

STATE OF TEXAS

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COUNTY OF FORT BEND

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**ADDENDUM TO SYSTEM CENTER
CONFIGURATION MANAGER AGREEMENT**

THIS AMENDMENT is entered into by and between Fort Bend County, a body corporate and politic, and The Harding Group, Inc., a company authorized to conduct business in the State of Texas.

THAT, WHEREAS, the parties have executed and accepted that certain System Center Configuration Manager Agreement, (hereinafter the "Agreement"), attached hereto as Exhibit "A" and incorporated by reference; and

WHEREAS, the following changes are incorporated as if a part of the Agreement:

1. **Time of Performance.** It is understood and agreed that the time for performance of the Scope of Services under this Agreement shall begin with receipt of the Notice to Proceed and end no later than four (4) weeks thereafter.
2. **Applicable Law.** This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Fort Bend County, Texas. Venue shall lie in Fort Bend County, Texas, for any suit regarding this agreement.
3. **Indemnity.** THE HARDING GROUP, INC. SHALL SAVE HARMLESS FORT BEND COUNTY FROM AND AGAINST ALL CLAIMS, LIABILITY, AND EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM ACTIVITIES OF THE HARDING GROUP, INC., ITS AGENTS, SERVANTS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF THE HARDING GROUP, INC. OR ANY OF THE HARDING GROUP, INC.'S AGENTS, SERVANTS OR EMPLOYEES. THE PARTIES AGREE THAT UNDER THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS, FORT BEND COUNTY CANNOT ENTER INTO AN AGREEMENT WHEREBY FORT BEND COUNTY AGREES TO INDEMNIFY OR HOLD HARMLESS ANOTHER PARTY; THEREFORE, ALL REFERENCES OF ANY KIND TO DEFENDING, INDEMNIFYING, HOLDING OR SAVING HARMLESS FOR ANY REASON ARE HEREBY DELETED.
4. **Attorney Fees.** Fort Bend County does not agree to pay any and/or all attorney fees incurred by The Harding Group, Inc. in any way associated with this agreement.
5. **Arbitration.** Fort Bend County does not agree to submit disputes arising out of the Agreement to binding arbitration. Therefore, any references to binding arbitration or the waiver of a right to litigate a dispute are hereby deleted.
6. **Taxes.** Fort Bend County, Texas, is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes. A copy of a tax-exempt certificate will be furnished upon request.


7. **Confidential Information.** The Harding Group, Inc. expressly acknowledges that Fort Bend County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, Fort Bend County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to Fort Bend County by The Harding Group, Inc. shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed.
8. **Insurance.** Prior to commencement of the Services, The Harding Group, Inc. shall furnish Fort Bend County with evidence of all insurance required and provide that such insurance shall not be canceled, except on 30 days' prior written notice to Fort Bend County. The Harding Group, Inc. shall maintain such insurance coverage from the time Services commence until Services are completed. The Harding Group, Inc. shall obtain such insurance written on an Occurrence form from such companies having Bests rating of A/VII or better, licensed or approved to transact business in the State of Texas.
- a. The Harding Group, Inc. shall obtain such insurance of the following types and minimum limits:
 - i. Workers' Compensation insurance in accordance with the laws of the State of Texas. Substitutes to genuine Workers' Compensation Insurance will not be allowed.
 - ii. Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.
 - iii. Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.
 - iv. Business Automobile Liability insurance with a combined Bodily Injury/Property Damage limit of not less than \$1,000,000 each accident. The policy shall cover liability arising from the operation of licensed vehicles by policyholder.
 - v. Information technology liability insurance with limits not less than \$1,000,000.
 - b. Fort Bend County and the members of Commissioners Court shall be named as additional insured to all required coverage. All Liability policies written on behalf of The Harding Group, Inc. shall contain a waiver of subrogation in favor of Fort Bend County and members of Commissioners Court.
 - c. If required coverage is written on a claims-made basis, The Harding Group, Inc. warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be

exercised for a period of 2 years beginning from the time that work under the Agreement is completed.

9. **Independent Contractor.** In the performance of work or services hereunder, The Harding Group, Inc. shall be deemed an independent contractor, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of The Harding Group, Inc. or, where permitted, of its subcontractors. The Harding Group, Inc. and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of Fort Bend County and shall not be entitled to any of the privileges or benefits of Fort Bend County employment.

THE HARDING GROUP, INC.

By:


Authorized Agent – Signature

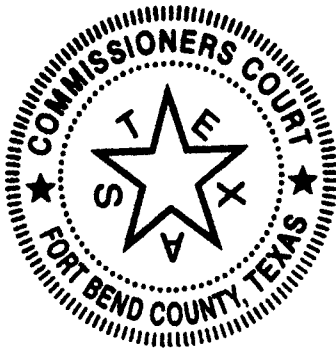
Yaser Wasset
Authorized Agent – Printed Name

Title:

EVP

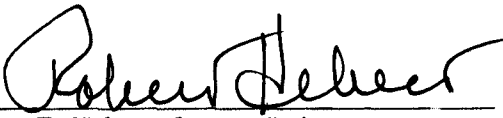
Date:

1/10/2011



FORT BEND COUNTY

By:


Robert E. Hebert, County Judge

Date:

1-11-2011

ATTEST:



Dianne Wilson, County Clerk

AUDITOR'S CERTIFICATE

I hereby certify that funds in the amount of \$ 13,200.⁰⁰ are available to pay the obligation of Fort Bend County within the foregoing Agreement.



Robert Ed Sturdivant, County Auditor

EXHIBIT A

A handwritten signature in black ink, located in the bottom right corner of the page. The signature is stylized and appears to be a cursive name.



System Center Configuration Manager Proposal

for

Fort Bend County

November 19, 2010

Ref# F00410050A

YH

About the Harding Group

The Harding Group, Inc. delivers award-winning service to meet the Information Technology needs of our customers. This service includes complex network design and integration, desktop support, consulting, and technical training. We integrate technologies from many vendors to ensure "best of breed" products that provide a smooth implementation for customers who want to spend less time managing their networks and more time meeting business demands.

No matter what your technology challenge, we can help. We have experts in all areas of technology to investigate various options and design a custom solution. Our objective is to supply the technical resources, so that you can focus on your company's core business. Our staff can fold into yours or can operate as an independent project team.

We will assess and recommend the best possible solution for you, help you see it to fruition, as well as continually support it.

Microsoft System Center Configuration Manager SOW

- Go through current *zen_apps.doc* file with client staff to determine what applications are necessary to package going forward
- Select 30 applications from the list with client for package deployment
- Package all requested applications currently deployed through Zen infrastructure into SCCM infrastructure

Project Assumptions for: SCCM SOW

- Client will provide necessary software licensing information and access to any vendor resources in a timely manner
- Software packages have the underlying installation infrastructure that allows them to be packaged in a deployable format such as an MSI or setup executable with necessary switches
- Any applications that do not have these abilities will be packaged into SCCM on a best effort basis
- The client maintains a copy of Adminstudio that may be necessary for packaging some software

Professional Services Fees for: SCCM Implementation

HGI is offering the professional services listed above to be performed remotely. HGI will complete the scope of work on a time and materials basis with a not to exceed cost of \$13,200. HGI will provide invoices with supporting documentation of all application packaging worked performed. Any additional work requested and agreed upon by Client will be billed at a time and materials rate of \$150/hour.

Contractual Agreement

HGI covenants and agrees that it shall use its best reasonable efforts, and that all persons employed by it to perform the Services hereunder, shall use their best reasonable efforts to perform the Services in a timely, efficient, diligent, competent and workmanlike manner.

Cost of and Payment for Services

Services will be calculated on the rate structure listed in this proposal. Project will be invoiced upon receipt of Authorization to Proceed / Purchase Order. Payments shall be made to HGI within 30 days of receipt of invoice. Late payments will incur a late fee of 2% of the total invoice.

Employment Solicitation

Neither Client nor any of its affiliates shall, directly or indirectly, solicit for employment, offer employment to, employ or engage as a consultant any individual who is then employed, or any individual who is employed by HGI. Likewise, HGI nor any of its affiliates shall, directly or indirectly, solicit for employment to, employ or engage as consultant any individual who is then employed by Client.

Non-disclosure of confidential information

During the term of this agreement and after termination or expiration of this agreement, neither party shall in any way transfer to any third party, or use in direct or indirect competition with the other party, or any of its other agents, any information disclosed by a party to the other party, that is marked as confidential or that is or should be reasonably understood to be confidential. Confidential information includes, but is not limited to, technical solutions, technical information, client information, price lists, business plans, pricing information, and human resources information.

Taxes

Sales tax, if applicable, will be charged. Client agrees that it shall timely pay such taxes or reimburse HGI for its payment thereof.

Limitations of Liability

Neither party shall be liable for any indirect, incidental, special, punitive or consequential damages or for any lost or imputed profits or revenues or lost data or costs of cover arising from or related to this agreement, regardless of the legal theory under which such liability is asserted, and regardless of whether a party has been advised of the possibility of any such liability, loss or damage. HGI's liability hereunder shall in no event exceed an amount equal to the revenue paid to HGI under this agreement.

Indemnification

Client shall indemnify, defend, and hold harmless HGI and its officers, directors, employees, agents and affiliates from and against any and all claims, demands, actions, losses, damages, assessments, charges, liabilities, costs and expenses (including, without limitation, interest, penalties, attorney's fees and disbursements) which may at any time be suffered or incurred by or be asserted against any or all of them, directly or indirectly, on account of or in connection with: (i) Client's default under any provision in this agreement, breach of any warranty or representation in this agreement, or failure in any way to perform any obligation under this agreement; (ii) personal injury, death, or damage to any loss of any property arising out of or in any way relating to the HGI services or pursuant, directly or indirectly, to this agreement; (iii) any claim, cause of action, judgment, liability or expense relating to or arising out of the acts or omissions of the client, its employees, contractors or agents.

Termination

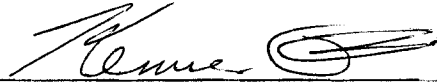
HGI and Client agree that this agreement may be terminated by either party with written 60 day notification. Client understands that there will be termination charges related to HGI's provision of hardware, software, and installation services if the year contract is not fulfilled.

Miscellaneous

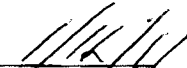
Any dispute relating to this agreement shall be submitted for binding arbitration under the Commercial Arbitration rules of the American Arbitration Association. The venue for any such arbitration shall be Dallas, Texas. Neither party may assign this agreement or any of its rights or obligations hereunder without the prior written consent of the other party. In the event that any portion of this agreement is held to be unenforceable, the unenforceable portion shall be construed as nearly as possible to reflect the original intent of the parties and the remainder of the provisions shall remain in full force and effect. Neither party's failure to insist upon strict performance of any provision of this agreement shall be construed as a waiver of any of its rights hereunder. Neither the course of conduct between parties nor trade practice shall act to modify any provision hereunder. Neither party will be liable for any delay or failure to perform its obligations hereunder (except with regard to payment obligations) where delayed or hindered by war, riots, embargoes, strikes or acts of its vendors or suppliers, accidents, acts of God, changes in law or government regulation or any other event beyond its reasonable control. The laws of the State of Texas shall govern this agreement. In the event a party is required to enforce or preserve its rights under this agreement, the other party shall pay all of the reasonable attorney's fees and costs of the party enforcing its rights, including allocable costs of in-house counsel, incurred in connection with any such successful action. This agreement shall not be amended except by written amendment signed by both parties to this agreement.

Authorization

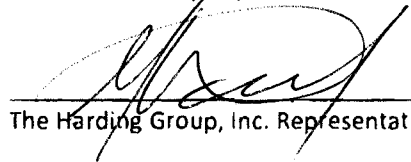
Fort Bend County authorizes The Harding Group, Inc. to proceed with services described in this proposal and contractual agreement as defined above. Fort Bend County agrees to pay The Harding Group, Inc. according to the pricing detailed.



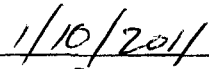
Fort Bend County Representative



Date



The Harding Group, Inc. Representative



Date

