

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered by and between COLLIN COUNTY, TEXAS, a political subdivision of the State of Texas, hereinafter referred to as “County”, and REALeads, LLC, hereinafter referred to as “Consultant,” to be effective from and after the date of execution by both parties.

WITNESSETH:

WHEREAS, the County desires to engage the services of Consultant to assist County in Radio Management tasks related to current 800MHz Radio System and P25 Upgrade;

WHEREAS, Consultant desires to render such services for the County upon the terms and conditions provided herein;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the covenants contained herein, and for the mutual benefits to be obtained hereby, the parties hereto agree as follows:

I. Employment of Consultant

- 1.1 The County hereby agrees to retain Consultant as an independent contractor in connection to the Project. Consultant will perform the services in accordance with the terms and in a timely and competent manner and acknowledges that she is knowledgeable and competent to provide the services described.
- 1.2 After the contract’s end, the County alone will retain all information, documents, and data and Consultant work product required to be maintained as a result of Consultant’s work under this contract.

II. Scope of Services

- 2.1 The Consultant shall perform the services as are set forth and described in Exhibit “A”, which is attached hereto and thereby made a part of the agreement. The parties understand and agree that deviations or modifications in the services to be performed may be authorized in writing from time to time by the County.
- 2.2 The Consultant will serve as the County’s representative under this Agreement, providing professional services, consultation, advice and furnish customary services incidental thereto. The Consultant agrees to cooperate and coordinate with the County as needed.

III. Schedule of Services

- 3.1 The Consultant agrees to commence her services immediately upon execution of this Agreement, or as otherwise directed in writing by the County, and to proceed diligently with said services to completion as described in Exhibit “B” which is attached hereto and thereby made a part of this agreement. Consultant shall not be considered in default of this Agreement for delays in performance caused by circumstances beyond its reasonable control; a change in law; a changed or unexpected site condition; an act or omission of County or County’s suppliers and contractors; an error or change in County provided information. Should such circumstances occur, the Consultant shall, within reasonable time of being prevented from performing, give written notice to the County describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement. The Consultant shall thereafter be entitled to a change amendment, as mutually agreed upon by both parties.

IV. Compensation and Method of Payment

- 4.1 The parties agree that Consultant shall be compensated for all services provided under this agreement in the amount and manner described and set forth in Exhibit “C” Payment Schedule. The County will pay as invoiced or billed to the extent such invoices are not disputed. The County will pay the Consultant under the Prompt Payment Act, Texas Government Code, Title 10, Subtitle F, Chapter 2251. Consultant further agrees to the following terms prior to payment being due by County:

4.1.1 Invoice and Payment

- 4.1.1.1 The Consultant shall provide the County sufficient documentation to reasonably substantiate the invoices.
- 4.1.1.2 The Consultant will issue monthly invoices for all work performed under the agreement.
- 4.1.1.3 In the event of disputed or contested billing, only that portion so contested will be withheld from payment, and the undisputed portion will be paid. The County will exercise reasonableness in contesting any portion thereof. NO interest will accrue on any contested portion of the billing until mutually resolved.
- 4.1.1.4 In the event any conflict between paragraph IV and Chapter 2251 of the Texas Government Code, the Texas Government Code shall prevail.

V. Insurance

- 5.1 Consultant agrees to meet all of the insurance requirements as set forth on Exhibit “E” which is attached hereto and thereby made a part of this Agreement

VI. Intention as to Immunity, Indemnification

- 6.1 The Consultant agrees to the fullest extent permitted by law, to indemnify and hold harmless the County and its officers, agents, and employees of the from damages, injuries (including death), claims, property damages (including loss of use), losses, demand suits, judgements and costs including reasonable attorney's fees and expenses arising of or occasioned by Consultant's breach of any of the terms or provisions of this Agreement, or by any other negligent act, error or omission of the Consultant, its agents, servants, employees, subcontractors, licensees, invitees, or any other persons or entities for whose acts the Consultant or County is legally liable.
- 6.2 Except for the negligent acts or willful misconduct of the Consultant, the County, to the extent allowed by law, agrees to indemnify and hold harmless Consultant from and against any and all claims, costs, losses, expenses demands, actions, or causes of litigation, which may be asserted against or incurred by the Consultant which arise from the negligence, willful misconduct or other fault of County or its employees, agents, or subcontractors in the performance of this agreement.

VII. Independent Contractor

- 7.1 Limited Scope of Authority: In the performance of the duties set out in Section II and Exhibit A and subject to Section IV, Consultant will be deemed an independent contractor of the County, and not an employee. The scope of Consultant's authority as an agent of the County includes only the authority reasonably necessary to perform the duties set out in Section II and Exhibit A and no more. In performing under this contract, Consultant may ride in a vehicle owned and operated by an employee of the County or one of the County's radio vendors, such as Black & Veatch or Motorola.
- 7.2 Differences of Opinion or Advice: If Consultant has a difference of opinion or advice with a consultant at Black & Veatch or with an engineer or other expert at Motorola about an important decision or discretionary instruction related to performing under this contract, then Consultant will notify a County employee team member and provide details.
- 7.3 Other Limits: Consultant is not a general agent for the County. Consultant may not sign contracts, make purchases, borrow money, or incur any financial or contractual obligation or liability for or on behalf of the County. Consultant may not waive a right of the County's under a contract between the County and any vendor, including Motorola, Enertech, and Black & Veatch, or other party, including the Cities of Plano and Allen and the cities leasing tower space to the County. Consultant may not act for the County in instructing another person—whether a County employee, contractor, subcontractor, vendor, or anyone else—*how* to perform the person's work, especially as the methods of work pertain to human safety.

VIII. Assignment and Subletting

- 8.1 The Consultant agrees that neither this Agreement nor the services to be performed hereunder will be assigned or sublet without the prior written consent of the County. The Consultant further agrees that the assignment or subletting of any portion or feature of the services required in the performance of this Agreement shall not relieve the Consultant from its obligations to the County as provided by this Agreement

IX. Audits and Records/Prohibited Interest

- 9.1 During the term of the Agreement, the Consultant agrees that at any time during normal business hours, and as often as the County may deem necessary, Consultant shall make available to representatives of the County for examination all of their records with respect to matters covered by this Agreement, and will permit such representatives of the County to audit, examine, copy and make excerpts or transcripts from such records and to make audits of all matters covered by this Agreement. At completion of the Contract , at no cost to the County, all Contract related documentation in custody or possession of Consultant shall be turned over to the County.
- 9.2 The Consultant acknowledges to the County that she has made full disclosure in writing on any existing conflicts of interest or potential conflicts of interest associated with her working for the County.

X. Agreement Termination

- 10.1 The parties agree that either party shall have the right to terminate this Agreement without cause upon thirty (30) days written notice after the initial three (3) month period (December 2, 2019 through March 2, 2020). In the event of such termination without cause, Consultant will deliver to County all finished or unfinished work product, documents, data, program database, studies, surveys, drawings, reports, photographs, Consultant work product, or other items prepared by Consultant in connection with this Agreement. Either party may terminate for this Agreement at any time for in the event of breach of any material term of this agreement. Regardless of which party initiates termination, Consultant will deliver to County all finished or unfinished work product, documents, data, program database, studies, surveys, drawings, reports, photographs or other items prepared by Consultant in connection with this agreement. Consultant will be entitled to compensation for any and all services completed to the satisfaction of the County in accordance with this Agreement prior to termination.

XI. Complete Agreement

- 11.1 This agreement, including the exhibits hereto labeled “A” through E” is the entire agreement by and between the parties regarding the subject matter hereof and supersedes all earlier written or oral understandings. This agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument, signed by the County and Consultant.
- 11.2 All representations and warranties set forth in this Agreement shall survive the completion of Consultant’s services or earlier termination of this Agreement. Consultant acknowledges that the County is relying upon Consultant’s representations that she is knowledgeable and competent to provide these services.
- 11.3 Any County property, including but not limited to books, records, files, documents and equipment, in Consultant’s possession shall be maintained by Consultant in good condition and repair, and shall be returned to the County by the Consultant upon termination of the Contract. All documents, records, and other work product and property produced during the performance of this Contract are the property of the County and the Consultant shall execute upon request any documents necessary to transfer ownership of such documents to the County.

XII. Mailing of Notices

- 12.1 Unless instructed otherwise in writing, Consultant agrees that all notices or communications to the County required under this Agreement shall be directed to the County as the following addresses:

Collin County
Attn: Purchasing Department
2300 Bloomdale, Suite 3160
McKinney, TX 75071

Collin County Administrator
Attn: Bill Bilyeu
2300 Bloomdale, Suite 4192
McKinney, TX 75071

- 12.2 County agrees that all notices or communications to Consultant required under this agreement shall be directed to the Consultant at the following address:

REALeads LLC
2523 Lusitano Lane
Celina, TX 75009

- 12.3 All notices or communications required to be given in writing by one party or the other shall be considered as having been given on the date such notice or communication is mailed by certified or registered US mail or if by hand delivery on the date of hand delivery by the sending party.

XIII. Miscellaneous

13.1 Paragraph Headings

The paragraph headings are for convenience only and are not intended to define or limit the scope of any provision in this agreement.

13.2 Interpret Agreement Fairly

Although this agreement is drafted by County, should any part be in dispute, the parties agree that the agreement shall not be construed more favorable for either party.

13.3 Venue/Governing Law

Texas law will govern this agreement. The venue for any litigation related to this agreement will be in Collin County, Texas.

13.4 Expenses for Enforcement

In the event either Party hereto is required to employ an attorney to enforce the provisions of this Agreement or is required to commence legal proceedings to enforce the provisions hereof, the prevailing Party shall be entitled to recover from the other, reasonable attorney's fees and court costs incurred in connection with such enforcement, including collection.

13.5 Parties Bound

The County and Consultant, and their partners, successors, subcontractors, executors, legal representatives, and administrators are hereby bound to the terms and conditions of this agreement. The parties will treat a photocopy of this agreement as an original copy for all purposes.

13.6 Computer, Phone, Email Account:

County will provide Consultant access to an onsite computer, desk phone and email address in the performance of the agreement. Upon termination of this Agreement all such equipment purchased by the County will be returned and remain the property of the County

Consultant will be required to pass a criminal background check and sign the County IT policies prior to being issued any County property. Any County property issued to the agreement must be returned to the County IT Department on the last day of the term of this agreement.

At the end of term of this agreement, any issued County email and network access will be disabled unless otherwise approved by the County CIO.

WITNESS OUR HANDS AND SEALS on the date indicated below.

COLLIN COUNTY, TEXAS

Date: _____

By: _____

Michalyn Rains
Purchasing Agent

REALeads, LLC

Date: _____

By: _____

Title: _____

EXHIBIT "A"

SCOPE OF SERVICES

Contract will be performed under direction of the Sheriff's Office.

Radio Management Task for the current 800 MHz Radio System

- Manage and distribute Radio IDs as needed.
- Manage Inventory of radios for all County Departments.
- Maintain the Collin County Radio Database that contains locations of the equipment, personnel the equipment is assigned to, and radio alias.
- Maintain a database that accounts for the radios on the PAWM Master Switch. This database includes all PD's, FD', and County Departments. This database will be provided to Budget upon request.
- Arrange all Programming needed for each department.
- Run various activity reports and maintain an accurate snapshot of the activity.
- Manage the Motorola and ComSearch Contracts. Motorola (Crosspoint) will continue to handle infrastructure failures and Network Management.
- Assist the County with renewal all FCC License.
- Follow-up with Crosspoint Communications on all major radio problems. Procedures for handling radio problems will remain in place as they are today, with Crosspoint being the first point of contact.
- Work with the proper County Department or Vendor to repair any radio problem.
- Handle the replacement of broken equipment.
- Assist with providing quotes for radio equipment for all County Departments.
- Make recommendation for equipment or software for the Radio System.
- Assist with problems involving BDA's in county buildings and arrange for any repairs needed.
- Respond to emails from County Departments, Police Departments and Fire Departments concerning radio issues. Work with the City of McKinney when needed if they have a problem with the Wilmeth Radio Tower.

Project Management on the New Radio System

- Attend weekly meetings (both in person and conference calls) to discuss project objectives.
- Attend meetings with the PAWM (acting as the County's contractor) working group to discuss implementation of the new radio system.
- Train new radio users on use of the Portable and Mobile Radio System.
- Distribute new radios and accessories to Maintenance, Public Works, and JAAEP.
- Organize all programming of the Portables and Mobiles during the required programming for the new radio system.
- Work with the Volunteer Fire Departments to install the Fire Alerting System in each Department.

- Work with Black & Veatch on all required duties to include but not limited to FCC Licensing, System Implementation and Installation.
- Work as the County Contractor (as the County feels is appropriate) in making decision concerning the new radio system, facilitating accesses into areas of all facilities, coordinating required task, and doing back-ground checks on workers.
- Distribute subscribers to Public Works, Maintenance and JJAEP.
- Organize and participate in Functional Acceptance Testing Program. This includes Functional Testing and Radio Coverage Testing.
- Work with Motorola to prepare a System Cutover Plan and ensure all departments (Including those who operate on our system), understand what will be expected.
- Closely monitor the radio system the 30 day system burn in time; looking for any problems with the system. This will involve watching for alarms and contact/meeting with all County Departments, Police Departments (on our system) and Fire Departments (on our system).
- After System Acceptance, arrange the deconstructions of our current radio system and Copeville Tower. Ensure that Motorola removes all old equipment from County property.

Radio Management of the 700 Overlay/Connect Radio System

- The County operates separate Regional Radio System in addition to the 800 MHz Radio System. The radio system is equally owned by Dallas FD, DFW Airport, Denton SO and Fort Worth PD. This radio system is not covered under a maintenance contract; best effort repairs are performed by the Dallas Radio Shop.
- Continue to work with our Regional Partners to keep this Radio System available to all First Responders.
- Respond to Maintenance Problems with this system. Contact and work with Dallas PD Radio Shop to repair larger radio issues.
- Make recommendations to the County should major pieces of equipment need replaced. Note: This radio system is not under contract for repair or replacement of broken parts. Any equipment replacement purchases and any contracting with outside vendors will be at the expense of the County.

Radio Management Task for the 700 MHz Radio System

- Should the County and Consultant choose to continue Consultant's involvement with management of the new radio system; the above Radio Management task for the current 800 MHz will continue.
- Attend the training classes included in the Motorola Contract.

Transfer of Knowledge

- Document processes and procedures for, and train, Collin County staff for maintain the new P25 radio system.

Required resources to be provided by the County

- Office space in the same location as the Radio Management Server. While most work will be completed off site or in Consultant's Home Office, some tasks will have to be performed at the Sheriff's Office
- A County Email address
- VPN Access
- Access to County computer while onsite
- Access to a printer and scanner to print reports, memos and other documents.
- Office supplies.
- Access to all County Buildings that have a BDA or radio equipment.
- Escorting assistance from Detention Personnel for tasks related BDA and radio repairs in the Collin County Detention Center.
- Conference Rooms at the Sheriff's Office for on-site meetings.
- During the Functional Acceptance Testing Phase, the County will be required to provide personnel and vehicles for the coverage testing.
- All fees and expenses related to the Radio System will be the responsibility of the County.
- APX 8000 Portable Radio.

EXHIBIT “B”

TERM

The Consultant shall begin work December 2, 2019 through September 30, 2020.

EXHIBIT "C"

PAYMENT SCHEDULE

The Consultant will invoice the County monthly at a rate of \$130 per hour for hours worked for a not to exceed of \$223,600 and not to exceed expenses of \$4,115. Total contract amount of \$227,715.

EXHIBIT “D”

INFORMATION TO BE PROVIDED BY THE COUNTY

The County will make available to Consultant any and all information, data, etc. as it may have in its possession relating to the individual case as described herein.

EXHIBIT "E"
INSURANCE REQUIREMENTS

1.0 Before commencing work, the vendor shall be required, at its own expense, to furnish the Collin County Purchasing Agent with certified copies of all insurance certificate(s) indicating the coverage to remain in force throughout the term of this contract.

1.1 **Commercial General Liability** insurance including but not limited to the coverage indicated below. Coverage shall not exclude or limit Products/Completed Operations, Contractual Liability, or Cross Liability. Coverage must be written on occurrence form.

- Each Occurrence: \$500,000
- Personal Injury & Property Damage: \$500,000
- Products/Completed Operation : \$500,000
- Independent Contractors & Contractual Liability: \$500,000
- General Aggregate: \$1,000,000

1.2 **Automobile Liability** insurance which includes any automobile (bodily injury and property damage, including owned, non-owned, and hired vehicles) used in connection with the contract.

- Combined Single Limit – Each Accident: \$500,000

1.3 **Professional/Errors & Omissions Liability insurance** with a two (2) year extended reporting period. If you choose to have project coverage endorsed onto your base policy, this would be acceptable.

- Each Occurrence/Aggregate: \$1,000,000

2.0 With reference to the foregoing insurance requirement, the vendor shall endorse applicable insurance policies as follows:

2.1 A waiver of subrogation in favor of Collin County, its officials, employees, volunteers and officers shall be provided for General Liability, Commercial Automobile Liability, and Workers' Compensation.

2.2 The vendor's insurance coverage shall name Collin County as additional insured under the General Liability policy.

2.3 All insurance policies shall be endorsed to require the insurer to immediately notify Collin County of any decrease in the insurance coverage limits.

2.4 All insurance policies shall be endorsed to the effect that Collin County will receive at least thirty (30) days' notice prior to cancellation, non-renewal or termination of the policy.

2.5 All copies of Certificates of Insurance shall reference the project/contract number.

3.0 All insurance shall be purchased from an insurance company that meets the following requirements:

3.1 A financial rating of A-VII or higher as assigned by the BEST Rating Company or equivalent.

3.2 Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent, and shall contain provisions representing and warranting the following:

3.3 Sets forth all endorsements and insurance coverage according to requirements and instructions contained herein.

3.4 Sets forth the notice of cancellation or termination to Collin County.