

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

**AGREEMENT FOR AUDIT SERVICES BETWEEN WHITLEY PENN LLP AND
FORT BEND COUNTY PURSUANT TO FBC RFP 20-083**

THIS AGREEMENT is made and entered into by and between Fort Bend County, (“County”), a body corporate and politic under the laws of the State of Texas, and Whitley Penn, LLP (“Contractor”), a company authorized to conduct business in the State of Texas (collectively “the Parties”).

WITNESSETH

WHEREAS, County desires that Contractor provide professional Audit Services pursuant to FBC RFP 20-083, incorporated herein by reference; and

WHEREAS, the Texas County Purchasing Act, §262.024(4) and Chapter 2254, Subchapter A, Texas Local Govt. Code, exempts from competitive bidding contracts that are for personal or professional Services;

WHEREAS, the Fort Bend County Commissioners Court specifically finds that this Agreement is for professional audit services and therefore grants an exemption from competitive bidding, insofar as any competitive bidding statute might apply; and

WHEREAS, Contractor represents that it is qualified and desires to perform such services.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the Parties agree as follows:

AGREEMENT

Section 1. Scope of Services:

Contractor shall render Services to County as defined in Contractor’s Letter of Engagement, attached hereto as Exhibit A, and incorporated herein by reference.

Section 2. Personnel

2.1 Contractor represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for the timely performance of the services required under this Agreement and that Contractor shall furnish and maintain, at its own expense, adequate and

sufficient personnel, in the opinion of County, to perform the services when and as required and without delays.

2.2 All employees of Contractor shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Contractor who, in the opinion of County, is incompetent or by his conduct becomes detrimental to the project shall, upon request of County, immediately be removed from association with the project.

Section 3. Compensation and Payment

3.1 Contractor's fees shall be calculated at the rates set forth in and paid in accordance with the terms and provision set forth in Exhibit A. The Maximum Compensation for contract services is Two Hundred Thousand Nine Hundred dollars and 00/100 (\$200,900.00). In no case shall the amount paid by County under this Agreement exceed the Maximum Compensation without an approved change order.

3.2 Contractor understands and agrees that the Maximum Compensation stated is an all-inclusive amount and no additional fee, cost or reimbursed expense shall be added whatsoever to the fees stated in the Exhibit A.

3.3 All performance of the services by Contractor including any changes in the services and revision of work satisfactorily performed will be performed only when approved in advance and authorized by County.

3.4 County will pay based on the following procedures: Upon completion of each Service Event, Contractor shall submit to County two (2) original copies of invoices showing the amounts due for Services performed in a form acceptable to County. Contractor may submit electronically via: apauditor@fbctx.gov. County shall review such invoices and approve them within 30 calendar days with such modifications as are consistent with this Agreement and forward same to the Auditor for processing. County shall pay each such approved invoice within thirty (30) calendar days. County reserves the right to withhold payment pending verification of satisfactory work performed.

Section 4. Limit of Appropriation

4.1 Contractor clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available the total maximum sum of Two Hundred Thousand Nine Hundred dollars and 00/100 (\$200,900.00) specifically allocated to fully discharge any and all liabilities County may incur.

4.2 Contractor does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Contractor may become entitled to and the total maximum sum that County may become liable to pay to Contractor shall not under any conditions, circumstances, or interpretations thereof exceed Two Hundred Thousand Nine Hundred dollars and 00/100 (\$200,900.00).

4.3 It is specifically understood and agreed that in the event no funds or insufficient funds are appropriated by County under this Agreement, County shall notify all necessary Parties that this Agreement shall thereafter terminate and be null and void on the last day of the fiscal period for which appropriations were made without penalty, liability or expense to County.

Section 5. Time of Performance or Term

The Parties agree that this Agreement was effective as of August 1, 2022 and shall terminate on July 31, 2023, unless extended by written agreement of the Parties or sooner terminated in accordance with this Agreement. The Parties acknowledge and agree that services were and will be supported by good and valuable consideration during the Term of this Agreement, the sufficiency of which is acknowledged by the Parties.

Section 6. Modifications and Waivers

- A. The Parties may not amend or waive this Agreement, except by a written agreement executed by both Parties.
- B. No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the Parties, operates as a waiver or estoppel of any right, remedy, or condition.
- C. The rights and remedies of the Parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.

Section 7. Term and Termination

- A. This contract is for the period August 1, 2022 through July 31, 2023 renewable for two (2) one-year additional terms under the terms and conditions if mutually agreeable to both Parties.
- B. Termination for Default
 - 1. County may terminate the whole or any part of this Agreement for cause in the following circumstances:
 - a. If Contractor fails to perform services within the time specified in the Scope of Services or any extension thereof granted by the County in writing;
 - b. If Contractor materially breaches any of the covenants or terms and conditions set forth in this Agreement or fails to perform any of the other provisions of this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms,

and in any of these circumstances does not cure such breach or failure to County's reasonable satisfaction within a period of ten (10) calendar days after receipt of notice from County specifying such breach or failure.

2. If, after termination, it is determined by County that for any reason whatsoever that Contractor was not in default, or that the default was excusable, services may continue in accordance with the terms and conditions of this Agreement or the rights and obligations of the Parties shall be the same as if the termination had been issued for the convenience of the County in accordance with Section 7A above.
- C. Upon termination of this Agreement, County shall compensate Contractor in accordance with the Compensation and Payment Section above, for those services which were provided under this Agreement prior to its termination and which have not been previously invoiced to County. Contractor's final invoice for said services will be presented to and paid by County in the same manner set forth in the Compensation and Payment Section above.
 - D. If County terminates this Agreement as provided in this Section, no fees of any type, other than fees due and payable at the Termination Date, shall thereafter be paid to Contractor.

Section 8. Ownership and Reuse of Documents

The written report(s) created by Contractor in fulfillment of its work under this Agreement, shall become the property of County upon completion of this Agreement, or in the event of termination or cancellation thereof, and at the time of payment under the Compensation and Payment Section for work performed.

Section 9. Inspection of Books and Records

Contractor will permit County, or any duly authorized agent of County, to inspect and examine the books and records of Contractor for the purpose of verifying the amount of work performed under the Scope of Services. County's right to inspect survives the termination of this Agreement for a period of four years.

Section 10. Insurance

- A. Prior to commencement of the Services, Contractor shall furnish County with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days' prior written notice to County. Contractor shall provide certified copies of insurance endorsements and/or policies if requested by County. Contractor shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to

completion of Services. Contractor 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, and shall obtain such insurance of the following types and minimum limits:

1. Workers' Compensation insurance in accordance with the laws of the State of Texas. Substitutes to genuine Workers' Compensation Insurance will not be allowed. 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.
 2. 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.
 3. 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.
 4. Professional Liability insurance with limits not less than \$1,000,000.
- B. County and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation and Professional Liability (if required). All Liability policies written on behalf of Contractor shall contain a waiver of subrogation in favor of County and members of Commissioners Court.
- C. If required coverage is written on a claims-made basis, Contractor 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 the work under this Contract is completed.
- D. Contractor shall not commence any portion of the work under this Contract until it has obtained the insurance required herein and certificates of such insurance have been filed with and approved by Fort Bend County.
- E. No cancellation of or changes to the certificates, or the policies, may be made without sixty (60) days prior, written notification to Fort Bend County.
- F. Approval of the insurance by Fort Bend County shall not relieve or decrease the liability of the Contractor.

Section 12. Indemnity

CONTRACTOR SHALL INDEMNIFY AND DEFEND COUNTY AGAINST ALL LOSSES, LIABILITIES, CLAIMS, CAUSES OF ACTION, AND OTHER EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM ACTIVITIES OF CONTRACTOR, ITS AGENTS, SERVANTS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF CONTRACTOR OR ANY OF CONTRACTOR'S AGENTS, SERVANTS OR EMPLOYEES.

Section 13. Confidential and Proprietary Information

- A. Contractor acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to County. Any and all information of any form obtained by Contractor or its employees or agents from County in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by Contractor) publicly known or is contained in a publicly available document; (b) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (c) is independently developed by employees or agents of Contractor who can be shown to have had no access to the Confidential Information.

- B. Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third Parties or use Confidential Information for any purposes whatsoever other than the provision of Services to County hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use its best efforts to assist County in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, Contractor shall advise County immediately in the event Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and Contractor will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or Contractor against any such person. Contractor agrees that, except as directed by County, Contractor will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at County's request, Contractor will promptly turn over to County all

documents, papers, and other matter in Contractor's possession which embody Confidential Information.

- C. Contractor acknowledges that a breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, will give rise to irreparable injury to County that is inadequately compensable in damages. Accordingly, County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of County and are reasonable in scope and content.
- D. Contractor in providing all services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.
- E. Contractor expressly acknowledges that 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, 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 County by Consultant 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. The terms and conditions of the Agreement are not proprietary or confidential information.

Section 14. Independent Contractor

- A. In the performance of work or services hereunder, Contractor 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 contractor or, where permitted, of its subcontractors.
- B. Contractor 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 County and shall not be entitled to any of the privileges or benefits of County employment.

Section 15. Notices

- A. Each party giving any notice or making any request, demand, or other communication (each, a "Notice") pursuant to this Agreement shall do so in writing and shall use one of

the following methods of delivery, each of which, for purposes of this Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid).

- B. Each party giving a Notice shall address the Notice to the receiving party at the address listed below or to another address designated by a party in a Notice pursuant to this Section:

County: Fort Bend County
Attn: County Judge
401 Jackson Street
Richmond, Texas 77469

With a copy to: Fort Bend County Auditor
301 Jackson St.
Richmond, TX 77469

Contractor: Whitley Penn LLP
3411 Richmond Avenue, Ste. 500
Houston, TX 77046

- C. Notice is effective only if the party giving or making the Notice has complied with subsections 15(A) and 15(B) and if the addressee has received the Notice. A Notice is deemed received as follows:

1. If the Notice is delivered in person, or sent by registered or certified mail or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.
2. If the addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

Section 16. Compliance with Laws

Contractor shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by County, Contractor shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

Section 17. Performance Warranty

- A. Contractor warrants to County that Contractor has the skill and knowledge ordinarily possessed by well-informed members of its trade or profession practicing in the greater Houston metropolitan area and Contractor will apply that skill and knowledge with care and diligence to ensure that the Services provided hereunder will be performed and delivered in accordance with the highest professional standards.
- B. Contractor warrants to County that the Services will be free from material errors and will materially conform to all requirements and specifications contained in the attached Exhibit A.

Section 18. Assignment and Delegation

- A. Neither party may assign any of its rights under this Agreement, except with the prior written consent of the other party. That party shall not unreasonably withhold its consent. All assignments of rights are prohibited under this subsection, whether they are voluntarily or involuntarily, by merger, consolidation, dissolution, operation of law, or any other manner.
- B. Neither party may delegate any performance under this Agreement.
- C. Any purported assignment of rights or delegation of performance in violation of this Section is void.

Section 19. Applicable Law

- A. The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The Parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere.
- B. Nothing in this Agreement shall be construed to waive the County's sovereign immunity.
- C. County does not agree to pay any and/or all attorney fees incurred by Contractor in any way associated with this Agreement.
- D. County does not agree to submit disputes arising out of this Agreement to binding arbitration. Therefore, any references to binding arbitration or the waiver of a right to litigate a dispute are hereby deleted.

Section 20. Successors and Assigns

County and Contractor bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of the other party, in respect to all covenants of this Agreement.

Section 21. Third Party Beneficiaries

This Agreement does not confer any enforceable rights or remedies upon any person other than the Parties.

Section 22. Severability

If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

Section 23. Publicity

Contact with citizens of Fort Bend County, media outlets, or governmental agencies shall be the sole responsibility of County. Under no circumstances whatsoever, shall Contractor release any material or information developed or received in the performance of the Services hereunder without the express written permission of County, except where required to do so by law.

Section 24. Captions

The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

Section 25. Certain State Law Requirements for Contracts:

The contents of this Section are required by Texas Law and are included by County regardless of content.

- A. Agreement to Not Boycott Israel Chapter 2270 Texas Government Code: By signature below, Contractor verifies Contractor does not boycott Israel and will not boycott Israel during the term of this Agreement.
- B. Texas Government Code Section 2251.152 Acknowledgment: By signature below, Contractor represents pursuant to Section 2252.152 of the Texas Government Code, that Contractor is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153

Section 26. Human Trafficking.

BY ACCEPTANCE OF CONTRACT, CONTRACTOR ACKNOWLEDGES THAT FORT BEND COUNTY IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.

Section 27. Entire Agreement

This executed instrument is understood and intended to be the final expression of the parties' agreement and is a complete and exclusive statement of the terms and conditions with respect thereto, superseding all prior agreements or representations, oral or written, and all other communication between the parties relating to the subject matter of this agreement. Any oral representations or modifications concerning this instrument shall be of no force or effect excepting a subsequent modification in writing signed by all the parties hereto.

Section 28. Conflict

In the event there is a conflict between this Agreement and the attached exhibits, priority shall be given to this Agreement with regards to the conflict.

(Execution Page Follows)

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, the Parties hereto have signed or have caused their respective names to be signed to multiple counterparts to be effective on the _____ day of _____, 2022.

FORT BEND COUNTY

WHITLEY PENN, LLP

KP George, County Judge


Authorized Agent- Signature

Guadalupe R. Garcia
Authorized Agent- Printed Name

ATTEST:

Partner
Title

Laura Richard, County Clerk

December 29, 2022
Date

Exhibit A: Contractor's Letter of Engagement

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$ _____ to accomplish and pay the obligation of Fort Bend County under this contract.

Robert Edward Sturdivant, County Auditor

Exhibit A

June 24, 2022

To the Honorable KP George, County Judge
and Members of Commissioners Court
Fort Bend County, Texas
Richmond, Texas

You have requested that we audit the financial statements of the governmental activities, the aggregate discretely component units, each major fund, and the aggregate remaining fund information of Fort Bend County, Texas (the "County"), as of September 30, 2022, and for the year then ending, and the related notes to the financial statements, which collectively comprise the County's basic financial statements as listed in the table of contents.

In addition, we will audit the County's compliance over major federal and state award programs for the year ending September 30, 2022. We are pleased to confirm our acceptance and our understanding of this audit engagement by means of this letter. Our audits will be conducted with the objectives of our expressing an opinion on each opinion unit and an opinion on compliance regarding the County's major federal and state award programs. The objectives of our audit of the financial statements are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with auditing standards generally accepted in the United States of America (GAAS) and *Government Auditing Standards* will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

The objectives of our compliance audit are to obtain sufficient appropriate audit evidence to form an opinion and report at the level specified in the governmental audit requirement about whether the County complied in all material respects with the applicable compliance requirements and identify audit and reporting requirements specified in the governmental audit requirement that are supplementary to GAAS and *Government Auditing Standards*, if any, and perform procedures to address those requirements.

Accounting principles generally accepted in the United States of America require that certain information be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the required supplementary information (RSI) in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist primarily of inquiries of management regarding their methods of measurement and presentation, and comparing the information for consistency with management's responses to our inquiries. We will not express an opinion or provide any form of assurance on the RSI. The following RSI is required by accounting principles generally accepted in the United States of America. This RSI will be subjected to certain limited procedures but will not be audited:

- 1) Management's Discussion and Analysis,
- 2) General Fund Budgetary Schedule,
- 3) Pension Information, and
- 4) Other Post-employment Benefits Information.

To the Honorable KP George, County Judge
and Members of Commissioners Court
Fort Bend County, Texas
June 24, 2022
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Supplementary information other than RSI will accompany the County's basic financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the basic financial statements and certain additional procedures, including comparing and reconciling the supplementary information to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and additional procedures in accordance with auditing standards generally accepted in the United States of America. We intend to provide an opinion on the following supplementary information in relation to the financial statements as a whole:

- 1) Combining and Individual Fund Statements and Schedules,
- 2) Schedule of Expenditures of Federal Awards, and
- 3) Schedule of Expenditures of State Awards.

Also, the document we submit to you will include the following other additional information that will not be subjected to the auditing procedures applied in our audit of the financial statements:

- 1) Introductory Section and
- 2) Statistical Section.

Data Collection Form

Prior to the completion of our engagement, we will complete the sections of the Data Collection Form that are our responsibility. The form will summarize our audit findings, amounts and conclusions. It is management's responsibility to submit a reporting package including financial statements, schedule of expenditure of federal awards, summary schedule of prior audit findings and corrective action plan along with the Data Collection Form to the federal audit clearinghouse. The financial reporting package must be text searchable, unencrypted, and unlocked. Otherwise, the reporting package will not be accepted by the federal audit clearinghouse. We will assist you in the electronic submission and certification. You may request from us copies of our report for you to include with the reporting package submitted to pass-through entities.

The Data Collection Form is required to be submitted within the earlier of 30 days after receipt of our auditors' reports or nine months after the end of the audit period, unless specifically waived by a federal cognizant or oversight agency for audits. Data Collection Forms submitted untimely are one of the factors in assessing programs at a higher risk.

Audit of the Financial Statements

We will conduct our audit in accordance with GAAS, the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States of America; the audit requirements of Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) and, where applicable, the audit requirements of the State of Texas *Uniform Grant Management Standards* (UGMS) or the Texas Grant Management Standards (TxGMS). As part of an audit of financial statements in accordance with GAAS and in accordance with *Government Auditing Standards*, we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness

of the County's internal control. However, we will communicate to you in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we have identified during the audit.

- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the County's ability to continue as a going concern for a reasonable period of time.

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements or noncompliance may not be detected exists, even though the audit is properly planned and performed in accordance with GAAS and *Government Auditing Standards* of the Comptroller General of the United States of America. Please note that the determination of abuse is subjective and *Government Auditing Standards* does not require auditors to detect abuse.

Our responsibility as auditors is limited to the period covered by our audit and does not extend to any other periods.

We will issue a written report upon completion of our audit of the County's basic financial statements. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinions, add an emphasis-of-matter or other-matter paragraph(s) to our auditor's report, or if necessary, withdraw from the engagement. If our opinions on the basic financial statements are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report as a result of this engagement.

In accordance with the requirements of *Government Auditing Standards*, we will also issue a written report describing the scope of our testing over internal control over financial reporting and over compliance with laws, regulations, and provisions of grants and contracts, including the results of that testing. However, providing an opinion on internal control and compliance over financial reporting will not be an objective of the audit and, therefore, no such opinion will be expressed.

Audit of Major Program Compliance

Our audit of the County's major federal and state award program(s) compliance will be conducted in accordance with the requirements of the Single Audit Act, as amended; the Uniform Guidance; and, where applicable, the UGMS or the TxGMS, and will include tests of accounting records, a determination of major programs in accordance with the Uniform Guidance and, where applicable, the UGMS and the TxGMS and other procedures we consider necessary to enable us to express such an opinion on major federal and state award program compliance and to render the required reports. We cannot provide assurance that an unmodified opinion on compliance will be expressed. Circumstances may arise in which it is necessary for us to modify our opinion or withdraw from the engagement.

The Uniform Guidance and, where applicable, the UGMS or the TxGMS requires that we also plan and perform the audit to obtain reasonable assurance about whether material noncompliance with applicable laws and regulations, the provisions of contracts and grant agreements applicable to major federal and state award programs, and the applicable compliance requirements occurred, whether due to fraud or error, and express an opinion on the County's compliance based on the audit. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS, *Government Auditing Standards*, the Uniform Guidance, and, where applicable,

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the UGMS or the TxGMS will always detect material noncompliance when it exists. The risk of not detecting material noncompliance resulting from fraud is higher than for that resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Noncompliance with the compliance requirements is considered material if there is a substantial likelihood that, individually or in the aggregate, it would influence the judgment made by a reasonable user of the report on compliance about the County's compliance with the requirements of the federal and state programs as a whole.

As part of a compliance audit in accordance with GAAS and in accordance with *Government Auditing Standards*, we exercise professional judgment and maintain professional skepticism throughout the audit. We also identify and assess the risks of material noncompliance, whether due to fraud or error, and design and perform audit procedures responsive to those risks.

Our procedures will consist of determining major federal and state programs and, performing the applicable procedures described in the U.S. Office of Management and Budget *OMB Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the County's major programs, and performing such other procedures as we considers necessary in the circumstances. The purpose of those procedures will be to express an opinion on the County's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance and, where applicable, the UGMS or the TxGMS.

Also, as required by the Uniform Guidance and, where applicable, the UGMS or the TxGMS, we will obtain an understanding of the County's internal control over compliance relevant to the audit in order to design and perform tests of controls to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each of the County's major federal and state award programs. Our tests will be less in scope than would be necessary to render an opinion on these controls and, accordingly, no opinion will be expressed in our report. However, we will communicate to you, regarding, among other matters, the planned scope and timing of the audit and any significant deficiencies and material weaknesses in internal control over compliance that we have identified during the audit.

We will issue a report on compliance that will include an opinion or disclaimer of opinion regarding the County's major federal and state programs, and a report on internal controls over compliance that will report any significant deficiencies and material weaknesses identified; however, such report will not express an opinion on internal control.

Management's Responsibilities

Our audit will be conducted on the basis that management and, when appropriate, those charged with governance acknowledge and understand that they have responsibility:

1. For the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America;
2. For the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error;
3. For identifying, in its accounts, all federal and state awards received and expended during the period and the federal and state programs under which they were received;
4. For maintaining records that adequately identify the source and application of funds for federally and state funded activities;
5. For preparing the schedule of expenditures of federal awards and schedule of expenditures of state awards (including notes and noncash assistance received) in accordance with the Uniform Guidance and, where applicable, the UGMS or the TxGMS;

6. For the design, implementation, and maintenance of internal control over federal and state awards that provides reasonable assurance that the County is managing federal and state awards in compliance with federal and state statutes, regulations, and the terms and conditions of the federal and state awards;
7. For identifying and ensuring that the County complies with federal and state laws, statutes, regulations, rules, provisions of contracts or grant agreements, and the terms and conditions of federal and state award programs, and implementing Countys designed to achieve compliance with applicable federal and state statutes, regulations, and the terms and conditions of federal and state award programs;
8. For disclosing accurately, currently, and completely the financial results of each federal and state award in accordance with the requirements of the award;
9. For identifying and providing report copies of previous audits, attestation engagements, or other studies that directly relate to the objectives of the audit, including whether related recommendations have been implemented;
10. For taking prompt action when instances of noncompliance are identified;
11. For addressing the findings and recommendations of auditors, for establishing and maintaining a process to track the status of such findings and recommendations and taking corrective action on reported audit findings from prior periods and preparing a summary schedule of prior audit findings;
12. For following up and taking corrective action on current year audit findings and preparing a corrective action plan for such findings;
13. For submitting the reporting package and data collection form to the appropriate parties;
14. For making the auditor aware of any significant contractor relationships where the contractor is responsible for program compliance;
15. To provide us with:
 - a. Access to all information of which management is aware that is relevant to the preparation and fair presentation of the financial statements, and relevant to federal and state award programs, such as records, documentation, and other matters;
 - b. Additional information that we may request from management for the purpose of the audit;
 - c. Unrestricted access to persons within the County from whom we determine it necessary to obtain audit evidence;
 - d. A written acknowledgement of all the documents that management expects to issue that will be included in the annual report and the planned timing and method of issuance of that annual report; and
 - e. A final version of the annual report (including all the documents that, together, comprise the annual report) in a timely manner prior to the date of the auditor's report.
16. For adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the current year period(s) under audit are immaterial, both individually and in the aggregate, to the financial statements as a whole;
17. For acceptance of nonattest services, including identifying the proper party to oversee nonattest work;
18. For maintaining adequate records, selecting and applying accounting principles, and safeguarding assets;
19. For informing us of any known or suspected fraud affecting the County involving management, employees with significant role in internal control and others where fraud could have a material effect on compliance;
20. For the accuracy and completeness of all information provided;
21. For taking reasonable measures to safeguard protected personally identifiable and other sensitive information; and
22. For confirming your understanding of your responsibilities as defined in this letter to us in your management representation letter.

With regard to the supplementary information (including the schedule of expenditures of federal awards and schedule of expenditures of state awards) referred to above, you acknowledge and understand your responsibility (a) for the preparation of the supplementary information in accordance with the applicable criteria such as the Uniform Guidance, and where applicable, the UGMS or the TxGMS, (b) to provide us with the appropriate written representations regarding supplementary information, (c) to include our report on the supplementary information in any document that contains the supplementary

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information and that indicates that we have reported on such supplementary information, and (d) to present the supplementary information with the audited financial statements, or if the supplementary information will not be presented with the audited financial statements, to make the audited financial statements readily available to the intended users of the supplementary information no later than the date of issuance by you of the supplementary information and our report thereon.

As part of our audit process, we will request from management and, when appropriate, those charged with governance, written confirmation concerning representations made to us in connection with the audit.

We understand that your employees will prepare all confirmations we request and will locate any documents or invoices selected by us for testing.

If you intend to publish or otherwise reproduce the financial statements and make reference to our firm, you agree to provide us with printers' proofs or masters for our review and approval before printing. You also agree to provide us with a copy of the final reproduced material for our approval before it is distributed.

Nonattest Services

Nonattest services could include assistance with the preparation of the data collection form and its submission to the Federal Audit Clearinghouse. We will not assume management responsibilities on behalf of the County. However, we will provide advice and recommendations to assist management of the County in performing its responsibilities.

The County's management is responsible for (a) making all management decisions and performing all management functions; (b) assigning a competent individual to oversee the services; (c) evaluating the adequacy of the services performed; (d) evaluating and accepting responsibility for the results of the services performed; and (e) establishing and maintaining internal controls, including monitoring ongoing activities.

Our responsibilities and limitations of the nonattest services are described below:

The nonattest services are limited to the services we described above. Our firm, in its sole professional judgment, reserves the right to refuse to do any procedure or take any action that could be construed as making management decisions or assuming management responsibilities, including determining account coding and approving journal entries. Our firm will advise the County regarding these nonattest services, but the County must make all decisions with regard to those matters.

Fees and Timing

The timing of our audit will be scheduled for performance and completion as follows:

Document internal control and preliminary tests	July 2022
Inventory observation (for material balances)	September 30, 2022 or agreed upon date
Perform year-end audit procedures	December 2022
Issue audit reports	March 2023

We anticipate meeting these deadlines barring any delays.

Guadalupe R. Garcia, CPA is the engagement partner for the audit services specified in this letter. His responsibilities include supervising Whitley Penn, LLP's services performed as part of this engagement and signing or authorizing another qualified firm representative to sign the audit report.

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Our fee for the audit services will be based on the amount of time required and the difficulty of the work involved which we estimate to be \$180,900. Additionally, we offer the optional service of assistance in the preparation of the Annual Comprehensive Financial Report for a fee not to exceed \$20,000. The fee estimate for the audit is based on anticipated cooperation from the County's personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will keep you informed of any problems we encounter and our fees will be adjusted accordingly.

The fee for audit services quoted above includes assistance with the pension and other post-employment benefits (OPEB) journal entries and note disclosures as well as the preparation of the data collection form. You will also have access to us throughout the year for questions. Should our major program determination result in more than four (4) federal major programs or two (2) major state programs, the fee for each additional major program will be \$6,000.

Our invoices for these fees will be rendered each month as work progresses and are payable on presentation and payment is due in Tarrant County. You agree to pay reasonable attorney fees and collection costs incurred relating to collection of fees for services performed under the terms of this engagement. In accordance with Whitley Penn, LLP policy, work may be suspended if your account becomes 30 days or more past due and will not resume until your account is paid in full. In addition, invoices not paid in full by the last day of the month will be assessed interest at a rate of one percent per month. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been complete even if we have not issued our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket expenditures through the date of termination. Our final auditors' report will be released upon final payment of any outstanding invoices.

You may request that we perform additional services not addressed in this engagement letter. If this occurs, we will communicate with you concerning the scope of the additional services and the estimated fees. We also may issue a separate engagement letter covering the additional services. In the absence of any other written communication from us documenting such additional services, our services will continue to be governed by the terms of this engagement letter.

We would like to make the following comments regarding the fee estimates:

1. Our fee estimates have not considered the effects of any changes to auditing standards and accounting principles, which may be promulgated by the AICPA, Congress, or any other regulatory body in the future and are unknown to us at this time. If significant additional time is necessary resulting in increased fees, we will endeavor to notify you of any such circumstances as they are assessed.
2. The County's personnel are responsible for the preparation of all items requested in the Prepared by Client ("PBC") listing and received by the date requested. Any delays caused by not preparing the items when requested may result in additional fees, as well as the possibility of postponing our fieldwork. The PBC listing will be provided to you during the planning process of the engagement.
3. Time incurred for audit adjustments identified during our audit and the related additional testing required has not been considered in our fee estimates. Prior to performing any additional testing, we will notify you of the exceptions and obtain approval for any additional fees which may be incurred.
4. Our fee estimates are based on all general ledger sub ledgers being reconciled to the general ledger balance and any adjustment necessary should be recorded to the general ledger prior to our fieldwork start date.

The ethics of our profession prohibit the rendering of professional services where the fee for such services is contingent, or has the appearance of being contingent, upon the results of such services. Accordingly, it is important that our bills be paid

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promptly when received. If a situation arises in which it may appear that our independence would be questioned because of significant unpaid bills, we may be prohibited from issuing our auditors' report.

In the unlikely event that differences concerning our services or fees should arise that are not resolved by mutual agreement, to facilitate judicial resolution and save time and expense of both parties, the County and Whitley Penn, LLP agree not to demand a trial by jury in any action, proceeding, or counterclaim arising out of or relating to our services and fees for this engagement. Any controversy, dispute, or questions arising out of or in connection with this agreement or our engagement shall be determined by arbitration conducted in accordance with the rules of the American Arbitration Association, and any decision rendered by the American Arbitration Association shall be binding on both parties to this agreement. The costs of any arbitration shall be borne equally by the parties. Any and all claims in arbitration relating to or arising out of this contract/agreement shall be governed by the laws of the State of Texas and to the extent any issue regarding the arbitration is submitted to a court, including the appointment of arbitrators or confirmation of an award, the District courts in Tarrant County shall have exclusive jurisdiction. Any action arising out of this agreement or the services provided shall be initiated within two years of the service provided.

This letter replaces and supersedes any previous proposals, correspondence and understanding, whether written or oral. The agreements contained in this engagement letter shall survive the completion or termination of this engagement.

To ensure that Whitley Penn, LLP's independence is not impaired under the AICPA Code of Professional Conduct, you agree to inform the engagement partner before entering into any substantive employment discussions with any of our personnel.

Other Matters

During the course of the engagement, we may communicate with you or your personnel via fax or e-mail, and you should be aware that communication in those mediums contains a risk of misdirected or intercepted communications.

In the course of our services, our firm may transmit confidential information that you provided us to third parties in order to facilitate our services. As applicable, we require confidentiality agreements with all our service providers to maintain the confidentiality of your information and additionally the firm will take reasonable precautions to determine that our service providers have the appropriate procedures in place to prevent the unauthorized release of confidential information to others. We will remain ultimately responsible for the work provided by any third-party service providers used under this agreement. By your signature below, you consent to having confidential information transmitted to entities outside the firm. Please feel free to inquire if you would like additional information regarding the transmission of confidential information to entities outside the firm.

Regarding the electronic dissemination of audited financial statements, including financial statements published electronically on your Internet website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

Professional standards prohibit us from being the sole host and/or the sole storage for your financial and non-financial data. As such, it is your responsibility to maintain your original data and records and we cannot be responsible to maintain such original information. By signing this engagement letter, you affirm that you have all the data and records required to make your books and records complete.

In the event we are required by government regulation, required by subpoena or other legal process to produce information or our personnel for interviews or depositions in relation to a matter involving the County, the County will, so long as we are not a party or the focus of the proceeding or inquiry in which the information is sought, reimburse us for our professional time and expenses, as well as the fees and expenses of our counsel, incurred in responding to such requests.

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The audit documentation for this engagement is the property of Whitley Penn, LLP and constitutes confidential information. However, we may be requested to make certain audit documentation available to your pass-through regulatory entity, federal agencies, state agencies, and the U.S. Government Accountability Office pursuant to authority given to it by law or regulation, or to peer reviewers. If requested, access to such audit documentation will be provided under the supervision Whitley Penn, LLP's personnel. Furthermore, upon request, we may provide copies of selected audit documentation to these agencies and regulators. The regulators and agencies may intend, or decide, to distribute the copies of information contained therein to others, including other governmental agencies.

The County may wish to include our report on these financial statements in an exempt offering document. The County agrees that the aforementioned auditor's report, or reference to our Firm, will not be included in such offering document without prior permission or consent. Any agreement to perform work in connection with an exempt offering document, including an agreement to provide permission or consent, will be a separate engagement letter. For exempt offerings for which we are not involved, you will clearly indicate that we were not involved with the contents of such offering document and a disclosure as shown below will be included in the exempt offering:

"Whitley Penn, LLP, our independent auditor, has not been engaged to perform and has not performed, since the date of its report included herein, any procedures on the financial statements addressed in that report. Whitley Penn, LLP also has not performed any procedures relating to this offering document."

Further, we will be available during the year to consult with you on financial management and accounting matters of a routine nature.

During the course of the audit, we may observe opportunities for economy in, or improved controls over, your operations. We will bring such matters to the attention of the appropriate level of management, either orally or in writing.

We agree to retain our audit documentation or work papers for a period of at least five years from the date of our report.

You agree to inform us of facts that may affect the financial statements of which you may become aware during the period from the date of the auditor's report to the date the financial statements are issued.

At the conclusion of our audit engagement, we will communicate to County Judge and Commissioners Court the following significant findings from the audit:

- Our view about the qualitative aspects of the County's significant accounting practices;
- Significant difficulties, if any, encountered during the audit;
- Uncorrected misstatements, other than those we believe are trivial, if any;
- Disagreements with management, if any;
- Other findings or issues, if any, arising from the audit that are, in our professional judgment, significant and relevant to those charged with governance regarding their oversight of the financial reporting process;
- Material, corrected misstatements that were brought to the attention of management as a result of our audit procedures;
- Representations we requested from management;
- Management's consultations with other accountants, if any; and
- Significant issues, if any, arising from the audit that were discussed, or the subject of correspondence, with management.

In accordance with the requirements of *Government Auditing Standards*, we have attached a copy of our latest external peer review report of our firm for your consideration and files.

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Please sign and return the attached copy of this letter to indicate your acknowledgment of, and agreement with, the arrangements for our audit of the financial statements compliance over major federal and state award programs including our respective responsibilities.

We appreciate the opportunity to be your financial statement auditors and look forward to working with you and your staff.

Respectfully,



Houston, Texas

RESPONSE:

This letter correctly sets forth our understanding.

Acknowledged and agreed on behalf of Fort Bend County, Texas by:

Name: _____

Title: _____

Date: _____

Name: _____

Title: _____

Date: _____



REPORT ON THE FIRM'S SYSTEM OF QUALITY CONTROL

To the Partners of Whitley Penn LLP
and the National Peer Review Committee

We have reviewed the system of quality control for the accounting and auditing practice of Whitley Penn LLP (the firm) applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended April 30, 2021. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the standards may be found at www.aicpa.org/prsummary. The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

Firm's Responsibility

The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review.

Required Selections and Considerations

Engagements selected for review included engagements performed under *Government Auditing Standards* (including compliance audits under the Single Audit Act), audits of employee benefit plans, audits performed under the Federal Deposit Insurance Corporation Improvement Act (FDICIA), and an examination of a service organization (SOC 1 engagement).

As a part of our peer review, we considered reviews by regulatory entities as communicated by the firm, if applicable, in determining the nature and extent of our procedures.

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Opinion

In our opinion, the system of quality control for the accounting and auditing practice of Whitley Penn LLP applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended April 30, 2021, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)*, or *fail*. Whitley Penn LLP has received a peer review rating of *pass*.



CliftonLarsonAllen LLP

Phoenix, Arizona
October 6, 2021