Amendment No 3.
to
Contract No. 5600 NS160000013
for
CADVoice System – Wireless
Software Maintenance and Support
between
Locutions systems, Inc.
and the
City of Austin

1.0 The City hereby exercises this extension option for the subject contract. This extension option will be effective April 16, 2018 through April 15, 2019. Two (2) options will remain.

2.0 The total contract amount is increased by $4,000.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 04/16/2015 – 04/15/2016	$4,000.00	$4,000.00
Amendment No. 1: Option 1 – Extension 04/16/2016 – 04/15/2017	$4,000.00	$8,000.00
Amendment No. 2: Option 2 – Extension 04/16/2017 – 04/15/2018	$4,000.00	$12,000.00
Amendment No.3: Option 3 – Extension 04/16/2018 – 04/15/2019	$4,000.00	$16,000.00

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: 4/2/18

Printed Name: Glenn Neal, President
Authorized Representative

Locution Systems, Inc.
1626 Cole Boulevard, Suite #325
Golden, Colorado 80401
(305) 301-7300
brigittea@locution.com

Sign/Date: 4/2/18

Printed Name: Bartley V Tyler
Authorized Representative

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

Amendment No. 2
to
Contract No. 5600 NS160000013
for
CADVoice System – Wireless
Software Maintenance and Support
between
Locutions Systems, Inc
and the
City of Austin

1.0 The City hereby exercises this extension option for the subject contract. This extension option will be effective April 16, 2017 through April 15, 2018. Three options will remain.

2.0 The total contract amount is increased by $4,000.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 04/16/2015 – 04/15/2016	$4,000.00	$4,000.00
Amendment No. 1: Option 1 – Extension 04/16/2016 – 04/15/2017	$4,000.00	$8,000.00
Amendment No. 2: Option 2 – Extension 04/16/2017 – 04/15/2018	$4,000.00	$12,000.00

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: 3/15/17

Printed Name: Glenn Neal
Authorized Representative

Locution Systems, Inc
1626 Cole Boulevard, Suite #325
Golden, Colorado 80401
(305) 301-7300
brigittea@locution.com

Sign/Date: 5/22/17

Printed Name: Bartley Tyler
Authorized Representative

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

Amendment No. 1
to
Contract No. NS160000013
for
CADVoice System – Wireless
Software Maintenance and Support
between
Locutions Systems, Inc.
and the
City of Austin

1.0 The City hereby exercises this extension option for the subject contract. This extension option will be effective April 16, 2016 through April 15, 2017. Four options remain.

2.0 The total contract amount is increased by $4,000.00 for the extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 04/16/2015 – 04/15/2016	$4,000.00	$4,000.00
Amendment No. 1: Option 1 - Extension 04/16/2016 – 04/15/2017	$4,000.00	$8,000.00

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: March 14, 2016

Printed Name: Glenn Neal
Authorized Representative

Locution Systems, Inc.
1626 Cole Boulevard, Suite #325
Golden, Colorado 80401
(305) 301-7300
brigittea@locution.com

Sign/Date: Mike Zambrano, Jr.

FOR Linell Goodin-Brown
Contract Compliance Supervisor

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

CONTRACT BETWEEN THE CITY OF AUSTIN
AND
Locution Systems, Inc.
For
CADVoice System

This Contract is made by and between the City of Austin ("City"), a home-rule municipality incorporated by the State of Texas, and Locution Systems, Inc. ("Contractor"), having offices at 1626 Cole Blvd., Suite 325, Golden, CO 80401.

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 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 Glenn Neal, Phone: (303) 301-7301, Email Address: glenn.neal@locution.com. The City's Contract Manager for the engagement shall be Arletha Guerrero, Phone: (512) 927-3262, Email Address: Arletha.Guerrero@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.

SECTION 3. COMPENSATION

3.1 **Contract Amount.** The Contractor will be paid as indicated herein upon the successful completion of the Scope of Work, as described herein. In consideration for the services to be performed under this Contract, the Contractor shall be paid an amount not to exceed $4,000.00 for the initial term, $4,000.00 for the first extension, $4,000.00 for the second extension, $4,000.00 for the third extension, and $4,000.00 for the fourth extension, for a total estimated contract amount not to exceed $20,000.00 comprising the software maintenance and support fees.

3.2 **Invoices.**

3.2.1 **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

Contractor'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 mailed to the below address:

	City of Austin
Department	Communication Technology Management or (CTM)
Attn:	Accounts Payable
Address	PO Box 1088
City, State, Zip Code	Austin, TX 78767

3.2.2 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.

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

3.2.4 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 deliverables or of the invoice, whichever is later.

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 off set 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 **Retainage.** The City reserves the right to withhold a 10 percent (%) retainage until completion of all work required by the Contract. The Contractor's invoice shall indicate the amount due, less the retainage. Upon final acceptance of the work, the Contractor shall submit an invoice for the retainage to the City and payment will be made as specified in the Contract. Payment of the retainage by the City shall not constitute nor be deemed a waiver or release by the City of any of its rights and remedies against the Contractor for recovery of amounts improperly invoiced or for defective, incomplete or non-conforming work under the Contract.

3.5 **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.

3.6 **Reimbursable Expenses.** Expenses incurred directly in support of completing the work set forth in this Contract are reimbursable to the Contractor within the Contract amount.

3.6.1 **Administrative.** The Contractor will be reimbursed for selected administrative expenses incurred directly in support of executing this Contract. Reimbursable administrative expenses include actual charges for long distance telephone calls, facsimile transmissions, reproduction, printing and binding, postage, express delivery and report processing.

3.6.2 **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.

3.7 **Final Payment and Close-Out.**

3.7.1 The making and acceptance of final payment will constitute:

3.7.1.1 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

3.7.1.2 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 12 months and may be extended thereafter for up to 4 additional 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 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 City may request that the Contractor 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.

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, 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 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 Contractor/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 CA0444, or equivalent coverage.

5.1.2.2.2 Thirty (30) calendar days Notice of Cancellation, Endorsement CA0244, or equivalent coverage.

5.1.2.2.3 The City of Austin listed as an additional insured, Endorsement CA2048, 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 WC420304, or equivalent coverage.

5.1.2.3.3 Thirty (30) calendar days Notice of Cancellation, Form WC420601, or equivalent coverage.

5.1 **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 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 C. 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.

5.1.2 **Americans With Disabilities Act (ADA) Compliance.** No Contractor, or Contractor's agent shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

5.2 **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.

5.3 **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.

5.3.2 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.

5.4 **Ownership And Use Of Deliverables.** The City shall own all rights, titles, and interests throughout the world in and to the deliverables.

5.5.1 **Patents.** As to any patentable subject matter contained in the deliverables, the Contractor agrees to disclose such patentable subject matter to the City. Further, if requested by the City, the Contractor agrees to assign and, if necessary, cause each of its employees to assign the entire right, title, and interest to specific inventions under such patentable subject matter to the City and to execute, acknowledge, and

deliver and, if necessary, cause each of its employees to execute, acknowledge, and deliver an assignment of letters patent, in a form to be reasonably approved by the City, to the City upon request by the City.

5.4.2 **Copyrights.** As to any deliverables containing copyrightable subject matter, the Contractor agrees that upon their creation, such deliverables shall be considered as work made-for-hire by the Contractor for the City and the City shall own all copyrights in and to such deliverables, provided however, that nothing in this paragraph shall negate the City's sole or joint ownership of any such deliverables arising by virtue of the City's sole or joint authorship of such deliverables. Should by operation of law, such deliverables not be considered works made-for-hire, the Contractor hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of) all worldwide right, title, and interest in and to such deliverables. With respect to such work made-for-hire, the Contractor agrees to execute, acknowledge, and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-made-for-hire agreement, in a form to be reasonably approved by the City, to the City upon delivery of such deliverables to the City or at such other time as the City may request.

5.4.3 **Additional Assignments.** The Contractor further agrees to, and if applicable, cause each of its employees to, execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns and nominees, the sole and exclusive right, title, and interest in and to the deliverables. The Contractor's obligation to execute, acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this paragraph shall continue after the termination of this Contract with respect to such deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the deliverables, but should desire to keep the same secret, the Contractor agrees to treat the same as Confidential Information under the terms herein.

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 in the Offer 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 in the Offer 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 to 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 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 of 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 it may be required to purchase 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; and

7.2.2.2 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 **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.

7.4 **Significant Event.** The Contractor shall immediately notify the City's Contract Manager of any current or prospective "significant event" on an ongoing basis. All notifications shall be submitted in writing to the 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:

7.4.1 disposal of major assets;

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

7.4.3 any significant termination or addition of provider contracts;

7.4.4 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;

7.4.5 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;

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

7.4.7 known or anticipated sale, merger, or acquisition;

7.4.8 known, planned or anticipated stock sales;

7.4.9 any litigation against the Contractor; or

7.4.10 significant change in market share or product focus.

7.5 **Right To Audit.**

7.5.1 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.

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

7.6 **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 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.

7.7 **Indemnity.**

7.7.1 Definitions:

7.7.1.1 "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:

7.7.1.1.1 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;

7.7.1.1.2 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),

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

7.7.2 **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.**

7.8 **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 effect on the Contractor's ability to perform thereunder, 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.

7.9 **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:	To the Contractor:
City of Austin, Purchasing Office	Locution Systems, Inc.
ATTN: Contract Administrator	ATTN: Contract Manager
P O Box 1088	1626 Cole Blvd., Suite 325
Austin, TX 78767	Golden, CO 80401

7.10 **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.

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

7.12 **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.

7.13 **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 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.

7.14 **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.

7.15 **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.

7.16 **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.

7.17 **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.

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

7.19 **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.

7.20 **Dispute Resolution.**

7.20.1 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.

7.20.2 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.

7.21 **Subcontractors.**

7.21.1 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 Contract Manager and the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.

7.21.2 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:

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

7.21.2.2 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;

7.21.2.3 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;

7.21.2.4 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

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

7.21.3 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.

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

7.22 **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.

7.23 **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.

7.24 **Holidays.** The following holidays are observed by the City:

Holiday	Date Observed
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday.

7.25 **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.

7.26 **Non-Suspension or Debarment Certification.** The City of Austin 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 Vendor 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.

7.27 **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 .

7.28 **Order of Precedence.** The Contract includes, without limitation, the Solicitation, the Offer submitted in response to the Solicitation, the Contract award, the Standard Purchase Terms and Conditions, Supplemental Terms and Conditions if any, Specifications, and any addenda and amendments thereto. Any inconsistency or conflict in the Contract documents shall be resolved by giving precedence in the following order.

7.28.1 any exceptions to the Offer accepted in writing by the City;

7.28.2 the Supplemental Purchase Terms and Conditions;

7.28.3 the Standard Purchase Terms and Conditions;

7.28.4 the Offer and exhibits; within the Offer, drawings (figured dimensions shall govern over scaled dimensions) will take precedence over specifications or scope of work.

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

Locution Systems, Inc.

By: _____
Signature

Name: Glenn Neal
Printed Name

Title: President

Date: 12/3/15

CITY OF AUSTIN

By: _____
Signature

Name: Gil Zilkha
Printed Name

Title: Contract Administrator

Date: 12/5/15

List of Exhibits

Exhibit A	Pricing Agreement
Exhibit B	Maintenance Agreement
Exhibit C	Non Discrimination Certification, Section 0800

EXHIBIT A
Pricing Agreement

Contract Profile Sheet

RQS/RQM No.:	RQM-6400-15041600288 / Magic 21321
Date:	4/16/2015
Budget: 5270-6400-5250-6389	Operating
Description:	Locution Systems, Inc.
Current Contract No.:	None
Contract Term & Options:	$4000.00 for 5yrs. Total contract $20K
Pre-Bid Conference:	
Pre-Bid Conf. Location:	
Delivery Information: Location(s): Contact Name: Phone: Address:	1006 Smith Road Austin TX 78721 Days: Monday – Friday Time: 7:30 AM to 4:00 PM Arletha Guerrero 512-927-3262 1006 Smith Road Austin TX 78721
Invoice/Billing/Contact: City of Austin Wireless Office Location(s): 1006 Smith Road Austin TX 78721 Contact Name & Phone: Pat Boswell @ ctmap@austintexas.gov Address: 1006 Smith Road Austin TX 78721	
Hazardous Chemical	_____**Yes** X **No**
Contract Manager/Phone No.:	Charles Brotherton, 512-927-3209
Estimated Amount:	$20,000.00 Total Contract
Contract Award:	X Whole (Single Vendor) ____In Part (Multi Vendor)
Sole/Single Source (SS) & Prof. Serv. Exemption (252) SS (N/A) Scope of Work _____ Vendor Quote _____ MBE/WBE Utilization Form _____ Effective Date: _____ Memo: _____(SS) _____Prof. Serv. Exemption	
Remarks: This request is for a new sole source contract to purchase software maintenance and support from Locution Systems, Inc. The proposed contract is for a 12-month term @ $4,000.00 plus four (4) one-year renewal options @ $4,000.00 per year for a total contract amount of $20,000.00.	

CPS-RDR Page 1 of 1 Revised 2/23/10

EXHIBIT B
Maintenance Agreement

LOCUTION SYSTEMS, INC.

FIRE DISPATCH SYSTEM MAINTENANCE AGREEMENT

THIS MAINTENANCE AGREEMENT is made as of Dec 1 , 2015 by and between:

LOCUTION SYSTEMS, INC.,	**Austin Wireless Communication Services**
(herein "Locution")	**City of Austin**
1626 Cole Blvd., Suite 325	**1006 Smith Rd**
Golden, Colorado, 80401	**Austin, TX 78721**
Telephone (303) 932-0014	
Fax (303) 384-9014;	

This Agreement sets forth the terms and conditions under which Locution will support and maintain certain computer software for Customer. In consideration of the terms and provisions set forth in this Agreement, the parties agree as hereinafter provided.

A. Recitals. Locution has developed the Locution Fire Station Dispatch System and related Hardware and computer Software programs (the "System").

1. Definitions. Some terms in this Schedule are defined when first used or as hereinafter set forth in the following subparagraphs for convenience.

1.1. "Audio Database" or "Database" means the Software Audio Database containing audio and tone files.

1.2. "Hardware" means computers, terminals, peripherals and other equipment that are required to operate the System for its intended purpose and are provided by Locution in the Statement of Work.

1.3. "Hardware Error" means a verifiable or reproducible malfunction in the Hardware which reduces the usability of the Hardware and hinders it from being used by Customer.

1.4. "Software" means the computer programs developed and licensed by Locution to Customer pursuant to Locution Software License.

1.5. "Software Error" means a verifiable or reproducible malfunction in the Software which reduces the usability of the Software and hinders it from being used by Customer.

1.6. "Third Party Software" means such computer software, subroutines, operating systems, platforms or programs, development tools and the like which are necessary for the use and operation of the Software or which are incorporated in the Software, where the ownership of or proprietary rights to such software are vested in third parties and such software is used by

permission or license from said third parties. These are subdivided into Operating Systems, Third Party Software Drivers, and Third Party Software Applications as defined below.

1.6.1. "Operating Systems" means computer software operating systems, either Linux or Windows, required for operation of the Hardware.

1.6.2. "Third Party Software Drivers", means computer software drivers required for the operation of the System.

1.6.3. "Third Party Software Applications", whether in service or non-service form, means third party software which are required for the use and operation of the Software or which are incorporated in the Software.

1.7. "Warranty Period" means a period of one (1) year following Customer's final acceptance of the System.

2. Maintenance Fee. Customer shall pay Locution the total maintenance and support cost for the First Year Following Warranty Period as set out below at the end of the Warranty Period and subsequent maintenance and support costs as set out below will be paid on the anniversary date thereof. All fees herein are exclusive of taxes, duties and other governmental imposts.

2.2. Out-of-Pocket Costs. In addition to the fee and other charges set forth herein, Customer shall reimburse Locution for its reasonable out-of-pocket costs if travel to the Customer's site is required by the Customer so long as Customer has pre-approved such costs. This includes transportation, meals, lodging and shipping costs when Locution is assisting Customer. Locution will invoice Customer monthly for such costs. Refer to paragraph 6.

2.3. Renewal Fee Increases. If Customer and Locution agree to a renewal of maintenance and support services extending beyond Year 5, then Locution reserves the right to increase the prices to its then-current rates for similar services.

3. Maintenance Coverage - Responsibilities of Locution. Locution, for the charges and fees set forth herein, shall maintain and support the System as herein described to promote the reasonable operation of the System in accordance with the technical specifications and Schedule D – Software License, and any enhancements to the System.

3.1. Hardware and Software Support. Hardware Support is described in subparagraph 3.2 below. Software Support is described in subparagraphs 3.3 and 3.4 below. This Software Support is in addition to the Audio Database updates described in paragraph 8.

3.2. Description of Support – Hardware. During the term of this Agreement, Locution will correct or fix any problems or failures occurring with the Hardware. Such support will be provided after Customer has identified any Hardware Error and notified Locution thereof in accordance with Locution's reporting procedures. The Hardware includes computers, Station Control Unit, Intelligent Audio Switch, Programmable Logic Relay, Reader Board, and the Locution Enclosure. The computers are warranted through the manufacturer (Dell) for Customer. Locution will handle logistics of repairing or replacing the computers without any cost to

Customer. Notwithstanding Location's Terms and Conditions, the computers are initially warranted for three years from the date of final acceptance by Customer. Any computer failures that occur after the computer has been in operation for three years are not covered by this Schedule and will require the replacement of the computer by the Customer. Upon Customer's request and as part of this Schedule, Location will supply assistance with reloading any Software on replacement computers.

3.3. Description of Support – Software. During the term of this Agreement, Location will correct Software Errors or circumvent Software Errors on a temporary basis while a permanent resolution can be provided by Location. Such support will be provided after Customer has identified any Software Error and notified Location thereof in accordance with Location's reporting procedures. This includes changes to the Software that are made necessary by CAD upgrades that meet the specifications in the Location API. Should a Software Error be reported on a system that has non-Location-validated Third Party Software running on the System, Location, at its discretion, may require that the Software Error be duplicated on the system with the non-Location-validated software either removed or put into a non-operating state. Third Party Software presently validated by Location includes Microsoft Office, Norton Anti-virus, Adobe PDF Writer (which must be set up to not create PDF files during normal system operation), and AVG Anti-virus software. The latest list of validated Third Party Software can be obtained from Location.

3.4. Description of Support – Third Party Software. Operating Systems are excluded from the coverage of this Schedule though Location warrants that it will make its Software compatible with the Operating System within one year of any necessary change required for such Operating System. A necessary change required for an Operating System is defined as one that results from either a change to the Operating System where the prior version of the Operating System will no longer be supported by a third party vendor or a change to an Operating System that causes an incompatibility with the operation of the Hardware or the Software. Third Party Software Drivers and Third Party Software Applications, are excluded from the coverage of this agreement.

3.5. Reporting of Defects. Location serves as the single source to address all defects in the System. Customer may report defects to Location by telephone, e-mail, or other means, provided that all defects which require immediate attention are first reported by telephone. Notice of Defects need not be in writing, and are effective when first received by Location. Customer may not be required to follow up in-person, telephone, e-mail or fax notices of defects with a hard copy by mail or other means.

3.6. System Telephone Support. Location will provide both regular hour and 24/7 support. Location will provide regular hour Support to Customer's case calls during the periods of 9 am to 5 pm, Mountain (Denver, CO) Time, Monday through Friday, excluding New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Eve after 2 pm, or on Christmas Day. Regular hour support will be provided by a technician or programmer, depending on the nature of the request from Customer. Customer should call Location's main number, 303-932-0014 or the direct phone number of the support individual currently supporting Customer if this is known to Customer. Location will also provide after-hour Support to Customer's case calls on a 24 hour, 365 day a year basis. Customer should call Location's support number, 888-403-0373. After-hour support will be provided by a technician or

programmer. Customer shall call the toll free 24/7/365 support line to obtain this after-hour support.

3.7. Customer's Assistance. Customer agrees to provide Locution with memory dumps and diagnostic reports, as reasonably requested, and with sufficient support and test time on Customer's computer system to duplicate the Software Error, certify that the problem is with the Software, and to certify that the Error has been fixed.

3.8. Customer's Errors. If Locution discovers any Errors which are a result of a Customer error, Locution will give notice of such discovery to Customer. Customer may then halt Locution's correction efforts or authorize Locution to continue service or correction of difficulties or defects traceable to Customer errors at Customer's expense at Locution's standard time and material rates for support services. In the event Locution or a representative of Locution provides on-site support, Customer shall provide Locution with reasonable access, without charge, to Customer's facilities, appropriate personnel, and any other information reasonably requested by Locution so as to enable Locution to provide services, provided that Customer can do so at no significant cost to Customer.

4. Site Visits. Any Locution site visits requested by the Customer during the term of this Agreement will be billed separately at time and materials charges as follows: Site visits will be conducted by a Locution software engineer. Costs charged to the Customer for site visits will include on-site support charges of $840 per day per engineer, plus transportation to and from the Customer Site and reasonable out-of-pocket costs including meals and lodging; all of which have been pre-approved by Customer.

5. Replacement of Defective Components. Locution will troubleshoot the System and determine when a System component needs to be physically replaced. The physical replacement of defective components will be done by Customer. Locution will troubleshoot and communicate to Customer which component or components need to be replaced. The replacement of said components will follow the following process:

- Customer will remove defective components from the System on Locution's troubleshooting advice.
- Customer will ship the components to Locution. Locution may pay shipping costs on request by Customer (via a Call Tag through FedEx).
- Locution will ship a replacement component overnight, or otherwise, depending on the Severity Level of the issue and the existence of spares at the Customer's premises.

6. Audio Database Updates. Regular Audio Database updates will be performed by Locution during the term of this Agreement. This Schedule provides up to a total of twelve Audio Database updates per year on an as needed basis.

6.1. New Audio Files. Database updates comprise of adding new audio and tone files to the Audio Database. An update will be required to accommodate the addition of any tones or new audio supplied by Locution. Customer may create its own tone files and place them in service without having to engage Locution for assistance or Customer may engage Locution for assistance in updating audio tones. A total of 250 unique items in any existing Database category are allowed per update. Typical examples of a Database category are incidents, street names, common place names.

6.2. Delivery of Configuration and Audio Tone Files. Locution provides new configuration files and/or tone files to the Customer via its FTP site or via CD/DVD shipment from Locution.

6.3. Customer Audio Tone File Synchronization. The Customer will move newly required tone files onto the main server computer and then synchronize the station computers housing the Software using synchronization software provided by Locution for this purpose.

6.4. Time for Service. Total turnaround time for the first two subparagraphs in this section is five to ten business days, typical.

7. Configuration Updates. "Configuration updates" for the System are defined as an update to any existing configuration file whether on central server computer or station computer. Locution shall perform Configuration updates as described in the Third Party Access Agreement.

8. Software Upgrade Procedures. Locution shall constantly upgrade the Software. As part of this Schedule, Customer may upgrade to any new official installer Software release produced by Locution. Locution releases new official installer versions every one to two months. Official releases include bug fixes, increased capabilities and improvements, or both bug fixes with increased capability and improvements. All updates will be available in both Windows and Linux compatible formats. Locution will provide the Customer with Software upgrades via FTP site download or CD/DVD mailing.

9. Excluded Services. In addition to any excluded items described above the following services are outside the scope of this Schedule and if performed by Locution will be billed to Customer at Locution's then-current rates:

9.1. Unauthorized Maintenance. If other than Locution performs repairs or maintenance on the Software, then any costs in labor or parts incurred by Locution to remedy such unauthorized repairs shall be paid by Customer.

9.2. Consumables. Consumables, such as ribbons, batteries, magnetic media, toner and toner cartridges.

9.3. Limitations on Support. Customer acknowledges and agrees that Locution is not responsible for assisting in problems that are not directly related to the performance of the System or Software. Locution may elect to provide assistance to Customer on other matters and will notify Customer in advance of charges therefore, if any.

10. Support Response Time. Locution agrees to respond to the Customer as set out below.

10.1. Designated Call Number. Customer must call the designated phone number or numbers for Locution assistance (see paragraph 5.6).

10.2 Severity Levels / Response Times and Resolution Times. Locution will comply with the response times, resolution time and resolution procedures set forth in this section for each of the priority levels of problems described herein. Customer shall assign an initial priority level for each problem reported, either orally or in writing, based on the conditions described below. Locution will work with Customer to upgrade or reduce the level of a particular problem to a different priority level, if after examining the problem there is reason to do so. Notwithstanding the foregoing, Locution may not upgrade or reduce the level of priority of a particular error to a different priority without Customer's consent, which consent may not be unreasonably withheld.

Priority One Critical	Priority One applies if the problem could: • Prevent the accomplishment of an operational or mission essential function, OR • Cause loss of data or data corruption, OR • Causes the interruption of normal operation of other systems, hardware or software preventing the accomplishment of an operational or mission essential function.
Response Time	Immediately, if the problem is reported during Regular Hours Within one hour of notification if the problem is reported after Regular Hours.
Resolution Time	Within 12 hours after the problem is first reported by Customer.

Priority Two	Priority Two applies if the problem could: • Adversely affect (but not prevent) the accomplishment of an operational or mission essential function, and no workaround is available, OR • Increase technical risk or increase costs associated with the life cycle and support of the system, and no workaround is available. Priority Two problems include aborts, but not loss of data or data corruption.
Response Time	Immediately, if the problem is reported during Regular Hours Within one hour of notification if the problem is reported after Regular Hours.
Resolution Time	Within 48 hours after the problem is first reported by

	Customer.
Priority Three	Priority Three applies if the problem could: • Adversely affect (but not prevent) the accomplishment of an operational or mission essential function, but a workaround is available, OR • Increase technical risk or increase costs associated with the life cycle and support of the system, but a workaround is available. Priority Three problems do not include aborts or loss of data or data corruption.
Response Time	Immediately, if the problem is reported during Regular Hours. Within eight hours of notification if the problem is reported after Regular Hours.
Resolution Time	Within 20 business days after the problem is first reported by Customer.
Priority Four Minor	Any problem related to the System which does not fall within Priority One, Two or Three
Response Time	Immediately, if the problem is reported during Regular Hours Within two days of notification if the problem is reported after Regular Hours.
Resolution Time	Resolution within the next two new releases.

Response times set forth in the preceding chart will not apply to any delays that Locution cannot reasonably prevent (such as airline scheduling, delays caused by weather, etc.).

11. Subcontractors. Locution shall not retain any subcontractor with respect to maintenance and support without the prior written approval of Customer. Locution shall be responsible for the payment of any subcontractor retained by it with respect to maintenance and support. Locution shall co-ordinate all subcontractors retained by it and shall ensure that such subcontractors comply with all relevant requirements of the Agreement. The use of any subcontractor for any portion of maintenance and support will not relieve Locution of its obligations under the Agreement.

EXHIBIT C
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 3rd day of December, 2015

CONTRACTOR Location Systems

Authorized Signature

Title President

City of Austin FSD Purchasing Office

Certificate of Exemption

DATE:	04/16/2015	DEPT:	CTM - Wireless
TO:	Purchasing Officer or Designee	FROM:	Chuck Brotherton
BUYER:	Shawn Willett	PHONE:	(512) 927-3209

Chapter 252 of the Local Government Code requires that municipalities comply with the procedures established for competitive sealed bids or proposals before entering into a contract requiring an expenditure of $50,000 or more, unless the expenditure falls within an exemption listed in Section 252.022.

Senate Bill 7 amended Chapter 252 of the Local Government Code to exempt from the requirements of such Chapter expenditures made by a municipally owned electric utility for any purchases made by the municipally owned electric utility in accordance with procurement procedures adopted by a resolution of its governing body that sets out the public purpose to be achieved by those procedures. The Austin City Council has adopted Resolution No. 040610-02 to establish circumstances which could give rise to a finding of critical business need for Austin Energy.

This Certification of Exemption is executed and filed with the Purchasing Office as follows:

1. The undersigned is authorized to submit this certification.
2. The undersigned certifies that the following exemption is applicable to this purchase. (Please check which exemption you are certifying)

- ○ a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality
- ○ a procurement necessary to preserve or protect the public health or safety of municipality's residents
- ○ a procurement necessary because of unforeseen damage to public machinery, equipment, or other property
- ○ a procurement for personal, professional, or planning services
- ○ a procurement for work that is performed and paid for by the day as the work progresses
- ○ a purchase of land or right-of- way
- ◉ a procurement of items available from only one source, including: items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies; films, manuscripts, or books; gas, water, and other utility services; captive replacement parts or components for equipment; books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits
- ○ a purchase of rare books, papers, and other library materials for a public library
- ○ paving, drainage, street widening and other public improvements, or related matters, if at least one- third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements
- ○ a public improvement project, already in progress, authorized by voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes as authorized by the voters

- O a payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212
- O personal property sold: at an auction by a state licensed auctioneer; at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or under an interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391
- O services performed by blind or severely disabled persons
- O goods purchased by a municipality for subsequent retail sale by the municipality
- O electricity
- O advertising, other than legal notices
- O Critical Business Need (Austin Energy Only)

3. The following facts as detailed below support an exemption according to Section 252.022 of the Local Government Code for this purchase. Please verify the steps taken to confirm these facts. If you are citing the following exemptions, please provide the additional information requested below. A more detailed explanation of these exemptions is attached.

- **Preserve and Protect the Public Health and Safety** – Describe how this purchase will preserve and protect the public safety of residents.
- **Sole Source** – Describe what patents, copyrights, secret processes, or natural monopolies exist. 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.
- **Personal Services** – Describe those services to be performed personally by the individual contracted to perform them.
- **Professional Services** – Describe what mainly mental or intellectual rather than physical or manual and/or disciplines requiring special knowledge or attainment and a high order of learning, skill, and intelligence are required to perform this service.
- **Planning Services** – Describe the services primarily intended to guide governmental policy to ensure the orderly and coordinated development of the state or of municipal, county, metropolitan, or regional land areas.
- **Critical Business Need** – Describe the procurement necessary to protect the competitive interests or position of Austin Energy.

This proposed sole-source contract is for software support, maintenance, and upgrade services from Locution Systems, Inc. The Locution software application provides automated voice announcement for fire station alerting for Austin Fire Department and the Travis County Emergency Services Districts. Locution is a proprietary solution integrated into the computer-aided dispatch system at CTECC. The proposed contract term is an initial 12 months followed by four annual 12-month renewals for a total of five years. The total contract value is $20,000.

4. Please attach any documentation that supports this exemption.

5. Please provide any evaluation conducted to support the recommendation. Include the efforts taken to ensure the selected vendor is responsible and will provide the best value to the City (Ex: evaluation of other firms, knowledge of market, etc).

Locution Systems, Inc., manufactures a software product that contains proprietary code. Authorized support, maintenance, and upgrades are provided solely by the manufacturer.

6. Because the above facts and documentation support the requested exemption, the City of Austin intends to contract with Locution Systems, Inc. which will cost approximately $ 20,000.00 (Provide estimate and/or breakdown of cost).

Recommended Certification — Originator — Date: 5/04/2015

Approved Certification — Department Director or designee — Date: 5/21/2015

Assistant City Manager / General Manager or designee (if applicable) — Date

Purchasing Review (if applicable) — Buyer — Date — Manager Initials

Exemption Authorized (if applicable) — Purchasing Officer or designee — Date

02/26/2013

Contract Profile Sheet

RQS/RQM No.:	RQM-6400-15041600288 / Magic 21321
Date:	4/16/2015
Budget: 5270-6400-5250-6389	Operating
Description:	Locution Systems, Inc.
Current Contract No.:	None
Contract Term & Options:	$4000.00 for 5yrs. Total contract $20K
Pre-Bid Conference:	
Pre-Bid Conf. Location:	
Delivery Information: Location(s): Contact Name: Phone: Address:	1006 Smith Road Austin TX 78721 Days: Monday – Friday Time: 7:30 AM to 4:00 PM Arletha Guerrero 512-927-3262 1006 Smith Road Austin TX 78721
Invoice/Billing/Contact: City of Austin Wireless Office Location(s): 1006 Smith Road Austin TX 78721 Contact Name & Phone: Pat Boswell @ ctmap@austintexas.gov Address: 1006 Smith Road Austin TX 78721	
Hazardous Chemical	_____**Yes** X **No**
Contract Manager/Phone No.:	Charles Brotherton, 512-927-3209
Estimated Amount:	$20,000.00 Total Contract
Contract Award:	X Whole (Single Vendor) ____In Part (Multi Vendor)
Sole/Single Source (SS) & Prof. Serv. Exemption (252) SS (N/A) Scope of Work _____ Vendor Quote _____ MBE/WBE Utilization Form _____ Effective Date: _____ Memo: _____(SS) _____Prof. Serv. Exemption	
Remarks: This request is for a new sole source contract to purchase software maintenance and support from Locution Systems, Inc. The proposed contract is for a 12-month term @ $4,000.00 plus four (4) one-year renewal options @ $4,000.00 per year for a total contract amount of $20,000.00.	

Locution SYSTEMS INC.

1626 Cole Blvd., Suite 325
Golden, CO 80401
303 932 0014
FAX 303 384 9014
www.locution.com

January 13, 2014

Gary Wilks
City of Austin
1006 Smith Road
Austin, TX 78721

Dear Mr. Wilks:

This is to inform you that Locution Systems, Inc. of Golden, Colorado, is presently the only vendor who has personnel trained in the CADVoice®-Station and CADVoice®-Radio Fire/EMS Alerting System presently in operation in the City of Austin and Travis County, Texas, the only vendor that has access to information and programs required to maintain and upgrade this system, and therefore is the only vendor that has the ability to presently maintain the CADVoice®-Station and CADVoice®-Radio Fire/EMS Alerting System for the City of Austin and Travis County, Texas.

Sincerely,

Glenn Neal,
President, Locution Systems, Inc.