

THE STATE OF TEXAS
COUNTY OF HIDALGO

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CONTRACT FOR SERVICES

C-XX-XXX-XX-XX

THIS AGREEMENT is made effective the 1ST day of April, 2014, by and between the **HIDALGO CRIMINAL DISTRICT ATTORNEYS OFFICE**, a department of **HIDALGO COUNTY, TEXAS**, a political subdivision of the State of Texas (hereinafter "Department") and **JAMES R. WADE** (hereinafter "Consultant") to serve at the pleasure of the Department.

WITNESSETH:

WHEREAS, Department desires to contract with a person to provide the services necessary to act as an Information Technology Professional for the Hidalgo County Office of Criminal District Attorney that are more specifically set forth hereinafter; and

WHEREAS, Consultant has agreed to provide the services enumerated hereinafter for the Department.

NOW, THEREFORE, for the mutual consideration expressed hereinafter, Department and Consultant agree as follows:

1. Consultant agrees to provide to Department consulting services required by the Hidalgo County Office of Criminal District Attorney in connection with "Professional Consultant Services for Information Technology" (the "Services"). Pursuant to Article 262.024 "The Professional Service Procurement Act", Texas Local Government Code, the Department has requested an exemption for professional consultant services for the term herein stated. These services include, but are not limited to, the items listed on Exhibit "A", which attached and made a part of this Agreement.

2. Consultant will report any problems or recommended changes in providing "Professional Consultant Services for Information Technology" to the Hidalgo County Office of Criminal District Attorney.

3. This Agreement shall be for a period of seven (7) months beginning on **April 1, 2014** and ending on **October 31, 2014**. The Hidalgo County Office of Criminal District Attorney at its sole discretion may elect the option to extend the agreement for an additional sixty (60) days grace period, for the same rates, terms and conditions, at the end of the Agreement term due to any unforeseen delay in any procurement process, unless this Agreement is terminated pursuant to the provisions herein, whichever occurs first.

4. As a condition of this Agreement, Consultant shall hold and maintain throughout the term of this Agreement all certifications, licenses and permits required, or which may be required by any authority during the term hereof to provide the Services.

5. As consideration for services of Consultant described herein, County agrees to pay Consultant the sum of EIGHT THOUSAND THREE HUNDRED THIRTY THREE DOLLARS (\$8,333.00) for "Professional Consultant Services for Information Technology" per month, payable against written invoice submitted by Consultant, and due no later than 15 days from submission date of invoice.

6. Consultant must comply with all applicable Department and Hidalgo County policies and with any applicable federal, state or local laws, regulations, orders or ordinances applicable to the services provided by Consultant under this Agreement. Notwithstanding the foregoing sentence, Consultant represents and maintains that it is an independent contractor and is not an employee of Department, Hidalgo County, Texas, or any agency thereof, and represents and warrants that it does not desire or request any fringe benefits provided to employees of Department, Hidalgo County, Texas, and/or any agency thereof, including, but not limited to benefits associated with Hidalgo County's civil service program. Consultant agrees to be responsible for any federal income tax, withholding or social security tax liability that might arise from payments received hereunder.

7. Department and Consultant agree that Hidalgo County may terminate this Agreement at any time for any reason or no reason at all upon the giving of thirty (30) days prior written notice to the other party.

8. Consultant agrees to provide liability insurance covering its activities in providing the services for Department in an amount not less than the minimum amounts prescribed by the Texas Tort Claims Act, §100.001, et seq., Texas Civil Practices and Remedies Code, and shall furnish Department a certificate issued by the insurer that such insurance is in full force and effort.

9. **INDEMNIFICATION: CONSULTANT SHALL INDEMNIFY AND HOLD HARMLESS COUNTY, ITS ELECTED OFFICIALS, EMPLOYEES AND AGENTS FROM ANY AND ALL CLAIMS, DAMAGES, LOSSES, AND EXPENSES INCLUDING ATTORNEY'S FEES FOR THE DEFENSE OF ANY ACTION AGAINST COUNTY ARISING OUT OF, RESULTING FROM, OR CONNECTED WITH THE PROVISION OF THE SERVICE BY CONSULTANT UNDER THIS AGREEMENT. SAID INDEMNITY SHALL COVER ANY ACT OR FAILURE TO ACT BY THE CONSULTANT, ITS AGENTS OR EMPLOYEES.**

10. Except as otherwise herein provided, Consultant may not assign the obligations or rights under this contract to any person without the prior written consent of Department.

11. Except as may be otherwise specifically provided in this Agreement, all notices, demands, requests or communications required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written receipt, or (ii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or at such other addresses as may have been theretofore specified by written notice delivered in accordance herewith:

If to Department:

Hidalgo County Office of Criminal District
Attorney
Attention: _____
100 N. Closner Rm 303
Edinburg, Texas 78539

If to Consultant:

James R. Wade
4315 Balboa Dr.
Ft. Worth, Texas 78133-5405

Each notice, demand, request or communication which shall be delivered or mailed in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addressee or, if mailed, at such time as it is deposited in the United States mail.

12. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

13. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this contract.

14. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

15. The execution and performance of this Agreement by Department and Consultant have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of Department and Consultant in accordance with its terms.

16. Commitment of Current Revenues Only. In the event that, during any term hereof, the Commissioners Court or the Department does not appropriate sufficient funds to meet the obligations of Department under this Agreement, County may terminate this Agreement upon thirty (30) days written notice to Consultant. County agrees, however, to use reasonable effort to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of County pursuant to the provision of Tex.Loc.Govt.Code Ann. Sec. 271.903.

EXECUTED as of the day and year first written above.

HIDALGO COUNTY

By: _____

Ramon Garcia, Hidalgo County Judge

**HIDALGO COUNTY CRIMINAL DISTRICT
ATTORNEY'S OFFICE**

By: _____

Rene Guerra

CONSULTANT:

By: _____

James R. Wade

Approved as to form:

Office of Criminal District Attorney Rene Guerra
100 N. Closner, Room 303
Edinburg, Texas 78539

By: _____

Victor M. Garza, Assistant District Attorney

EXHIBIT "A"
Scope of Services
Hidalgo County
Office of Criminal District Attorney
"Professional Consultant Services for Information Technology"
C – XX-XXX-XX-XX

SCOPE OF SERVICES:

Pursuant to Article 262.024 "The Professional Service Procurement Act", Texas Local Government Code, the County of Hidalgo, Texas, Office of Criminal District Attorney requires the Professional Consultant Services for Information Technology. **The services are on an "As Needed Basis".**

SPECIFICATIONS:

- a) Technical support services or elevated technical support from **James R. Wade** shall be provided upon request by an employee of the **Office of Criminal District Attorney**, an employee of the **Hidalgo County Information Technology Department** relative to an existing support request posted to their site or by the **Office of Criminal District Attorney's** designated representative in writing by creating a support ticket on **James R. Wade's** support website <http://jrwadeprotech.freshdesk.com/support/home> or by email to support@jrwadeprotech.com . Emails sent to the email address provided in paragraph 6 above create a support ticket on the support website listed above. Support request website posts and emails shall include the computer name, user name, phone number and extension and a brief description of the support issue. Screen shots and files should be included by uploading to the support portal and/or attached to the email support request if needed for clear understanding of the issue. **James R. Wade** shall furnish all equipment and materials required to provide Services for Information Technology and technical support.
- b) Response time of **James R. Wade**, or his qualified technical representative of equal or higher capabilities, shall be within four business hours from the date and time the email request is received at the support website of **James R. Wade** or before noon on the next business day if the requestor or a substitute representative of the **Office of Criminal District Attorney** is not available or due to the four hour minimum response time falling outside the normal business hours of the **Office of Criminal District Attorney** as defined in paragraph c) below.
- c) Normal business hours of the **Office of Criminal District Attorney** and **James R. Wade** are defined as Monday through Friday from 8:00 a.m. to 12:00 noon and from 1:00 p.m. to 5:00 p.m.
- d) If the person needing elevated support is not present at the computer when the technical support professional makes the initial response, then **James R. Wade** may respond by email through the **James R. Wade** support portal and said email, if sent within the four hour minimum, will constitute meeting of the minimum response time as defined in paragraph b) above. An appointment for support will then be required to be made by the requesting person and that appointment will be made for the following or a subsequent business day at an agreed upon time also available by **James R. Wade**.
- e) **James R. Wade** may be performing work on other projects such as systems and services documentation, knowledge base, policies and procedures documents and work on development of database applications for Civil cases, Asset Forfeitures and Personnel records.
- f) **James R. Wade** reserves the right to allocate time himself to those projects as deemed necessary to carry out the priorities of those projects as expressed by the **Office of Criminal District Attorney** in writing. Civil applications which might be included are Mental Commitment Case Tracking, Protective Order Case Tracking, Child Removal Case Tracking, Juvenile Criminal Case Tracking, and Guardianship Case

Tracking. Asset Forfeiture Case Tracking and Employees Records database applications are options for which priorities may be set by the client in writing.

- g) All rights to the intellectual property contained in application development including analysis, design, programming code, interface design and database structures are retained by **James R. Wade**. All code, database structure schemas and designs, user interface designs and code, user stories, Microsoft SQL stored procedures, documents and compiled programs developed by **James R. Wade** under this contract remain the property of **James R. Wade** to do with as he desires including licensing, sale or subscription to other entities.
- h) Source code for software may be held in escrow by a third party to be chosen by **James R. Wade** to provide such escrow service, if desired by Hidalgo County, at additional cost. Such service would require a separate contract for that service between Hidalgo County and **James R. Wade** and is expressly not included in this contract. This escrow service would be by a company that specializes in software code escrow storage and would protect the **Office of Criminal District Attorney** from loss of access to modifiable code in the event of the death of **James R. Wade**.
- i) Services requiring the physical presence of **James R. Wade** in Hidalgo County, at any vendor offices, or at any training location as required by the **Office of Criminal District Attorney** for specified tasks requiring personal, physical presence of **James R. Wade** for training, meetings, hardware or software setup, or any projects requiring the onsite presence of **James R. Wade** may be purchased from **James R. Wade** at a daily rate and shall be at an additional cost, upon prior written approval, of \$1200.00 per day in full day units only, which daily rate includes time and all travel expense as described in paragraphs j) through m) below. Purchase of onsite hours shall not reduce the contracted number of hours in each thirty-hour block of time of any month nor diminish the length of this contract. Means of travel is at the discretion of **James R. Wade**. Additional Purchase Orders for onsite days must be received thirty days prior to the onsite services required. It is recommended that a Purchase Order for five days be obtained at the time of execution of this agreement to draw against to provide for any unexpected emergency needs that may arise.
- j) If it is possible to travel by highway and arrive at the location desired at the appropriate time on the day required, the onsite days will begin at 9:00 a.m. on the first day onsite services are required. In this case the longer travel times required by highway travel each way are not charged to the client.
- k) If travel for onsite services is necessary by air to meet deadlines for which insufficient notice was given for highway travel, the days of both flights to and from the location of the onsite services will be charged as a full day without respect of the amount to time present onsite for those air travel days.
- l) Onsite days, except as described in paragraph k) above, consist of six-hour days, with those hours beginning at 9:00 a.m. and continuing until 12:00 noon and then from 1:00 p.m. to 3:00 p.m. All travel expenses are included in the day rate. Air travel to and from the destination always constitutes a full day without respect to the number hours, if any, actually at the onsite location providing services on those days and are billed as a full day.
- m) Onsite services which may be obtained by the client from **James R. Wade** include, but are not limited to, support of the applications and projects such as: training of personnel, needs analysis, supervision of networking or VoIP installations, installation and setup of new server operating systems, data migration, deployment of software or images, building of operating system images for deployment, security analysis, disaster recovery, computer forensics, virus or Trojan or system hijacking attacks, meetings with subject matter experts among the client's staff for application design, presentations before County Commissioners' Court, and consulting on Voice over IP, hardware, networking, or software.