

**ADDENDUM TO SWAGIT PRODUCTIONS, LLC'S AGREEMENT
FOR VIDEO STREAMING SERVICES FOR COURT ROOMS AND ELECTION BALLOTS
(TIPS Contract No. 220105)**

THIS ADDENDUM ("Addendum") is entered into by and between Fort Bend County, ("County"), a body corporate and politic under the laws of the State of Texas, and Swagit Productions, LLC, ("Swagit"), a company authorized to conduct business in the State of Texas (hereinafter collectively referred to as the "parties").

WHEREAS, subject to the changes herein, the parties have executed and accepted Swagit's Quote, (the "Agreement"), attached hereto as Exhibit "A" and incorporated fully by reference, for the purchase of specified video streaming services (Monthly Live Streams (up to 5 court rooms and up to 12 court rooms)); seven months of service of the Swagit Election Suite Basic License; and seven months of service of the Swagit Cloud Camera Subscription 22 Month Cloud Recording Monthly (collectively the "Services"); and

WHEREAS, County desires that Swagit provide Services as will be more specifically described in this Agreement; and

WHEREAS, Swagit represents that it is qualified and desires to perform such Services; and

WHEREAS, the parties wish to utilize The Interlocal Purchasing System ("TIPS") Contract No. 220105, incorporated fully by reference, for the purchase of the Services; and

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

AGREEMENT

1. **Term.** The term of the Agreement concerning the Swagit Election Suite Basic License, and the Swagit Cloud Camera Subscription 22 Month Cloud Recording Monthly services is effective as of March 1, 2022, and shall expire no later than September 30, 2022, unless terminated sooner pursuant to the Agreement. The term of the Agreement concerning the purchase of specified video streaming services (Monthly Live Streams (up to 5 court rooms and up to 12 court rooms)) is effective as of October 1, 2021, and shall expire no later than September 30, 2022, unless terminated sooner pursuant to the Agreement. No term of the Agreement shall automatically renew, but any term of the Agreement may be subsequently renewed in writing upon agreement of the parties.
2. **Scope of Services.** Subject to this Addendum, Swagit will render Services to County as described in Exhibit A; and in accordance with the requirements of TIPS Contract No. 220105.
3. **Payment; Non-appropriation; Taxes.** Payment shall be made by County within thirty (30) days of receipt of invoice. It is specifically understood and agreed that in the event no funds

or insufficient funds are appropriated by Fort Bend County under this Agreement, Fort Bend 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 Fort Bend County. County 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. Interest resulting from late payments by County shall be governed by Chapter 2251, TEXAS GOVERNMENT CODE.

4. **Limit of Appropriation.** Swagit 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 Fifty-One Thousand, Fifty-Five and 00/100 dollars (\$51,055.00), specifically allocated to fully discharge any and all liabilities County may incur. Swagit does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Swagit may become entitled to and the total maximum sum that County may become liable to pay to Swagit shall not under any conditions, circumstances, or interpretations thereof exceed Fifty-One Thousand, Fifty-Five and 00/100 dollars (\$51,055.00). In no event will the amount paid by the County for all services under this Agreement exceed this Limit of Appropriation without an amendment executed by the parties.
5. **Public Information Act.** Swagit 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 Swagit 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.
6. **Indemnity.** The parties agree that under the Constitution and laws of the State of Texas, County cannot enter into an agreement whereby County agrees to indemnify or hold harmless another party; therefore, all references of any kind to County defending, indemnifying, holding or saving harmless Swagit or any other party for any reason are hereby deleted.
7. **Applicable Law; Arbitration; Attorney Fees.** 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. Nothing in the Agreement shall be construed to waive the County's sovereign immunity. 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. County does not agree to pay any and/or all attorney fees incurred by Swagit in any way associated with the Agreement.

8. **Certain State Law Requirements for Contracts.** The contents of this Section are required by Texas Law and are included by County regardless of content. For purposes of Sections 2252.152, 2271.002, and 2274.002, Texas Government Code, as amended, Swagit hereby verifies that Swagit and any parent company, wholly owned subsidiary, majority-owned subsidiary, and affiliate:
 - a. Unless affirmatively declared by the United States government to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization, is not identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 806.051, 807.051, or 2252.153 of the Texas Government Code.
 - b. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Swagit does not boycott Israel and is authorized to agree in such contracts not to boycott Israel during the term of such contracts. "Boycott Israel" has the meaning provided in § 808.001 of the Texas Government Code.
 - c. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Swagit does not boycott energy companies and is authorized to agree in such contracts not to boycott energy companies during the term of such contracts. "Boycott energy company" has the meaning provided in § 809.001 of the Texas Government Code.
 - d. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Swagit does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and is authorized to agree in such contracts not to discriminate against a firearm entity or firearm trade association during the term of such contracts. "Discriminate against a firearm entity or firearm trade association" has the meaning provided in § 2274.001(3) of the Texas Government Code. "Firearm entity" and "firearm trade association" have the meanings provided in § 2274.001(6) and (7) of the Texas Government Code.
9. **Modifications and Waivers.** The parties may not amend or waive this Agreement, except by a written agreement executed by both parties. 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. 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. No other provisions to this Agreement apply except for the terms which appear and/or are incorporated in this Addendum and Exhibit A.
10. **Human Trafficking.** BY ACCEPTANCE OF CONTRACT, SWAGIT 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.

11. **Use of Customer Name.** Swagit may use County's name without County's prior written consent only in any of Swagit's customer lists, any other use must be approved in advance by County.
12. **Performance Warranty.** Swagit warrants to County that Swagit has the skill and knowledge ordinarily possessed by well-informed members of its trade or profession practicing in the greater Houston metropolitan area and Swagit 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.

Swagit 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, and TIPS Contract No. 220105.
13. **Conflict.** In the event there is a conflict between this Addendum and the Agreement, this Addendum controls. In the event there is a conflict between this Addendum and the terms and conditions of TIPS Contract No. 220105, then the terms and conditions of TIPS Contract No. 220105 controls to the extent of the conflict.
14. **Understanding, Fair Construction.** By execution of this Addendum, the parties acknowledge that they have read and understood each provision, term and obligation contained in this Addendum. This Addendum, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the nondrafting party.
15. **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.
16. **Electronic and Digital Signatures.** The parties to this Agreement agree that any electronic and/or digital signatures of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as the use of manual signatures.
17. **County Data.** Nothing in this Agreement will be construed to waive the requirements of § 205.009 of the Texas Local Government Code. Nothing in this Agreement will be construed to waive the requirements of any applicable record retention laws.
18. **Ownership and Reuse of Documents.** All documents, data, reports, research, graphic presentation materials, etc., developed by Swagit as a part 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, at the time of payment under § 3 for work performed. Swagit shall promptly furnish all such data and material to County on request.
19. **Assignment and Delegation.**

19.1. 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.

19.2. Neither party may delegate any performance under this Agreement.

19.3. Any purported assignment of rights or delegation of performance in violation of this Section is void.

19.4. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the County.

20. **Successors and Assigns.** County and Swagit 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.

21. **Personnel.** Swagit 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 Swagit 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.

All employees of Swagit shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Swagit or agent of Swagit who, in the opinion of County, is incompetent or by his conduct becomes detrimental to providing Services pursuant to this Agreement shall, upon request of County, immediately be removed from association with the Services required under this Agreement.

When performing Services for the County, Swagit shall comply with, and ensure that all Swagit Personnel comply with, all rules, regulations and policies of County that are communicated to Swagit in writing, including security procedures concerning systems and data and remote access thereto, building security procedures, including the restriction of access by County to certain areas of its premises or systems for security reasons, and general health and safety practices and procedures.

22. **Compliance with Laws.** Swagit 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, Swagit shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

23. **Confidential Information.** Swagit 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 Swagit 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 Swagit 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 Swagit) publicly known or is contained in a publicly available document; (b) is rightfully in Swagit'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 Swagit who can be shown to have had no access to the Confidential Information.

Swagit agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Swagit 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. Swagit 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, Swagit shall advise County immediately in the event Swagit 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 Swagit will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or Swagit against any such person. Swagit agrees that, except as directed by County, Swagit 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, Swagit will promptly turn over to County all documents, papers, and other matter in Swagit's possession which embody Confidential Information.

Swagit 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. Swagit 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.

Swagit in providing all services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.

24. Termination.

- 24.1. Termination for Default. County may terminate the whole or any part of this Agreement for cause in the following circumstances:

- (a). If Swagit fails to timely perform services pursuant to this Agreement or any extension thereof granted by the County in writing;
- (b). If Swagit 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.

- 24.2. Upon termination of this Agreement, County shall compensate Swagit in accordance with § 3, above, for those services which were provided under this Agreement prior to its termination and which have not been previously invoiced to County. Swagit's final invoice for said services will be presented to and paid by County in the same manner set forth in § 3 above.
- 24.3. 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 Swagit.
- 24.4. If County terminates this Agreement prior to the termination date, County shall not be subject to any early termination fee or other penalty.
- 25. **Independent Contractor.** In the performance of work or services hereunder, Swagit 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 Swagit or, where permitted, of its subcontractors. Swagit 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.
- 26. **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.
- 27. **Remote Access.** As applicable, if Swagit requires remote access to County Systems for support, installation, integrations, configurations, and/or maintenance of the Services, except as otherwise agreed by the parties and approved by the Director of Information Technology and Chief Information Officer in writing, the below requirements must be met before Swagit is granted remote access to County Systems:
 - (A). Swagit will adhere to the restricted and monitored channels that are provided by the County, or other technologies approved in advanced in writing by the County's Director of Information Technology and Chief Information Officer.

- (B). Swagit will neither implement nor deploy a remote access solution which bypasses and/or is designed to bypass County provided or approved controls. Swagit will not access County Systems via unauthorized methods.
- (C). Swagit's remote access to County Systems will only be requested and activated on as-needed basis and disabled when not in use.
- (D). Remote access is restricted only to County Systems necessary for Swagit to provide Services to County pursuant to this Agreement.
- (E). Swagit will allow only its Workforce approved in advance by County to access County Systems. Swagit will promptly notify County whenever an individual member of Swagit's Workforce who has access to County Systems leaves its employ or no longer requires access to County Systems. Swagit will keep a log of access when its Workforce remotely accesses County Systems. Swagit will supply County with evidence of access logs concerning remote access to County Systems upon written request from County. Such access logs will be provided to County, within three business days from the date of County's request. These requests may be used to confirm compliance with these terms and/or to investigate a security incident.
- (F). If any member(s) of Swagit's Workforce is provided with remote access to County Systems, then Swagit's workforce will not remotely log-in to County Systems from a public internet access device (e.g., airport computer terminal, or Internet café). This is due to the possibility of sensitive information being monitored by video or computer surveillance in public areas.
- (G). Failure of Swagit to comply with this Section may result in Swagit and/or Swagit's Workforce losing remote access to County Systems. County reserves the right at any time to disable remote access to protect County Systems.
- (H). For purposes of this Section, "Workforce" means employees, agents, subcontractors (where permitted), and/or other persons whose conduct, in the performance of work for Swagit, is under the direct control of Swagit, whether or not they are paid by Swagit and who have direct or incidental access to County Systems.
- (I). For purposes of this Section, "Systems" means any: (i.) computer programs, including, but not limited to, software, firmware, application programs, operating systems, files and utilities; (ii.) supporting documentation for such computer programs, including, without limitation, input and output formats, program listings, narrative descriptions and operating instructions; (iii.) data and/or media; (iv.) equipment, hardware, servers, and/or devices; and/or (v.) network(s).

28. Notices.

- 28.1. 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).

- 28.2. 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 Information Technology Department
Attn: Information Technology Director
301 Jackson Street
Richmond, Texas 77469

With a copy to: Fort Bend County
Attn: County Judge
301 Jackson Street
Richmond, Texas 77469

Contractor: Swagit Productions, LLC.
Attn: _____
12801 N. Central Expwy Ste. 900
Dallas, Texas 75243

- 28.3. A Notice is effective only if the party giving or making the Notice has complied with subsections 28.1 and 28.2 and if the addressee has received the Notice. A Notice is deemed received as follows:

28.3.1. 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.

28.3.2. 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.

(Execution Page Follows)

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, this Addendum is signed, accepted, and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties hereby acknowledge that they have read and understood this Addendum and the attachments and exhibits hereto. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will.

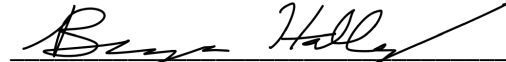
FORT BEND COUNTY



County Judge KP George

KP George, County Judge

SWAGIT PRODUCTIONS, LLC



Authorized Agent – Signature

August 9, 2022

Date



ATTEST:



Laura Richard, County Clerk

Bryan Halley

Authorized Agent- Printed Name

President

Title

07/26/2022

Date

REVIEWED:



Information Technology Office

AUDITOR'S CERTIFICATE

I hereby certify that funds in the amount of \$ 51,055.00 are available to pay the obligation of Fort Bend County within the foregoing Agreement.



Robert Ed Sturdivant, County Auditor

Exhibit A: Swagit's Quote

Exhibit A



P.O. Box 251002, Plano, TX 75025-1002 • Fax 214-750-9513 • corporate@swagit.com
Make checks payable to Swagit Productions, LLC

SWAGIT QUOTE TO: Fort Bend County, TX

Attn: Charles King

Created Date: 7/19/2022

Valid for 60 days TIPS: 220105

Monthly Cost- Service from March 2022-September 2022

Item & Description	Rate	Quantity	Extended Cost
Swagit Election Suite Basic License	\$ 395.00	7 months	\$2,765.00
• Live Video Channels (Aggregation, Recording, Transmuxing and Live Streaming)			
• Live and VOD Video Streaming Egress CDN Bandwidth			
• Self Service Public Records Request Fulfillment			
• Maintenance and Support			
Swagit Cloud Camera Subscription 22 Month Cloud Recording Monthly	\$660.00	7 months	\$4,620.00

Court Rooms

Item & Description	Yearly Cost
Monthly Live Stream (up to 12 court rooms)	\$ 28,080.00/yearly
Monthly Live Stream (up to 5 court rooms)	\$ 14,535.00/yearly

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
CERTIFICATION OF FILING****1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**

Swagit Productions, LLC
Dallas, TX United States

Certificate Number:
2022-914733

Date Filed:
07/26/2022

Date Acknowledged:
08/09/2022

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Fort Bend County

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

Swagit Productions, LLC
Addendum for Video Streaming Services for 17 Court Rooms and Election Ballots utilizing TIPS Contract # 220105

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	RST Midco, Inc.	Austin, TX United States	X	
	Mabe, Jennifer	Austin, TX United States		X
	Halley, Bryan	Dallas, TX United States		X

5 Check only if there is NO Interested Party.

☐**6 UNSWORN DECLARATION**

My name is _____, and my date of birth is _____.

My address is _____, _____, _____, _____, _____.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20____.
(month) (year)

Signature of authorized agent of contracting business entity
(Declarant)