	B.	The product is only available from a regulated or natural monopoly. For example, utilities, gravel from the only gravel pit in the area protected site, territorial/geographical area, or some similar situation. Detail Explanation:
	C.	The product is a component of an existing system that is only available from one supplier. The replacement of a component or a repair part may only be available from the original supplier. Detail Explanation: This sole source request is for an annual service, repair and parts contract of the Schneider Continuum Access Control System (Tour Andover Control (TAC) Continuum Access Control System). This security system is used at all APD facilities. This contract shall cover readers, proximity access cards, fuse replacement, power supply replacement, located on every door and gate of APD facilities. The security access control system is proprietary in terms of its system composition. Tour Andover Controls Security System was purchased and installed in September 2002 (PC870EX000393) and maintenance Contract NS070000027 (2007). Hardware and software are manufactured by Tour Andover Control and no other system manufactured can communicate with the Andover Controls Security system. Entech is the authorized representative for the sale, installation, warranty and service of the Schneider Continuum Access Control System.
	D.	<u>Attach a letter from vendor supporting the sole source. The letter must be on company letterhead and be signed by an authorized person in company management.</u>

Single Source	E	A Single Source is the one source among others in a competitive marketplace which for specific justifiable reasons has predominant qualifications for selection for contract award. Detail Explanation:

4.

I certify that a Single Source Procurement exists. Over \$5,000 forward to the Purchasing Office.

Art Acevedo
Chief of Police
Michael McDonald
Asst. City Manager
(Only if over \$50,000)

Austin Police
Department
City Managers Office
Department

Alvin [Signature]
Signature
[Signature]
Signature

1-27-12
Date
1/20/12
Date

Purchasing Office (Over \$5,000):	
<input checked="" type="checkbox"/> Concur	<input type="checkbox"/> Do Not Concur
<i>Colleen [Signature]</i> Purchasing Officer or Designee	2/14/12 Date



November 7, 2011

Austin Police Department

Subject: Schneider Electric Service Provider for Continuum Access Control and Building Automation

Schneider Electric utilizes authorized representatives (Partners) in a market based on a company's capabilities and financial strength. Entech Sales & Service – Austin Office is the factory authorized Partner for the sell, installation, warranty, and service of the Schneider Electric Continuum Access Control and Building Automation product lines for the previously installed Entech system at the Austin Police Department.

Entech Sales & Service provides all aspects of a successful building automation project: sales, engineering services, system installation, factory commissioning and warranty support. Entech Sales & Service supports the full range of Schneider Electric Continuum control products.

Only designated Authorized Partners of Schneider Electric are authorized to represent themselves as "factory representatives" and provide commissioning, warranty, and service support of its manufactured controls.

Please feel free to contact me at the number below should you have any further questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Brown".

Kevin Brown, CEM
Regional Sales Manager
972-323-3034