

STATE OF TEXAS                   §  
   §  
 COUNTY OF FORT BEND         §

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

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

**WHEREAS**, the parties executed and accepted that certain *Agreement For Audit Services Between Whitley Penn LLP And Fort Bend County Pursuant To FBC RFP 20-083* on September 22, 2020, and was amended by the Parties on or around June, 22,2021, and amended again by the Parties on or around October 26, 2021, and last amended on or about July 26, 2022, (collectively hereinafter “Agreement”) which are incorporated by reference as if set forth herein verbatim;

**WHEREAS**, the parties desire to amend the Agreement to extend the Time of Performance, increase the total Maximum Compensation under the Agreement and add additional services to be provided thereunder;

**WHEREAS**, County desires that Contractor provide additional professional Audit Services (hereinafter “Services”) pursuant to FBC RFP 20-083 and as further explained in the attached Exhibit H; and

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

**NOW, THEREFORE**, the parties do mutually agree as follows:

1. County shall pay Contractor an additional Sixty-five Thousand dollars and 0/100 (\$65,000.00) to provide Services under the terms and conditions of the Agreement.
2. The Maximum Compensation payable to Contractor for Services rendered is hereby increased to an amount not to exceed Seven Hundred Thirty Thousand Five Hundred Fifty dollars and 0/100 (\$730,550.00) authorized as follows:

\$181,000.00	under the Agreement
\$45,250.00	under the First Amendment
\$200,900.00	under the Second Amendment
\$148,400.00	under the Second Amendment

\$25,000.00	under the Third Amendment
\$65,000.00	under the Fourth Amendment
\$65,000.00	under this Amendment

3. In no case shall the amount paid by County for all Services under the Agreement and this Amendment exceed the Maximum Compensation without written agreement executed by both parties.
4. The Parties agree the terms and conditions of the Agreement have remained in effect to date and are hereby extended to end no later than December 31, 2022.
5. The Parties agree that the fees for all auditing services shall be in accordance with RFP 20-083 and that to the extent that County has issued payment that exceeds those rates, the payment received will be adjusted by way of credit against future invoices during the term of the Agreement.
6. Grant Clauses: Contractor understands and acknowledges that this Agreement may be totally or partially funded with federal and or state funds. As a condition of receiving these funds, Contractor represents that it is and will remain in compliance with all federal and or state terms as in Exhibit I. These terms flow down to all third party contractors and their subcontracts at every tier that exceed the simplified acquisition threshold, unless a particular award term or condition specifically indicates otherwise. The Contractor shall require that these clauses shall be included in each covered transaction at any tier.

Except as provided herein, all terms and conditions of the Agreement shall remain unchanged.

***{Remainder of page intentionally left blank}***

***{Execution page to follow}***

**FORT BEND COUNTY**

*KP George*  
County Judge KP George  
KP George, County Judge

**WHITLEY PENN, LLP**

*Celina Cereceres*  
Authorized Agent – Signature

September 13, 2022  
Date

Celina Cereceres  
Authorized Agent – Printed Name

ATTEST:

*Laura Richard*  
Laura Richard, County Clerk



Audit Partner  
Title

August 31, 2022  
Date

**AUDITOR'S CERTIFICATE**

I hereby certify that funds are available in the amount of \$ 730,550.00 to accomplish and pay the obligation of Fort Bend County under this contract.

*Robert E Sturdivant*  
Robert Ed Sturdivant, County Auditor

Exhibit H: Engagement Letter dated May 10, 2022  
Exhibit I: Federal Clauses

*i:\agreements\2021 agreements\auditor\wp\20-aud-500160-a5\5th amendment.whitley penn audit fbc (kcj - 08.19.2022)*

# Exhibit H:

Engagement Letter dated May 10, 2022

May 10, 2022

Ed Sturdivant  
Fort Bend County Auditor  
301 Jackson St. #701  
Richmond, Texas 77469  
Dear Mr. Sturdivant

We are pleased to provide you with our Statement of Work related to Fort Bend County (the “County”) contract review procedures. We will review the contracts of seven (7) companies. We have listed those companies along with the contract amounts, contract period, with all amendments taken into consideration.

Company	Description	Contract Amount	Contract Period
Texas Black Expo, Inc.	Phase I & II – Nutrition Program Support Services	\$5,600,000	12/30/2020 to 3/31/2022
Texas Black Expo, Inc.	(Phase III) - Nutrition Program Support Services	\$7,000,000	5/25/2021 to 3/31/2022
MPACT Strategic Consulting, LLC	Emergency Management and Grant Management Services COVID-19	\$9,516,600	4/14/2020 to 5/31/2022
MPACT Strategic Consulting, LLC	Grant Management Services and Administration	\$50,000	2/25/2020 to 9/30/2020
MPACT Strategic Consulting, LLC	Emergency Management and Financial Reimbursement Services Texas Severe Winter Storms (DR-4586-TX)	\$250,000	4/27/2021 to July 31, 2021
Hagerty Consulting, Inc.	Contingency All Hazards Consulting Services RFP 19-041 Secondary	\$50,000	7/9/2019 to 11/30/2022
Hagerty Consulting, Inc.	Non-Profit Assistance Program (Contingency All Hazards Consulting Services)	\$222,155	10/1/2021 to 9/30/2022
Next Wave Strategies, LLC	Community Vaccine Outreach	\$345,000	7/13/2021 to 7/12/2022 (with two one-year renewal options)
Q Consulting Partners	Child Care Voucher Program	\$233,000	7/6/2021 to 12/31/2021
Tetra Tech, Inc.	Disparity Study (Contingency All Hazards Consulting Services RFP 19-041 Primary)	\$110,388	Not executed by County (Must be completed 90 days after receipt of Notice to Proceed)
Tetra Tech, Inc.	Procurement and Technical Assistance (Contingency All Hazards Consulting Services RFP 19-041 Primary)	\$210,310	1/4/2022 to 9/30/2022
Tetra Tech, Inc.	Professional planning, consulting, and recovery services (Contingency All Hazards Consulting Services RFP 19-041 Primary)	\$610,580	7/9/2021 to 3/31/2022
Carter Brothers Consulting	Professional Consulting Services Small and Minority Business COVID-19 Recovery Fort Bend Entrepreneur Initiative (FBEI) – Phase I	\$1,250,000	6/23/2020 to 12/31/2020
Carter Brothers Consulting	Professional Consulting Services Small and Minority Business COVID-19 Recovery Fort Bend Accelerator Program (FBAP) Phase II	\$1,236,000	5/25/2021 to 12/31/2022

### Scope of Work

Our scope of work is as follows:

- Summarize all invoices to the total amounts paid by the County.
- Compare the total contract amount to the amounts paid by the County as of April 30, 2022.
- Test the invoices submitted by each company and ensure that the services and deliverables align with the contract provisions.
- Provide a summary report of our test results.

As of April 7, 2022, there was a total of 264 invoices, which are detailed below by company. We have also included the estimated sample size. We estimate there will be approximately 270 invoices as of April 30, 2022. We will expand our samples for the companies that have less than 10 invoices currently.

Company	# of Invoices	Sample Size
Texas Black Expo, Inc.	83	40
MPACT Strategic Consulting, LLC	160	40
Hagerty Consulting, Inc.	1	1
Next Wave Strategies, LLC	2	2
Q Consulting Partners	1	1
Tetra Tech, Inc.	6	6
Carter Brothers Consulting	11	11
Total	<b>264</b>	<b>101</b>

### Estimated Time and Fees

Our hourly rates as included in RFP 20-083 are as follows:

Level	Rate
Partner	\$345
Senior Manager/Manager	\$220
Senior Associate	\$195
Associate	\$185

There are some contracts that have very complex provisions and require detailed invoicing and supporting documentation. As such, we estimate a fee of \$65,000 for the work described above and plan to complete our procedures no later than December 31, 2022.

Should you have any questions about this statement of work, please do not hesitate to contact me via email ([Celina.Cereceres@whitleypenn.com](mailto:Celina.Cereceres@whitleypenn.com)) or by phone (713-377-3667).

Sincerely,



# Exhibit I:

## Federal Clauses

CONTRACT PROVISIONS FOR CONTRACTS UTILIZING FEDERAL AWARDS AS REQUIRED UNDER 2 C.F.R. APPENDIX II TO PART 200.

Contractor understands and acknowledges that this Agreement may be totally or partially funded with federal funds. As a condition of receiving these funds, Contractor represents that it is and will remain in compliance with all federal terms as stated below. These terms flow down to all third party contractors and their subcontracts at every tier that exceed the small purchase threshold as set by the County, unless a particular award term or condition specifically indicates otherwise. The Contractor shall require that these clauses shall be included in each covered transaction at any tier.

1. Remedies and Breach.

Contracts for more than the small purchase threshold currently set by the County at \$50,000 must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

2. Termination.

All contracts in excess of \$10,000 must address termination for cause and for convenience by the Contractor including the manner by which it will be effected and the basis for settlement.

3. Equal Employment Opportunity.

The following clause applies only for contracts involving “federally assisted construction work.”

In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance modified only if necessary to identify the affected parties.

4. Davis-Bacon Act.

The following clause applies only for prime construction contracts of \$2,000 or more.

As amended (40 U.S.C. 3141–3148), when required by Federal program legislation, all prime

construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti- Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Sub- contractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or sub- recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

5. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708).

The following clause applies only for contracts of \$100,000 or more that involve the employment of mechanics or laborers.

Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Contractor shall include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5) in all subcontracts of \$100,000 or more that involve the employment of mechanics or laborers.

6. Rights to Inventions under a Contract or Agreement.

The following clause only applies to contracts where the work is related to the performance of experimental, developmental, or research work funded by federal funds or where the work performed is subject to copyright.

Contractor acknowledges that the federal government reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use (in whole or in part, including in connection with derivative works), for state (or Federal) purposes. Contractor will comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts and Cooperative Agreements".

7. Clean Air.

The following clause applies only for contracts of \$150,000 or more.

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq . The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the appropriate EPA Regional Office. The Contractor agrees it will not use any violating facilities. It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities". It will report violations of use of prohibited facilities to the appropriate EPA Regional Office.

The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

8. Clean Water.

The following clause applies only for contracts of \$150,000 or more.

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the appropriate EPA Regional Office. The Contractor agrees it will not use any violating facilities. It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities". It will report violations of use of prohibited facilities to the appropriate EPA Regional Office.

The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

9. Government-wide Debarment and Suspension.

The following clause applies only for contracts of \$25,000 or more.

The Contractor shall comply and facilitate compliance with the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. A contract award in any tier must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in

accordance with the OMB guidelines at 2 C.F.R. § 180 that implement Executive Orders Nos. 12549 (3 C F R part 1986 Comp., p. 189) and 12689 (3 C.F.R. part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order No. 12549. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount).

This certification is a material representation of fact relied upon by the County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

Contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

10. Byrd Anti-Lobbying Amendment.

The following clause applies only for contracts of \$100,000 or more.

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 C.F.R. Part 20, "New Restrictions on Lobbying." Contractor certifies that it and all its subcontractors at every tier will not and have not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, award, including any extension, continuation, renewal, amendment, or modification covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352.

11. Procurement of Recovered Materials.

The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), “Comprehensive Procurement Guideline for Products Containing Recovered Materials,” 40 C.F.R. part 247.

12. Prohibited Telecommunications and Video Surveillance Services and Equipment.

Contractor understands and acknowledges that under 2 CFR 200.216, the County is prohibited from using federal funds to procure, obtain, extend or renew a contract to procure or obtain covered telecommunications equipment or services, including telecom equipment produced by Huawei

Technologies Company or ZTE Corp. (or subsidiaries or affiliates of such entities).

Contractor, therefore, certifies that they are in compliance with the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (FY 2019 NDAA), Pub. L. No. 115-232 (2018), and that in the performance of this agreement, it will not provide equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

- (i.) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
- (ii.) Telecommunications or video surveillance services provided by such entities or using such equipment; or
- (iii.) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the People's Republic of China.

### 13. Domestic Preferences for Procurements.

As appropriate and to the extent consistent with law, Contractor shall to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products procured with federal funds. For purposes of this clause, (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. (2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

# 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**

**Certificate Number:**  
2022-931324

**Date Filed:**  
09/08/2022

**Date Acknowledged:**  
09/13/2022

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**  
Whitley Penn, LLP  
Houston, TX United States

**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.**  
24507  
5th Amendment to Agreement for Audit Services pursuant to R20-083

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Autrey, Larry	Fort Worth, TX United States	X	
	Cotton, Toby	Fort Worth, TX United States	X	
	Reiter, Matthew	Plano, TX United States	X	
	McEown, Nathen	Houston, 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)