COMMISSIONERS COURT COMMUNICATION

COURT ORDER NUMBER 144737

DATE: 2/19/2025

SUBJECT: **CONSIDERATION OF A NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT WITH WEAVER AND TIDWELL, LLP FOR THE FISCAL YEAR 2024 ANNUAL FINANCIAL AUDIT**

***** CONSENT AGENDA *****

COMMISSIONERS COURT ACTION REQUESTED

It is requested that Commissioners Court approve the attached Non-Disclosure and Confidentiality Agreement between Tarrant County and Weaver and Tidwell LLP for purposes of performing the annual financial audit for the fiscal year ending September 30, 2024.

BACKGROUND

On September 4, 2024, the Commissioners Court, through Court Order #143807, awarded Tarrant County's annual financial audit to Weaver and Tidwell LLP, beginning with fiscal year 2024 with four (4) options for annual renewal.

On December 3, 2024, the Commissioners Court, through Court Order #144353, approved the Engagement Letter and Business Associate Agreement with Weaver and Tidwell, LLP for the Fiscal Year 2024 annual financial audit.

Access to confidential information by the Weaver and Tidwell, LLP auditors is required to complete routine audit procedures.

FISCAL IMPACT

There is no fiscal impact associated with this agreement.

SUBMITTED BY	Auditor	PREPARED BY:	Linda Castillo
		APPROVED BY:	Kimberly Buchanan

NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT

THIS NON-DISCLOSURE AND CONFIDENTIALITY AGREEMENT (the "Agreement"), is entered into by and between **Tarrant County, Texas**, a governmental entity organized under the laws of the state of Texas (the "County" or "Disclosing Party") and **Weaver and Tidwell, L.L.P** (the "Vendor" or "Receiving Party"). Each of the parties hereto shall be individually referred to as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, the purpose of this Agreement is to protect confidential information that the County is expecting to disclose to the Vendor; and

WHEREAS, Vendor is performing an audit of the governmental activities, each major fund, and the aggregate remaining fund information of Tarrant County, Texas ("Services"); and

WHEREAS, in the course of performing the Services, Vendor has requested permission to access County's Confidential Information as it relates to the Services; and

WHEREAS, the Receiving Party will obtain certain confidential and proprietary information of the Disclosing Party; and

WHEREAS, Receiving Party acknowledges that the Disclosing Party, its County Commissioners Court, County Judge, Elected County Officials, County Department Heads and County Employees have devoted substantial time, effort, financial resources, and other resources to the protection of Disclosing Party's confidential information, and that certain confidential information may include sensitive employee information;

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Parties hereby agree to incorporate the recitals herein for all purposes and further agree as follows:

1. Confidential Information. "Confidential Information" means, without limitation, all information regarding the business and affairs of the Disclosing Party and its subsidiaries and affiliates which is not generally and readily available to the public (whether or not such information is marked "Confidential"). Confidential Information shall include but not be limited to: (*i*) all information relating to discussions, documents, communications, analysis, and all other information relating to discussions, negotiations, and contracts, information related to any possible sale, acquisition, other contract or the like involving the County including the identity of any contracting party involved, and also including all information protected by any non-disclosure agreement executed by the County with any third party; and (*ii*) sensitive employee information. Confidential Information does ***not*** include information that is publicly available at the time of its disclosure or becomes publicly available following disclosure under this Agreement (other than as a result of disclosure by a recipient of same or any other person contrary to the terms of this Agreement), as well as any information that is not subject to the exception to disclosure applicable to County under Chapter 552 of the Texas Government Code, Subchapter C. Further, Confidential Information, as defined herein, does not include information that was lawfully in the recipient's possession prior to disclosure under this Agreement as can be demonstrated by the recipient's written records, free of any restriction as to its use or disclosure. And Confidential Information

does not include information that becomes available to a recipient of same from another person, as can be demonstrated by recipient's written records from a source other than the County or one of the companies with whom it is doing business and which source is not bound by any obligation of confidentiality to the County or one of its affiliated companies.

(a) **Texas Public Information Act.** Vendor acknowledges that County is a governmental body under Chapter 552 of the Texas Government Code and thereby acknowledges that certain information that is collected, assembled, or maintained in connection with the transaction of official business by a governmental body is considered public information potentially subject to disclosure pursuant to a valid Texas Public Information Act ("TPIA").

2. Material Inducement. The Parties agree that this Agreement is necessary in order to protect the confidentiality, secrecy, and limited knowledge of the Confidential Information. To induce the County to disclose Confidential Information the undersigned agrees to protect the confidentiality, secrecy, and limited knowledge of all Confidential Information and to adhere to the terms of this Agreement, and such disclosure would not occur absent this Agreement.

3. Duty to Keep Confidential Information Confidential. Receiving Party hereby agrees and undertakes that with respect to the Confidential Information Receiving Party will:

(a) treat and keep all Confidential Information as secret and confidential;

(b) not divulge, reveal, publish, communicate, or disclose any Confidential Information (directly or indirectly) to any other person, except:

(i) in order to perform the Services; or

(ii) as may be required by law;

(c) use any Confidential Information only to perform the Services;

(d) maintain the secrecy and confidentiality of the Confidential Information;

(e) not make any public or other announcement with respect to the Confidential Information, except as required by law (and in such event only in a form that has been approved in advance by Disclosing Party); and

(f) notify Disclosing Party promptly, in accordance with the timelines of applicable law, upon discovery of any unauthorized use or disclosure of Confidential Information, or any other breach of this Agreement by Receiving Party and/or its agents, or independent contractors, and will cooperate with Disclosing Party in every reasonable way to help Disclosing Party regain possession of the Confidential Information and prevent its further unauthorized use or disclosure.

4. Return of Documents. Upon termination of this Agreement by any Party, the Receiving Parties shall (*i*) immediately deliver to Disclosing Party or destroy, at Disclosing

Party's option, all documents or items (including, without limitation, designs, graphics, diagrams, computer programs, source files, or other machine-readable materials) which contain any Confidential Information of Disclosing Party that has been supplied or made available to Receiving Party or developed by Receiving Party based on same, and (*ii*) certify in writing to Disclosing Party that Receiving Party has complied fully with the provisions of this paragraph. Receiving Party is entitled to maintain a copy of records that it may be required to hold for regulatory compliance purposes. Notwithstanding the return, destruction, or retention of such documents, the obligations of confidentiality and all other obligations set out in this Agreement shall remain in full force and effect.

5. General.

(a) **Remedies for Breach of Agreement.** In the event of the breach or threatened breach of any provision of this Agreement by any Receiving Party, the Disclosing Party shall be entitled to seek a preliminary and a final injunction, without being required to post a bond or show proof of damages, restraining such breach or threatened breach. Such remedies shall be in addition to all other remedies available, including Disclosing Party's right to recover from any Receiving Party any and all damages that may be suffered as a result of Receiving Party's breach of any term or provision of this Agreement.

(b) **Waiver of Breach.** The waiver by Disclosing Party of any default or breach of any of the provisions of this Agreement shall not operate or be construed as a waiver of any subsequent breach by Disclosing Party. Any waiver shall be in writing and signed by Disclosing Party to be enforceable.

(c) **Disclosure of Confidential Information.** In the event that Receiving Party is requested or becomes legally compelled (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process, statute or rules and regulations) to disclose any Confidential Information, Receiving Party shall immediately provide Disclosing Party with written notice of such requirement, proceedings, or action. Receiving Party will keep Disclosing Party fully and promptly informed of all such matters so that Disclosing Party may seek a protective order or other appropriate remedy and/or waive compliance with the terms of this Agreement. In the event that such protective order or other remedy is not obtained, or Disclosing Party waives compliance with the provisions hereof, Receiving Party agrees to furnish only that portion of the Confidential Information which is legally required (as advised by Receiving Party's counsel) and to give written notice to Disclosing Party of the Confidential Information to be disclosed in timely advance of its disclosure, whereupon such disclosure will not result in any liability hereunder.

(d) **Governing Law and Venue.** This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Texas (without regard to its conflict of laws rules). Any suit brought hereunder, shall be brought in the state or federal courts sitting in Tarrant County, Texas the Parties hereby waiving any claim or defense that such forum is not convenient or proper. Each Party agrees that any such court

shall have *in personam* jurisdiction over it and consents to service of process in any manner authorized by Texas law.

(e) **Compliance with Law.** Each Party shall comply with the provisions of all applicable laws relating to the performance of its obligations under this Agreement. Each Party is responsible for obtaining its own legal advice concerning its compliance with applicable laws.

(f) **Notices.** Any notice given under this Agreement shall be in writing and will be deemed given on (a) the third business day after being deposited in the United States mail, postage prepaid, certified or registered mail, return receipt requested; (b) the first business day after being sent by a recognized national overnight courier service; or (c) on the date personally delivered, with signed acceptance thereof by the person designated below in either case properly addressed to the other Party at the address set forth below, or at such other address as such Party will specify from time to time by written notice delivered in accordance herewith:

If to Vendor:

General Counsel
Weaver and Tidwell, L.L.P.
4400 Post Oak Parkway, Suite 1100
Houston, Texas 77027
contracts@weaver.com

If to County:

Tim O'Hare
Tarrant County Judge
100 E. Weatherford St., Suite 501
Fort Worth, TX 76196

With a copy to:

Chandler M. Merritt
County Administrator
Tarrant County, Texas
100 E. Weatherford St.
Fort Worth, Texas 76196

and

Roxy Held
Director, Tarrant County Human Resources
100 E. Weatherford St., Suite 301
Fort Worth, TX 76196

or to such other address or to the attention of such other person as either Party may designate in writing pursuant to this Section. Written notices shall be deemed received on the date actually delivered to the other Party.

(g) **Survival Clause.** The terms and provisions of the Agreement shall survive and continue after termination of the relationship between Disclosing Party and Receiving Party for any reason, until such time as all Confidential Information of Disclosing Party disclosed to Receiving Party at any time during the course of the relationship between Disclosing Party and Receiving Party becomes publicly known and made generally available to the public through no action or inaction of the Receiving Party in breach of this Agreement.

(h) **Severability.** If any provision of this Agreement is determined to be invalid under any applicable statute or rule of law, it is to that extent to be deemed omitted, and the balance of the Agreement shall remain enforceable.

(i) **Binding Effect.** This Agreement is intended to be a binding contract upon all parties hereto. All parties are advised to have this Agreement reviewed by competent legal counsel.

(j) **Counterparts and Facsimile Signatures.** This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement, and all of which, when taken together, shall be deemed to constitute one and the same agreement. The exchange of copies of this Agreement and of signature pages by electronic transmission shall constitute effective execution and delivery of this Agreement as to the parties and may be used in lieu of the original Agreement for all purposes. Signatures of the parties transmitted or executed electronically shall be deemed to be their original signatures for any purpose whatsoever.

[Signature Page to Follow.]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers on the day and year first above written.

SIGNED AND EXECUTED this _____ day of _____, 2025.

COUNTY:

COUNTY OF TARRANT
STATE OF TEXAS

By: Separate Electronic Signature Page
Tim O'Hare
County Judge

VENDOR:

WEAVER AND TIDWELL, L.L.P

Signature

Jackie Gonzalez, Partner
Printed Name

2821 W 7th St Ste 700
Address

Fort Worth, TX 76107
City, State Zip

APPROVED AS TO FORM:

James Marvin Nichols
Criminal District Attorney's Office*
*By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead those parties should seek contract review from independent counsel.