

## SERVICE AGREEMENT NO. 3119

### Closed Captioning Services

THIS **Closed Captioning Services Agreement** ("Agreement") is entered into by and between the City of Corpus Christi, a Texas home-rule municipal corporation ("City") and CaptionSource, LLC ("Contractor"), effective upon execution by the City Manager or the City Manager's designee ("City Manager").

WHEREAS, Contractor has bid to provide Closed Captioning Services in response to Request for Bid/Proposal No. 3119 ("RFB/RFP"), which RFB/RFP includes the required scope of work and all specifications and which RFB/RFP and the Contractor's bid or proposal response, as applicable, are incorporated by reference in this Agreement as Exhibits 1 and 2, respectively, as if each were fully set out here in its entirety.

NOW, THEREFORE, City and Contractor agree as follows:

1. **Scope.** Contractor will provide Closed Captioning Services ("Services") in accordance with the attached Scope of Work, as shown in Attachment A, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety, and in accordance with Exhibit 2.
2. **Term.** This Agreement is for 3 years, with performance commencing upon the date of issuance of a notice to proceed from the Contract Administrator or the Contracts and Procurement Department. The parties may mutually extend the term of this Agreement for up to zero additional zero-year periods ("Option Period(s)"), provided, the parties do so by written amendment prior to the expiration of the original term or the then-current Option Period. The City's extension authorization must be executed by the City Manager or designee.
3. **Compensation and Payment.** This Agreement is for an amount not to exceed \$64,350.00, subject to approved extensions and changes. Payment will be made for Services completed and accepted by the City within 30 days of acceptance, subject to receipt of an acceptable invoice. Contractor shall invoice no more frequently than once per month. All pricing must be in accordance with the attached Bid/Pricing Schedule, as shown in Attachment B, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety. Any amount not expended during the initial term or any option period may, at the City's discretion, be allocated for use in the next option period. Invoices will be mailed to the following address with a copy provided to the Contract Administrator:

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

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

Name: Sylvia Wilson  
Department: Human Resources  
Phone: 361-826-3196  
Email: SylviaW@cctexas.com

**5. Insurance; Bonds.**

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

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

- 6. Purchase Release Order.** For multiple-release purchases of Services to be provided by the Contractor over a period of time, the City will exercise its right to specify time, place and quantity of Services to be delivered in the following manner: any City department or division may send to Contractor a purchase release order signed by an authorized agent of the department or division. The purchase release order must refer to this Agreement, and Services will not be rendered until the Contractor receives the signed purchase release order.

- 7. Inspection and Acceptance.** City may inspect all Services and products supplied before acceptance. Any Services or products that are provided but not

accepted by the City must be corrected or re-worked immediately at no charge to the City. If immediate correction or re-working at no charge cannot be made by the Contractor, a replacement service may be procured by the City on the open market and any costs incurred, including additional costs over the item's bid/proposal price, must be paid by the Contractor within 30 days of receipt of City's invoice.

## **8. Warranty.**

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

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

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

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

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

**11. Independent Contractor.** Contractor will perform the work required by this Agreement as an independent contractor and will furnish such Services in its own manner and method, and under no circumstances or conditions will any agent, servant or employee of the Contractor be considered an employee of the City.

- 12. Subcontractors.** Contractor may use subcontractors in connection with the work performed under this Agreement. When using subcontractors, however, the Contractor must obtain prior written approval from the Contract Administrator unless the subcontractors were named in the bid or proposal or in an Attachment to this Agreement, as applicable. In using subcontractors, the Contractor is responsible for all their acts and omissions to the same extent as if the subcontractor and its employees were employees of the Contractor. All requirements set forth as part of this Agreement, including the necessity of providing a COI in advance to the City, are applicable to all subcontractors and their employees to the same extent as if the Contractor and its employees had performed the work. The City may, at the City's sole discretion, choose not to accept Services performed by a subcontractor that was not approved in accordance with this paragraph.
- 13. Amendments.** This Agreement may be amended or modified only in writing executed by authorized representatives of both parties.
- 14. Waiver.** No waiver by either party of any breach of any term or condition of this Agreement waives any subsequent breach of the same.
- 15. Taxes.** The Contractor covenants to pay payroll taxes, Medicare taxes, FICA taxes, unemployment taxes and all other applicable taxes. Upon request, the City Manager shall be provided proof of payment of these taxes within 15 days of such request.
- 16. Notice.** Any notice required under this Agreement must be given by fax, hand delivery, or certified mail, postage prepaid, and is deemed received on the day faxed or hand-delivered or on the third day after postmark if sent by certified mail. Notice must be sent as follows:

**IF TO CITY:**

City of Corpus Christi  
Attn: Sylvia Willson  
Title: Human Resources Project Manager  
Address: 1201 Leopard St. Corpus Christi, TX 78401  
Phone: 361-826-3196  
Fax: 361-826-3322

**IF TO CONTRACTOR:**

CaptionSource, Inc.  
Attn: Whitney Riley  
Title: Owner  
Address: 30818 Keeneland Dr., Boerne, TX 78015  
Phone: 210-325-5907  
Fax: N/A

**17. CONTRACTOR SHALL FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY OF CORPUS CHRISTI AND ITS OFFICERS, EMPLOYEES AND AGENTS ("INDEMNITEES") FROM AND AGAINST ANY AND ALL LIABILITY, LOSS, CLAIMS, DEMANDS, SUITS, AND CAUSES OF ACTION OF WHATEVER NATURE, CHARACTER, OR DESCRIPTION ON ACCOUNT OF PERSONAL INJURIES, PROPERTY LOSS, OR DAMAGE, OR ANY OTHER KIND OF INJURY, LOSS, OR DAMAGE, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, ATTORNEYS' FEES AND EXPERT WITNESS FEES, WHICH ARISE OR ARE CLAIMED TO ARISE OUT OF OR IN CONNECTION WITH A BREACH OF THIS AGREEMENT OR THE PERFORMANCE OF THIS AGREEMENT BY THE CONTRACTOR OR RESULTS FROM THE NEGLIGENT ACT, OMISSION, MISCONDUCT, OR FAULT OF THE CONTRACTOR OR ITS EMPLOYEES OR AGENTS. CONTRACTOR MUST, AT ITS OWN EXPENSE, INVESTIGATE ALL CLAIMS AND DEMANDS, ATTEND TO THEIR SETTLEMENT OR OTHER DISPOSITION, DEFEND ALL ACTIONS BASED THEREON WITH COUNSEL SATISFACTORY TO THE CITY ATTORNEY, AND PAY ALL CHARGES OF ATTORNEYS AND ALL OTHER COSTS AND EXPENSES OF ANY KIND ARISING OR RESULTING FROM ANY SAID LIABILITY, DAMAGE, LOSS, CLAIMS, DEMANDS, SUITS, OR ACTIONS. THE INDEMNIFICATION OBLIGATIONS OF CONTRACTOR UNDER THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.**

**18. Termination.**

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

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

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

- 20. Limitation of Liability.** The City's maximum liability under this Agreement is limited to the total amount of compensation listed in Section 3 of this Agreement. In no event shall the City be liable for incidental, consequential or special damages.
- 21. Assignment.** No assignment of this Agreement by the Contractor, or of any right or interest contained herein, is effective unless the City Manager first gives written consent to such assignment. The performance of this Agreement by the Contractor is of the essence of this Agreement, and the City Manager's right to withhold consent to such assignment is within the sole discretion of the City Manager on any ground whatsoever.
- 22. Severability.** Each provision of this Agreement is considered to be severable and, if, for any reason, any provision or part of this Agreement is determined to be invalid and contrary to applicable law, such invalidity shall not impair the operation of nor affect those portions of this Agreement that are valid, but this Agreement shall be construed and enforced in all respects as if the invalid or unenforceable provision or part had been omitted.
- 23. Order of Precedence.** In the event of any conflicts or inconsistencies between this Agreement, its attachments, and exhibits, such conflicts and inconsistencies will be resolved by reference to the documents in the following order of priority:
- A. this Agreement (excluding attachments and exhibits);
  - B. its attachments;
  - C. the bid solicitation document including any addenda (Exhibit 1); then,
  - D. the Contractor's bid response (Exhibit 2).
- 24. Certificate of Interested Parties.** Contractor agrees to comply with Texas Government Code Section 2252.908, as it may be amended, and to complete Form 1295 "Certificate of Interested Parties" as part of this Agreement if required by said statute.
- 25. Governing Law.** Contractor agrees to comply with all federal, Texas, and City laws in the performance of this Agreement. The applicable law for any legal disputes arising out of this Agreement is the law of the State of Texas, and such form and venue for such disputes is the appropriate district, county, or justice court in and for Nueces County, Texas.
- 26. Public Information Act Requirements.** This paragraph applies only to agreements that have a stated expenditure of at least \$1,000,000 or that result in the expenditure of at least \$1,000,000 by the City. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the Contractor agrees that the contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

**27. Entire Agreement.** This Agreement constitutes the entire agreement between the parties concerning the subject matter of this Agreement and supersedes all prior negotiations, arrangements, agreements and understandings, either oral or written, between the parties.

**CONTRACTOR**

Signed by:

Signature: Whitney Riley  
77B713174E12429

Printed Name: Whitney Riley

Title: Owner

Date: 9/17/2020

**CITY OF CORPUS CHRISTI**

Kim Baker  
Director of Contracts and Procurement

Date: \_\_\_\_\_

**Attached and Incorporated by Reference:**

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

**Incorporated by Reference Only:**

Exhibit 1: RFB/RFP No. 3119  
Exhibit 2: Contractor's Bid/Proposal Response

## **ATTACHMENT A: SCOPE OF WORK**

### **1. General Requirements**

The Contractor shall provide The City of Corpus Christi ("City") real time closed captioning services for each of the regularly scheduled City of Corpus Christi Council meetings, Special City Council meetings and emergency broadcasts on an as-needed basis via remote access. The Contractor will be responsible for the captioned services for the hearing impaired as outlined in this Scope of Work.

### **2. Scope of Work**

- A. The Contractor shall provide live closed captioning of the regularly scheduled City Council meeting currently held on Tuesdays with the exception of the first Tuesday of the month, currently commencing at 11:30 A.M. Central Time (Subject to change per City Council). City Council meetings average three per month with the exception of months that contain an extra week requiring four meetings. City Council meetings may be reduced during Spring Break in March, and designated City holidays in the months of November and December in which the average is two per month.
- B. Additional meetings that may require closed captioning services include Special City Council meetings and emergency broadcasts, which services shall be performed in a professional manner, consistent with industry standards. Note: meeting dates, times and locations are subject to change and additional meetings may be added throughout the year.
- C. The Contractor is required to complete a connection test approximately 15 minutes via remote access before the beginning of each meeting to ensure the connection is established with the City.
- D. The Contractor shall have their office open and available to provide assistance to the City at minimum, from 9:00 a.m. to 5:00 p.m. Central Time (except on designated City holidays). The actual live closed captioning hours may extend beyond the scheduled times listed. If a meeting is called to recess, the contractor is expected to remain on the job until the meeting is announced "**Adjourned**".
- E. Contractor shall email the Contract Administrator an electronic draft transcript of the closed captioning in Word or PDF format within 3 to 5 business day of the meeting.

### **3. Contractor Responsibilities**

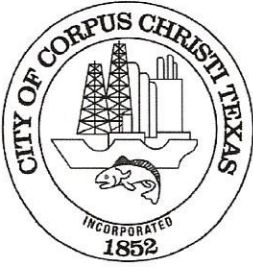
- A. Contractor shall provide a qualified, real-time captionist with encoding equipment, appropriate software, hardware and back up equipment to perform live captioning. Contractor is responsible for the equipment to be



compatible with the equipment utilized by the City of Corpus Christi. Compatible equipment to include but is not limited to: dedicated phone line, Comrex auto answer broadcast coupler, and EEG Model EN530 HD-TV Smart closed captioning Encoder IV; or updated equipment such as this as technology evolves.

- B. Contractor shall ensure any person performing on Contractor's behalf, possesses the ability, licenses, certifications and skills necessary to provide the services. Contractor must maintain and provide proof of Certified Real-Time Reporter Certificate (CRR) and at least two of the following certificates for each captioner:
- Texas Certified Shorthand Reporter (SCR) or equivalent
  - Registered Professional Reporter (RPR)
  - Registered Merit Reporter (RMR)
- C. Contractor warrants and represents that it and any person or entity performing under this Service Agreement shall comply with all applicable federal, state, and local laws and regulations, including the Americans with Disabilities Act of 1990.
- D. Contractor shall provide captioning software from a reputable company that has been utilized successfully in the live closed captioning environment for at least five years.
- E. Contractor shall provide hardware enabling hookup and execution of closed captioning.

Prior to the commencement of this Service Agreement, Contractor shall perform a test to confirm the compatibility of equipment and confirm the ability to provide a successful closed captioning service.

**ATTACHMENT B: BID/PRICING FORM**

**CITY OF CORPUS CHRISTI**  
**Pricing Form**  
**CONTRACTS AND PROCUREMENT DEPARTMENT**

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CaptionSource, LLC

**PROPOSER***Whitney Riley***AUTHORIZED SIGNATURE**

- 1. Refer to "Instructions to Proposers" and Contract Terms and Conditions before completing proposal.**
- 2. Provide your best price for each item.**
- 3. In submitting this proposal, Proposer certifies that:**
  - a. the prices in this proposal have been arrived at independently, without consultation, communication, or agreement with any other Proposer or competitor, for the purpose of restricting competition with regard to prices;
  - b. Proposer is an Equal Opportunity Employer; and the Disclosure of Interest information on file with City's Contracts and Procurement office, pursuant to the Code of Ordinances, is current and true.
  - c. Proposer has incorporated any changes issue through Addenda to the RFP in this pricing.

DESCRIPTION	3 YEAR QTY	UNIT	UNIT PRICE	TOTAL PRICE
Closed Captioning Services	585	HRS	\$110.00	\$64,350.00

## **ATTACHMENT C: INSURANCE AND BOND REQUIREMENTS**

Section 5. (A) & (B) is null to this Service Agreement

## **ATTACHMENT D: WARRANTY REQUIREMENTS**

Section 8. Warranty. (A) & (B) is null to this Service Agreement