

**AGREEMENT FOR INTERNAL AUDITOR SERVICES
BETWEEN
TEXAS STATE SECURITIES BOARD
AND
GARZA/GONZALEZ & ASSOCIATES**

This service contract for internal auditing services ("Contract") is entered into by the Texas State Securities Board (the "SSB"), an agency of the State of Texas, and Garza/Gonzalez & Associates ("Contractor"), located at 207 Arden Grove, San Antonio, Texas 78215.

I. Recitals

- 1.1 On January 6, 2022, the SSB issued a Request for Proposals ("RFP") to qualified, independent firms to provide general auditing services to the SSB as set forth in the RFP.
- 1.2 On February 8, 2022, the SSB received a proposal from Contractor dated February 7, 2022 ("Proposal"), in response to the RFP.
- 1.3 On February 17, 2022, the Board of the SSB ("Board") selected Contractor as the firm to provide general auditing services to the SSB pursuant to the RFP for the fiscal year beginning September 1, 2021, and ending August 31, 2022.

II. Services, Standards of Performance, and Personnel

- 2.1 Contractor shall provide to the SSB all the services and deliverables described herein and in the manner required by all of the following documents:
 - (a) This Contract and the associated purchase order;
 - (b) The RFP (Exhibit A); and
 - (c) The Proposal (Exhibit B).
- 2.2 Exhibits A and B are attached to and incorporated as part of this Contract for all purposes.
- 2.3 All terms and conditions of the RFP shall apply.
- 2.4 In the case of conflicts between this Contract and any exhibits, such conflicts shall be resolved by reference to the Contract and its exhibits in the order of their numbered priority in Paragraph 2.1. Thus, for example, this Contract shall control over the Proposal.

2.5 Contractor shall provide internal audit services for the SSB, including organizing, managing, and implementing the SSB's internal auditing plan, to include the following:

2.5.1 Audit Plan.

2.5.1.1 Prepare the annual risk assessment of the SSB to ensure review of all major systems and controls as specified in the Texas Internal Auditing Act ("TIAA");

2.5.1.2 Develop the proposed annual audit plan for the SSB based on the completed risk assessment and identify and recommend 1-2 areas to be audited during the year; and

2.5.1.3 Present the proposed annual audit plan to the Board and/or its Audit Committee ("Audit Committee") at its May 2022 Board meeting, unless otherwise directed by the SSB. If the Board requests changes to the proposed plan at the meeting, Contractor must complete any such changes to the plan before the conclusion of the meeting for Board approval. If the Contractor needs more time to make the requested changes, then Contractor must complete such changes no later than five (5) calendar days after the Board meeting and submit the revised document to the Commissioner for review and approval.

2.5.2 Audit. Execute the audit plan by conducting and completing an independent audit of the areas to be audited as specified in the audit plan and document findings.

2.5.3 Audit Report.

2.5.3.1 Prepare and provide a draft audit report to the Board, the Securities Commissioner of Texas ("Commissioner"), and the SSB at least fifteen (15) calendar days prior to the completion of the final report;

2.5.3.2 Prepare a final annual audit report for the fiscal year ended as required by the TIAA;

2.5.3.3 Make the final annual audit report reasonably available to the Board, Commissioner, and the SSB prior to the Board meeting to occur in either September or October 2022; and

- 2.5.3.4 Present the final audit report to the Board at the Board meeting referenced in Paragraph 2.5.3.3, unless expressly requested otherwise by the SSB.
- 2.6 In implementing the approved internal auditing program, Contractor agrees to conform to the standards required by the TIAA as set forth in Section 2101.011 of the Texas Government Code.
- 2.7 Contractor agrees to deliver all data, reports, and documents which result from its services to the SSB in a form satisfactory to the SSB.
- 2.8 Contractor agrees to perform all other duties imposed by Section 2102.007 of the Texas Government Code related to Paragraph 2.5 of this Contract.
- 2.9 Contractor agrees to timely file all required reports as required by Sections 2102.009 and 2102.0091 of the Texas Government Code.
- 2.10 Contractor represents and warrants that it has the requisite qualifications, experience, personnel, and other resources to provide all the required internal auditing services to the SSB required by the RFP and this Contract.
- 2.11 Contractor understands and agrees all internal audit services performed under the Contract must be performed by Contractor and may not be subcontracted to another entity or individual. Contractor is completely responsible for all contract services performed and certifies that it will perform the internal audit services and will not assign any right or duty required under this Contract.
- 2.12 Contractor shall assign only qualified personnel to this Contract. If the Contractor plans to substitute new key personnel, the substituted personnel must be equally qualified and skilled in the tasks necessary to accomplish the tasks and services required by the RFP and this Contract. Contractor may substitute appropriate key personnel, not identified in the Proposal, to accomplish its duties only if: (a) Contractor provides prior written notice of such substitution and obtains written approval from the Audit Committee and the Commissioner; and (b) the substituted personnel are equally qualified and skilled in the tasks necessary to accomplish the services required by the RFP and this Contract, as Contractor.

III. Board Approvals and Obligations of the SSB

- 3.1 The SSB agrees to cooperate with Contractor and provide all necessary access to the records and employees of the SSB for the purposes of this Contract.
- 3.2 The SSB agrees if, in the course of performing services under the Contract, Contractor is required to travel, the Commissioner in his sole discretion may determine whether to reimburse Contractor for travel expenses. If travel expenses are to be reimbursed, the rate of reimbursement may not exceed the applicable rate in effect for state employees.

- 3.3 The Board will review and consider the proposed annual audit plan, make the final determination of the area or areas to be audited, and approve the audit plan at the May 2022 Board meeting. The Board may designate the Commissioner to review and approve the final audit plan on the Board's behalf after such Board meeting if the Contractor needs additional time after the meeting to make changes to the plan requested by the Board at such meeting.
- 3.4 The Board will review the final audit report at the September 2022 Board meeting or at a Board meeting to be held no later than October 2022.

IV. Pricing and Payments

- 4.1 The SSB agrees to pay Contractor upon the completion of each defined task as reflected in the Board approved audit plan. The prices for the Contractor's services under this Contract are the rates specified in the Proposal, at Page 12. Those rates are as follows:
 - Partner - \$155.00/hour
 - Manager - \$145.00/hour
 - Senior Auditor - \$125.00/hour
 - Staff Auditor - \$115.00/hour
- 4.2 The total amount to be paid in Fiscal Year 2022 is not to exceed Thirty-Five Thousand dollars (\$35,000.00). This amount may be increased only by written agreement of Contractor and the SSB.
- 4.3 Contractor agrees to provide the SSB with itemized invoices showing hours worked and the hourly rate upon the completion of defined tasks subject to the invoice.
- 4.4 Prior to authorizing any invoices for payment under this Contract, the SSB must evaluate Contractor's performance against the performance requirements of this Contract. Prior to authorizing any such payments, the SSB must evaluate and specifically reserves the right to provide written notice of acceptance of Contractor's services under the procedures described in this Contract.
- 4.5 Contractor must submit invoices for services as set out in the approved audit plan. In submitting these invoices, Contractor acknowledges and by execution of this Contract certifies the following:
 - 4.5.1 The invoices have been carefully reviewed for a detailed description of the Contract services performed;
 - 4.5.2 The Contract services were performed in compliance with the Contract;

- 4.5.3 The amount of the invoice and all previous invoices together do not exceed the contractual cap of the Contract; and
- 4.5.4 All appropriate and required supporting documentation is attached.
- 4.6 The SSB may, in its sole discretion, require additional documentation to support payment and Contractor shall respond to any such request within five (5) days of receipt.
- 4.7 All payments hereunder shall be subject to the Texas Prompt Payments Act.

V. Term and Termination

- 5.1 This Contract shall become effective on the date of the SSB's acceptance of the fully executed Contract by Contractor.
- 5.2 The Contract shall terminate the later of August 31, 2022, or the date the final deliverable is accepted by the SSB, including any testimony before the Board or the Audit Committee, unless otherwise terminated earlier as provided in this Contract.
- 5.3 The SSB reserves the right, in its sole judgment and discretion, to renew this Contract for additional terms as specified below upon reasonable written notice to Contractor. The SSB must receive annual authorization from the Texas State Auditor's Office ("SAO") to employ a private internal auditor to perform internal audit services for the SSB before the Contract can be renewed. If the SSB elects to renew the Contract, all provisions of this Contract, including the SSB's right of termination shall remain in full force and effect.
- 5.4 The optional renewal terms are as follows:
 - 5.5.1 September 1, 2022, to August 31, 2023 (Fiscal Year 2023);
 - 5.5.2 September 1, 2023, to August 31, 2024 (Fiscal Year 2024);
 - 5.5.3 September 1, 2024, to August 31, 2025 (Fiscal Year 2025); and
 - 5.5.4 September 1, 2025, to August 31, 2026 (Fiscal Year 2026).
- 5.5 Any renewal negotiations and a signed renewal agreement must be in place before the close of the SSB's last business day of the relevant fiscal year in order for the renewal term to be considered valid, unless such renewal date is waived by the parties and evidenced by the execution of the relevant renewal contract by all parties. The renewal agreement may specify the dates due for the deliverables to be provided in the renewal agreement, and the related dates for the Board actions, which shall generally be consistent with February for the proposed audit plan and September or October for the final audit report.

- 5.6 Either the SSB or Contractor may unilaterally terminate this Contract for cause or convenience upon thirty (30) calendar days written notice to the other party, with no future liability to any party whatsoever upon such effective date of termination.
- 5.7 Notwithstanding the termination or expiration of this Contract, the provisions of this Contract regarding confidentiality, indemnification, dispute resolution, right-to-audit, and records shall survive the termination or expiration dates of this Contract.

VI. Confidentiality and Open Records

- 6.1 This Contract and all data and other information generated, used, or otherwise obtained by Contractor in its performance under this Contract may be subject to disclosure under the Texas Public Information Act, Texas Government Code Chapter 552 (TPIA).
- 6.2 Contractor and Contractor's employees shall not reveal or otherwise disclose to any person, other than the SSB, any information provided to, developed by, prepared by, used by, obtained by, or assembled by Contractor under this Contract without the prior written approval of the Commissioner, except as provided for in Paragraph 12.11 of this Contract.
- 6.3 Contractor must secure and maintain the confidentiality of records and information to which Contractor may have access during the performance of this Contract to prevent the theft or inadvertent disclosure of confidential information. This provision shall not be construed as limiting the SSB's right of access to information under this Contract.
- 6.4 Contractor will notify the SSB within twenty-four (24) hours of any breach of security or violation of these provisions, regardless of the reason or whether the disclosed information was returned.
- 6.5 Contractor understands the SSB is bound by the provisions of the TPIA and Attorney General Opinions issued under that statute.
- 6.6 Within twenty-four (24) hours of receipt, Contractor will refer to the SSB any third-party requests for public information related to the SSB, received directly by Contractor, for information to which Contractor has access as a result of or in the course of its performance under this Contract. Contractor is not authorized to respond to public information requests on behalf of the SSB. Contractor will cooperate with the SSB in the production of documents responsive to the request. The SSB will make a determination whether to submit a TPIA opinion request to the Attorney General.
- 6.7 Contractor is required to make any information created or exchanged with the SSB or the state pursuant to this Contract, and not otherwise excepted from disclosure under the TPIA, available in a format that is accessible by the public at no additional charge to the SSB or the state.

- 6.8 Contractor will indemnify and hold harmless the State of Texas, its officers and employees, and the SSB, its officers and employees for any claims or damages that arise from the disclosure by Contractor of information held by the State of Texas.
- 6.9 The confidentiality requirements pertaining to this Contract survive the cancellation, termination, or expiration of this Contract.

VII. Independent Contractor

- 7.1 Contractor understands and agrees it is an independent contractor in providing services under this Contract.
- 7.2 Contractor's employees shall not be construed as employees of the SSB in providing services under this Contract.
- 7.3 Neither Contractor nor the SSB has the authority to bind the other or hold out to third parties that it has the authority to bind the other.
- 7.4 Nothing in this Contract shall be construed as creating the relationship of employer-employee, principal-agent, partners, joint-venturers, or any other similar relationship between the parties.

VIII. Conflicts of Interest

- 8.1 Contractor represents and warrants that none of its employees, including, but not limited to, those authorized to provide services under this Contract, are current or former officers or employees of the SSB, or are related, within the third degree by consanguinity (as defined by Section 573.023 of the Texas Government Code) or within the second degree by affinity (as defined by Section 573.025 of the Texas Government Code), to any current or former officers or employees of the SSB.
- 8.2 During the term of this Contract, Contractor agrees not to employ or have any other business relationship with an SSB employee, Board Member, or any person related within the second degree of consanguinity or affinity to such SSB employee or Board Member.
- 8.3 Contractor represents and warrants that it has no actual or potential conflicts of interest in providing services to the SSB under this Contract and that its provision of services under this Contract would not reasonably create an appearance of impropriety.

IX. Insurance

- 9.1 Contractor represents and warrants it maintains the following insurance coverage for Contractor and Contractor's employees:

Standard Worker's Compensation Insurance in accordance with statutory limits covering all personnel who will provide services under this Contract; and

Commercial General Liability Insurance with a \$1,000,000.00 minimum "each occurrence" limit and a \$2,000,000.00 minimum "aggregate" limit.

- 9.2 Contractor represents and warrants that it will maintain all the above insurance coverages during the term of the Contract.

X. Indemnification

- 10.1 **CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND THE SSB, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF CONTRACTOR OR ITS AGENTS OR EMPLOYEES IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. CONTRACTOR AND THE SSB AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.**

THIS SECTION IS NOT INTENDED TO AND SHALL NOT BE CONSTRUED TO REQUIRE CONTRACTOR TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SSB FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF THE SSB OR ITS EMPLOYEES.

- 10.2 **PATENT, TRADEMARK, COPYRIGHT AND OTHER INFRINGEMENT CLAIMS. CONTRACTOR SHALL INDEMNIFY, SAVE, AND HOLD HARMLESS THE SSB AND THE STATE OF TEXAS FROM AND AGAINST CLAIMS OF PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET, OR OTHER PROPRIETARY RIGHTS, VIOLATIONS, OR INFRINGEMENTS ARISING FROM THE STATE'S OR CONTRACTOR'S USE OF OR ACQUISITION OF ANY SERVICES OR OTHER ITEMS PROVIDED TO THE SSB BY CONTRACTOR OR OTHERWISE TO WHICH THE SSB HAS ACCESS AS A RESULT OF CONTRACTOR'S PERFORMANCE UNDER THIS CONTRACT, PROVIDED THAT THE SSB SHALL NOTIFY THE CONTRACTOR OF ANY SUCH CLAIM WITHIN A REASONABLE TIME OF THE SSB'S RECEIVING NOTICE OF ANY SUCH CLAIM. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE**

SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN THE STATE OF TEXAS AND THE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.

XI. Dispute Resolution

- 11.1 The SSB and Contractor agree to use the dispute resolution provided for in Chapter 2260 of the Texas Government Code to attempt to resolve any dispute arising under this Contract.
- 11.2 The dispute resolution process provided for in Chapter 2260 of the Government Code shall be used, as further described herein, by the SSB and the Contractor to attempt to resolve any claim for breach of Contract made by the Contractor.
- 11.2.1 A Contractor's claims for breach of this Contract that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, Subchapter B. To initiate the process, the Contractor shall submit written notice, as required by Subchapter B, to the Commissioner or his designee. Said notice shall specifically state that the provisions of Chapter 2260, Subchapter B, are being invoked. A copy of the notice shall also be given to all other representatives of the SSB and the Contractor who are otherwise entitled to notice under the Contract. Compliance by the Contractor with Subchapter B is a condition precedent to the filing of a contested case proceeding under Subchapter C.
- 11.2.2 The contested case process provided in Chapter 2260, Subchapter C, is the Contractor's sole and exclusive process for seeking a remedy for any and all alleged breaches of Contract by the SSB if the parties are unable to resolve their disputes under the negotiation process provided in Subchapter C.
- 11.2.3 Compliance with the contested case process provided in Chapter 2260, Subchapter C, is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. Neither the execution of this Contract by the SSB nor any other conduct of any representative of the SSB relating to the Contract shall be considered a waiver of sovereign immunity to suit.
- 11.2.4 The submission, processing, and resolution of the Contractor's claim is governed by the SSB's rules (7 TAC §127.2(f)) governing the mediation and negotiation of breach of contract claims against the SSB pursuant to Texas Government Code, Chapter 2260.

11.2.5 Neither the occurrence of an event nor the pendency of a claim constitute grounds for the suspension of or excuse from performance by the Contractor, in whole or in part, under the Contract and Contractor shall continue performance unless Contractor has complied with all provisions of Section 2251.051 of the Texas Government Code and such suspension of performance is expressly applicable and authorized under that law.

XII. Representations, Warranties, and General Provisions

- 12.1 **Family Code.** Under Section 231.006 of the Texas Family Code (relating to child support), Contractor represents and warrants that Contractor is not ineligible to receive the specified payment and acknowledges that this Contract may be terminated, and payment withheld if this representation and warranty is inaccurate.
- 12.2 **Eligibility.** Under Section 2155.004 of the Texas Government Code (relating to certain prohibited bids and contracts), Contractor represents and warrants that Contractor is not ineligible to receive this Contract and acknowledges that this Contract maybe terminated, and payment withheld if this representation and warranty is inaccurate.
- 12.3 **Liability for Taxes.** Contractor represents and warrants that it shall pay all taxes or similar amounts resulting from this Contract, including, but not limited to, any federal, state, or local income, sales or excise taxes of Contractor or its employees. The SSB shall not be liable for any such taxes resulting from this Contract.
- 12.4 **HUB.** Contractor certifies it is designated as a Historically Underutilized Business with the Comptroller of Public Accounts.
- 12.5 **Applicable Law and Venue.** This Contract shall be governed by and construed in accordance with the laws of the State of Texas. The venue of any suit brought for any breach of this Contract is fixed in any court of competent jurisdiction of Travis County, Texas.
- 12.6 **Strict Compliance.** Time is of the essence in the performance of this Contract. Contractor shall strictly comply with all the deadlines, requirements, and performance standards for this Contract.
- 12.7 **Federal, State, and Local Requirements.** Contractor shall demonstrate on-site compliance with the Federal Tax Reform Act of 1986, Section 1706, amending Section 530 of the Revenue Act of 1978, dealing with the issuance of Form W-2's to common law employees. Contractor is responsible for both Federal and State Unemployment insurance coverage and standard Worker's Compensation Insurance coverage. Contractor shall comply with all Federal and State tax laws and withholding requirements. The SSB shall not be liable to Contractor or its employees for any Unemployment or Worker's Compensation coverage, or

Federal or State withholding requirements. Contractor shall indemnify the SSB and pay to the SSB all costs, penalties, or losses resulting from Contractor's omission or breach of this paragraph.

- 12.8 **Severability.** In the event that any provision of this Contract is later determined to be invalid, void, or unenforceable, then the remaining terms, provisions, covenants, and conditions of this Contract shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.
- 12.9 **Contract Amendments.** Except as provided for in Paragraphs 12.10 and 12.11 of this Contract, this Contract may be amended only upon written agreement between the SSB and Contractor; however, this Contract may not be amended so as to make it conflict with the laws of the State of Texas.
- 12.10 **Applicable Law and Conforming Amendments.** Contractor must comply with all laws, regulations, requirements, and guidelines applicable to a contractor providing services to the State of Texas and to a contractor providing financial or similar services to the SSB, as these laws, regulations, requirements, and guidelines currently exist and as they are amended throughout the term of this Contract. The SSB reserves the right, in its sole discretion, to unilaterally amend this Contract throughout its term to incorporate any modifications necessary for the SSB's or Contractor's compliance with all applicable state and federal laws, regulations, requirements and guidelines.
- 12.11 **State Auditor's Right to Audit.** This Contract may be amended unilaterally by the SSB to comply with any rules and procedures of the SAO in the implementation and enforcement of Section 2262 of the Texas Government Code. Contractor understands that acceptance of state funds under this Contract acts as acceptance of and consent to the authority of the SAO to conduct an audit or investigation in connection with those funds. Contractor further agrees to cooperate fully with the SAO in any such audit or investigation and to provide the SAO with access to any information the SAO considers relevant to the audit or investigation. Additionally, the SAO shall at any time have access to and the rights to examine, audit, excerpt, and transcribe any pertinent books, documents, audit documentation, and records of the Contractor relating to this Contract.
- 12.12 **Supporting Documents, Retention and Access.** Contractor shall maintain and retain supporting fiscal documents adequate to ensure that claims for Contract funds are in accordance with applicable SSB and State of Texas requirements, including requirements of the Comptroller and the SAO. Contractor shall maintain all such documents and other records relating to the Contract and the state's property for a period of seven (7) years after the date of submission of the final invoices or until resolution of all billing questions or the expiration of the Contract, based upon whichever retention period is longer. Contractor shall make available at reasonable times and upon reasonable notice all information related to the State's property, such as work papers, reports, books, data, files, software,

records, and other supporting documentation pertaining to the Contract for purposes of inspecting, monitoring, auditing, or evaluation by the SSB, the State of Texas, or their authorized representatives.

- 12.13 **No Waiver.** This Contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the SSB as an agency of the State of Texas or otherwise available to the SSB. The failure to enforce or any delay in the enforcement of any of the privileges, rights, defenses, remedies, or immunities available to the SSB under this Contract or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. The SSB does not waive any privileges, rights, defenses, or immunities available to the SSB as an agency of the State of Texas, or otherwise available to the SSB, by entering into this Contract or by its conduct prior to or subsequent to entering into this Contract.
- 12.14 **No Liability upon Termination.** If this Contract is terminated for any reason, the SSB and the State of Texas shall not be liable to Contractor for any damages, claims, losses, or other amounts arising from or related to any such termination. However, Contractor may be entitled to the remedies provided in Texas Government Code, Chapter 2260.
- 12.15 **Limitation on Authority; No Other Obligations.** Contractor shall have no authority to act for or on behalf of the SSB or the State of Texas except as expressly provided for in this Contract; no other authority, power, or use is granted or implied. Contractor may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of the SSB or the State of Texas.
- 12.16 **No Other Benefits.** Contractor shall have no exclusive rights or benefits other than those set forth herein.
- 12.17 **DTPA; Unfair Business Practices.** Contractor represents and warrants that it and its officers have not been the subject of a Deceptive Trade Practices Act or any unfair business practice administrative hearing or court suit and that Contractor has not been found liable or guilty of such practices in such proceedings. Contractor certifies that it has no officers who have served as officers of other entities who have been the subject of a Deceptive Trade Practices Act or any unfair business practice administrative hearing or court suit and that such officers have not been found liable or guilty of such practices in such proceedings.
- 12.18 **Immigration.** Contractor represents and warrants that it shall comply with the requirements of the Immigration Reform and Control Act of 1986 regarding employment verification and retention of verification forms for any individuals hired on or after November 6, 1986, who will perform any labor or services under this Contract.

- 12.19 **Equal Opportunity.** Contractor represents and warrants that it shall not discriminate against any person on the basis of race, color, national origin, creed, religion, political belief, sex, sexual orientation, age, or disability in the performance of this Contract.
- 12.20 **Antitrust.** Contractor represents and warrants that neither Contractor nor any firm, corporation, partnership, or institution represented by Contractor, or anyone acting for such firm, corporation, or institution has (1) violated the antitrust laws of the State of Texas under Tex. Bus. & Com. Code, Chapter 15, or the federal antitrust laws; or (2) communicated directly or indirectly, the Proposal to any competitor or any other person engaged in such line of business during the procurement process for this Contract.
- 12.21 **Financial Interests; Gifts.** Contractor represents and warrants that neither Contractor nor any person or entity that will participate financially in this Contract has received compensation from the SSB for participation in the request for proposal or award. Contractor represents and warrants that it has not given, offered to give, and does not intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to any public servant or employee in connection with this Contract.
- 12.22 **ADA.** Contractor represents and warrants that it shall comply with the requirements of the Americans with Disabilities Act.
- 12.23 **Buy Texas.** Contractor represents and warrants that it shall purchase products and materials produced in Texas when they are reasonably available at a comparable price and in a comparable period of time in accordance with Texas Government Code, Section 2155.4441.
- 12.24 **Excluded Parties.** Contractor certifies that it is not listed on the federal government's terrorism watch list as described in Executive Order 13224.
- 12.25 **Foreign Terrorist Organizations.** Contractor represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Texas Government Code, Section 2252.152.
- 12.26 **Prior Disaster Relief Contract Violation.** Contractor certifies that Contractor is not ineligible to receive the specified Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate, as provided for by Texas Government Code, Sections 2155.006 and 2261.053.
- 12.27 **Suspension and Debarment.** Contractor certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM)* maintained by the General Services Administration.

- 12.28 **E-Verify Program.** Contractor certifies that for contracts and services, Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system during the term of the Contract to determine the eligibility of:
1. All persons employed by Contractor to perform duties within Texas; and
 2. All persons assigned by Contractor to perform work pursuant to the Contract within the United States of America.
- 12.29 **Felony Convictions.** Contractor represents and warrants that Contractor and Contractor's employees have not been convicted of any felony criminal offense, or that, if such a conviction has occurred, Contractor has fully advised the SSB as to the facts and circumstances surrounding the conviction.
- 12.30 **False Statements; Breach of Representations.** By signature to this Contract, Contractor makes all the representations, warranties, guarantees, certifications, and affirmations included in this Contract. If Contractor signed the Proposal with a false statement or signs this Contract with a false statement or it is subsequently determined that Contractor has violated any of the representations, warranties, guarantees, certifications, or affirmations included in this Contract, Contractor shall be in default under this Contract and the SSB may terminate or void this Contract for cause and pursue other remedies available to the SSB under this Contract and applicable law.
- 12.31 **Force Majeure.** Except as otherwise provided, neither Contractor nor the SSB shall be liable to the other for any delay in, or failure of performance of, any requirement contained in this Contract caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance in the exercise of reasonable diligence until after the causes of delay or failure have been removed. Force majeure is defined as those causes generally recognized under Texas law as constituting impossible conditions. Each party must inform the other in writing with proof of receipt within three (3) business days of the existence of such force majeure or otherwise waive this right as a defense.
- 12.32 **Debts or Delinquencies to the State.** Contractor acknowledges and agrees that, to the extent Contractor owes any debt or delinquent taxes to the State of Texas, any payments or other amounts Contractor is otherwise owed under or related to the Contract may be applied by the SSB toward any debt or delinquent taxes the Contractor owes the State of Texas until the debt or delinquent taxes are paid in full. These provisions are effective at any time Contractor owes any such debt or delinquency. Contractor shall comply with all applicable laws and regulations regarding the satisfaction of debts and delinquencies to the State of Texas.
- 12.33 **Prohibited Use of Appropriated or Other Funds under Control of State Agency; Lobbying.** Contractor represents and warrants that the SSB payments to the Contractor and Contractor's receipt of appropriated or other funds under

any of this or any resulting agreement are not prohibited by Sections 556.005 or 556.008 of the Texas Government Code.

- 12.34 **COVID-19 Vaccine Passport Prohibition.** Contractor certifies that it does not require its customers to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from the Contractor's business. Contractor acknowledges that such a vaccine or recovery requirement would make Contractor ineligible for a state-funded contract.
- 12.35 **Data Management and Security Controls.** In accordance with Section 2054.138 of the Texas Government Code, Contractor certifies that it will comply with the security controls required under this Contract and will maintain records and make them available to the SSB as evidence of Contractor's compliance with the required controls.
- 12.36 **Cybersecurity Training.** Contractor represents and warrants that it will comply with the requirements of Section 2054.5192 of the Texas Government Code relating to cybersecurity training and required verification of completion of the training program.

XIII. Funding

The SSB's performance of its obligations under this Contract is contingent upon and subject to the availability of and actual receipt by the SSB of sufficient and adequate funds from the sources contemplated by this Contract. This Contract is subject to immediate cancellation or termination, without penalty to the SSB or the State of Texas, subject to the availability and receipt of these funds. In addition, the SSB is a state agency whose authority and appropriations are subject to the actions of the Texas Legislature. If the SSB becomes subject to legislative change, revocation of statutory authority, or lack of funds that would render the services to be provided under this Contract impossible or unnecessary, the SSB may terminate this Contract without penalty to the SSB or the State of Texas. In the event of a cancellation or termination under this paragraph, the SSB shall not be required to give notice and shall not be liable for any damages or losses caused or associated with such cancellation or termination.

XIV. Notices

All notices required or permitted to be delivered under this Contract shall be in writing and shall be validly given on (a) the date of delivery if delivered by email, facsimile transmission, mailed by certified mail, or hand delivered; or (b) three (3) business days after being mailed via United States Postal Service. All notices under this Contract shall be sent to a party at the address set forth below or to such other address as such party shall have notified the other party in writing:

If sent to the SSB:

Attention: Travis J. Iles, Commissioner,
Texas State Securities Board
Address: PO Box 13167
Austin Texas 78711-3167
Phone: (512) 305-8341
Facsimile: (512) 305-8336
Email: tiles@ssb.texas.gov

If sent to the Contractor:

Attention: Rene E. Gonzalez, CPA,
Garza/Gonzalez & Associates
Address: 207 Arden Grove
San Antonio, Texas 78215
Phone: (210) 227-1389
Facsimile: (210) 227-0716
Email: regonzalez@gga-cpa.biz

XV. Entire Agreement

This Contract contains the entire agreement between the parties, Contractor and the SSB, relating to the rights granted and obligations assumed in it. Any oral representations or modifications concerning this Contract shall be of no force or effect unless set forth in a subsequent writing as provided for in this Contract and signed by both parties.

XVI. Signatories

The undersigned signatories represent, warrant, and certify that they have full authority to enter into this Contract on behalf of the respective parties.

Texas State Securities Board

By: 
Robert Belt
Member, State Securities Board
Chair, Audit Committee

Date: 3/28/22

Garza/Gonzalez & Associates

By: Kimberly Lopez-
Gonzales
Digitally signed by Kimberly Lopez-Gonzales
DN: cn=Kimberly Lopez-Gonzales, o, ou,
email=klgonzales@gga-cpa.biz, c=US
Date: 2022.03.24 21:06:36 -05'00'
for **Rene E. Gonzalez, CPA**
Senior Partner

Date: _____