



Kelly E. Johnson, C.P.M., C.P.C.M.
Harris County Purchasing Agent

December 10, 2010

Commissioners Court
Harris County, Texas

RE: Sole Source

Members of Commissioners Court:

Please approve the attached Order authorizing the County Judge to execute the attached Amendment to the Agreement for the following:

Description: High Speed Internet Connections for Harris County Information Technology

Vendor: Phonoscope, Inc.

Amount: \$33,600

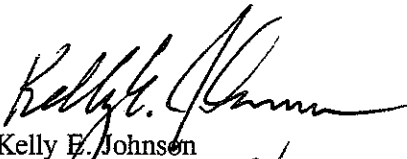
Term: January 1, 2011 through December 31, 2011 with four (4) one-year renewal options

Reviewed by: X Information Technology X Harris County Purchasing

The Amendment provides for 100Mbps high speed internet access over a wide-area Ethernet network and provides for payment. A purchase order will be issued upon Commissioners Court approval.

Vote of the Court:	Yes	No	Abstain
Judge Emmett	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Lee	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Radack	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Eversole	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Sincerely,


Kelly E. Johnson
Purchasing Agent

DVL/ejm
Attachments
cc: Information Technology
Vendor

Presented to Commissioner's Court

DEC 21 2010

APPROVE G/L

Recorded Vol. _____ Page _____

FOR INCLUSION ON COMMISSIONERS COURT AGENDA DECEMBER 21, 2010

**AMENDMENT TO THE AGREEMENT BETWEEN
HARRIS COUNTY AND PHONOSCOPE, INC.**

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This Amendment to the Agreement is made and entered into by and between Harris County (the "County" or the "Customer"), a body corporate and politic under the laws of the State of Texas acting by and through its Information Technology Center, and Phonoscope, Inc. ("Phonoscope"), a corporation with offices at 6105 Westline Drive, Houston, TX 77036.

Recitals

1. On January 11, 2005, the Commissioners' Court approved an Agreement, as revised by an Amendment, with Phonoscope for the provision of high-speed Internet connections.
2. In accordance with LOC. GOV'T CODE ANN. §§ 262.021 *et. seq.*, as amended, the County informally bid new limited internet services.
3. Phonoscope presented the winning quote.
4. Phonoscope warrants and represents that it is willing and capable of providing the services.

Terms

I.

This Amendment shall be governed by the Master Agreement and the Internet Service Addendum, Harris County Information Technology, Contract No. 003865, Service Order 48, attached hereto as Exhibit A and incorporated herein by reference.

II.

The Master Agreement is hereby amended for the purpose of installing new service, a 100Mbps high speed internet access over a wide-area Ethernet network as described in more detail in Exhibit A (the "Services").

III.

The term shall be for a period beginning January 1, 2011 through December 31, 2011 ("Initial Term"), unless terminated sooner. The term is renewable for four (4) consecutive one-year terms (each a "Renewal Term") upon the same terms and conditions specified in the Master Agreement.

IV.

The rate for the new internet Service shall be Two Thousand Eight Hundred and No/Dollars (\$2,800.00) per month for twelve (12) months.

V.

LIMIT OF APPROPRIATION

Phonoscope understands and agrees, said understanding and agreement also being of the absolute essence of this Amendment, that the total maximum compensation that Phonoscope may become entitled to for the Services performed under this Amendment, and the total maximum sum that the County shall become liable to pay to Phonoscope under this Amendment for the Services, shall not under any conditions, circumstances, or interpretations thereof exceed the sum of Thirty-Three Thousand Six Hundred and No/Dollars (\$33,600.00). Notwithstanding anything to the contrary, or that may be construed to the contrary, the County's liability under the terms and provisions of this Amendment is limited to said sum; and when all the funds so certified are expended, Phonoscope's sole and exclusive remedy shall be to terminate this Amendment.

Phonoscope understands that no funds have been appropriated or certified for any Renewal Terms or extension past the Initial Term created by this Amendment. Therefore, if the County requests Renewal Terms, the renewal is subject to the future allocation and certification of funds for the renewal.

VI.

All other terms of the Master Agreement shall remain in full force and effect as originally written and subsequently amended.

VII.

It is expressly understood and agreed that the Master Agreement is attached to this Amendment and incorporated herein by reference. In the event of any conflict between the terms and provisions of

this Amendment, or any portion thereof, and the terms and provisions of any other part or portion of the Master Agreement or any other terms and conditions, this Amendment shall control.

VIII.

Execution, Multiple Counterparts: This Amendment may be executed in several counterparts. Each counterpart is deemed an original. All counterparts together constitute one and the same instrument. Each Party warrants that the undersigned is a duly authorized representative with the power to execute this Amendment.

Executed on this the _____ day of DEC 21 2010, 2010.

PHONOSCOPE, INC.

By

Name:

Title:

Date:

R. Cumming
Rhonda Cumming
President
6 December 2010

HARRIS COUNTY

By:

ED EMMETT

COUNTY JUDGE

APPROVED AS TO FORM:

VINCE RYAN

COUNTY ATTORNEY

By:

Barbara Smith Armstrong
Assistant County Attorney

C.A. File 10GEN2732

EXHIBIT A

Internet Service Addendum, Harris County Information Technology, Contract No. 003865,
Service Order 48

(follows behind)



CONTRACT NO. 003865

**INTERNET SERVICE ADDENDUM
HARRIS COUNTY INFORMATION TECHNOLOGY CENTER**

Service Order 48

As part of the Telecommunications Master Service Agreement ("Agreement") dated July 27, 2005 between Phonoscope, Inc. ("Phonoscope") with offices located at 6105 Westline Drive, Houston TX 77036 and Harris County Information Technology Center ("Customer") with offices located at 406 Caroline, Houston TX 77002, the parties agree to incorporate the following:

A. Service Type

The Customer requests 100Mbps Mbps of high speed, Internet access over a wide area Ethernet network.

B. Service Termination Sites

Service will be provisioned in Customer's site at 406 Caroline, Houston TX 77002

C. Commencement Date and Term of Services

Service shall commence Five (5) days after execution of this Service Order by both parties for a term of Five (5) Years. Term shall mean a term commencing on the Commencement Date and continuing for Sixty (60) full calendar months. The term shall be complete on the last day of the Sixtieth (60th) month. At the end of the initial term, this Agreement may automatically renew for a successive term without the written consent of both parties, under the same terms and conditions contained in this Agreement including, but not limited to the recurring monthly rates and payment terms, unless either party gives thirty (30) days written notice, sent via certified mail, return receipt requested, of its intent to cancel this Agreement.

D. Services and Equipment

Phonoscope will provide turnkey installation of the service. Customer connections will terminate in the assigned Phonoscope demarcation point. All Customer connected equipment should support the appropriate Ethernet signaling and port speed for the contracted service.

At no additional cost, Phonoscope shall assign IP addresses to the Customer, limited only by the Customer's fulfilling ARIN justification requirements. In addition, Phonoscope shall provide DNS at no additional cost.

E. Calculation of Average Usage

Phonoscope will allow the Customer to burst beyond their contracted bandwidth to a maximum port speed of 1000 Mbps. Phonoscope will collect and record usage samples around the clock at frequent, regular intervals and calculate a monthly total which effectively disregards bursts of the top five percent (5%) usage within the total monthly sample, without incurring additional charges. Customer will only incur additional charges, in per Meg increments if the total of the remaining ninety-five percent (95%) usage exceeds the contracted bandwidth. If the Customer at any time chooses to limit their bandwidth access to the contracted rate, Phonoscope will rate shape the unique circuit port to guarantee a not-to-exceed bandwidth and allow the Customer to maintain the same monthly recurring fee.

Phonoscope shall waive any incremental charges upon the first time occurrence where the Customer exceeds the ninety-five percent (95%) rule. Customer shall elect one of the following options:

- The Customer may rate shape the bandwidth to guarantee to not-to-exceed bandwidth assuring the same monthly recurring fee; or
- The Customer may increase the circuit bandwidth to reflect the additional bandwidth needed. (Phonoscope will generate a Change Order to the existing Service Order reflecting this change and forward to the Customer for signature.); or
- The Customer agrees that any future occurrence to the Customer exceeding the ninety-five percent (95%) rule will generate the standard incremental charges as identified herein.

F. The Customer's Billing Address

- Harris County ITC
406 Caroline
Houston TX 77002
Phone: (713) 755-8969
Billing contact: Robin Sheppard

G. Phonoscope's Remittance Address

- Phonoscope, Inc.
6105 Westline Drive
Houston, Texas 77036
713.272.4600
Accounts Receivable

H. The Recurring Monthly Fees and Payment Terms

Customer shall remit Two Thousand Eight Hundred and no/100 Dollars (\$2,800.00) per month plus any applicable taxes, regulatory fees and/or building access fees.

I. Non-recurring Aid-to-Construction/Provisioning Costs

Customer shall be waived for this service order.

J. Notices

To Phonoscope:

- Phonoscope, Inc.
6105 Westline Drive
Houston, Texas 77036
Phone: (713) 272-4600
Attn: Contract Administration
e-mail: nancy.jackson@phonoscope.com

To Customer:

- Harris County ITC
406 Caroline
Houston TX 77002
Phone: 713.755.3803
Attn: Garry Brown
e-mail: garry.brown@itc.hctx.net

K. Representatives

To Phonoscope:

- Robert Jacobs
IT & Data Director
Phone: 832.615.7742
e-mail: robert@phonoscope.com
- David Caddle
Vice President of Operations
Phone: 832.615.7721
e-mail: dcaddle@phonoscope.com

To Customer:

- Garry Brown
Manager, Network Services
Phone: 713.755.3803
e-mail: garry.brown@itc.hctx.net

It is requested that the Customer assign a technical representative and that the individual be available during the installation process.

L. Agreements

All services performed under this Service Order are subject to the terms of the Internet Service Agreement and any Addendums thereto between Phonoscope and the Customer. Special conditions are noted on this form.

M. Infrastructure Compatibility

All Customer connected equipment should support the appropriate Ethernet signaling and port speed for the contracted service.

N. Early Termination

During the term for this Agreement, and any automatic renewals, in the event that Customer desires to terminate Service Order One, Customer will pay to Phonoscope a termination fee of Fifty percent (50%) of the monthly rate for the remainder of the contract.

O. Customer Authorization

The Customer hereby authorizes Phonoscope to set up an account in its name and to enter its place of business to activate the network service. The Customer acknowledges that a Phonoscope Service Representative will contact the Customer to confirm and schedule the order.

IN WITNESS WHEREOF, Phonoscope and the Customer have executed this Addendum as evidenced below:


By: Judge Ed Emmett
Title: Presiding Officer of the Harris County Commissioners Court

DEC 21 2010
Date Signed

PHONOSCOPE, INC.


By: ~~David Gaddie~~ Rhonda Cumming
~~Vice President of Operations~~ President

6 December 2010
Date Signed

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on the ____ day of DEC 21 2010, 2010 with the following members present, to-wit:

Ed Emmett	County Judge
El Franco Lee	Commissioner, Precinct No. 1
Sylvia R. García	Commissioner, Precinct No. 2
Steve Radack	Commissioner, Precinct No. 3
Jerry Eversole	Commissioner, Precinct No. 4

and the following members absent, to-wit: Eversole,
constituting a quorum, when among other business, the following was transacted:

**ORDER AUTHORIZING EXECUTION OF AN AMENDMENT TO THE AGREEMENT
BETWEEN HARRIS COUNTY AND PHONOSCOPE, INC.**

Commissioner GARCIA introduced an order and made a motion that the same be adopted. Commissioner Lee seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

Vote of the Court	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Judge Emmett	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. García	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Radack	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Eversole	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Recitals

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3. Phonoscope presented the winning quote.

Presented to Commissioner's Court

DEC 21 2010

4. Phonoscope warrants and represents that it is willing and capable of providing the services.

Now, therefore, be it Ordered by the Commissioners Court of Harris County:

1. That the recitals set forth in this Order are true and correct.
2. That County Judge Ed Emmett be, and is hereby, authorized to execute for and on behalf of Harris County, the Amendment to the Agreement between Harris County and Phonoscope, Inc., for the purpose of installing a new 100Mbps high speed internet access over a wide-area Ethernet network, for a not-to-exceed cost of Thirty-Three Thousand Six Hundred and No/Dollars (\$33,600.00), for a term beginning January 1, 2011, and ending on December 31, 2011, with the possibility of four (4) consecutive one-year renewal terms under the same terms and conditions specified in the Master Agreement and this Amendment. The Master Agreement and Amendment are incorporated herein as though fully set forth word for word.
3. All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purpose of this Order.