



MARGIE R IBARRA
COUNTY CLERK
FILED

2022 FEB 24 PM 4:43

WEBB COUNTY, TEXAS

BY REH DEPUTY

MASTER CONSULTING AGREEMENT

THIS MASTER CONSULTING AGREEMENT (the "MCA" and together with any Statement of Work(s) ("SOW") issued hereunder, the "Agreement") between **The Segal Group, Inc.**, a Delaware corporation, with its principal place of business at 333 West 34th Street, New York, NY 10001-2402, on behalf of itself and its operating subsidiaries and its affiliates¹, (collectively, "Segal"), and **Webb County, TX**, a political subdivision of the State of Texas, with its principal place of business at 1000 Houston Street, Laredo, Texas 78040, United States ("Client") is made effective as of **December 13, 2021** (the "Effective Date"). Segal and Client will also be referred to herein individually as a "Party" and jointly as the "Parties".

1. Services.

- (a) **Services.** Segal will provide certain employee benefits consulting and related services to Client ("Services") as set forth in one or more SOWs, a form of which is attached hereto, signed by both Parties. The execution of an SOW by any of Segal's affiliates, specifically referencing this Agreement, is an agreement by and between the applicable Segal entity and Client. Each SOW is subject to and incorporates the terms and conditions of this MCA by reference. For the avoidance of doubt, this Agreement does not cover (i) investment consulting and advisory services provided by Segal Advisors, Inc. (d/b/a/ Segal Marco Advisors) or (ii) specialized insurance brokerage and related services provided by Segal Select Insurance Services, Inc.
- (b) **Standard of Care.** All Services rendered under this Agreement will be performed by competent personnel with at least the same degree of care and skill exercised by reputable providers of similar services and in accordance with all applicable laws, regulations and professional standards. Segal's Services do not include rendering legal, tax or accounting advice or the acceptance of fiduciary responsibility under the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder ("ERISA") or other laws. Client acknowledges and agrees that Segal will not have any liability or responsibility whatsoever for (i) the acts or omissions of Client's employees, agents and other service providers (whether current or past), (ii) Client's condition or status prior to Segal's retention as a service provider, (iii) the long-term impact of such acts, omissions, condition or status, or (iv) the veracity or accuracy of data received from or on behalf of Client.

2. Term and Termination.

- (a) **Term.** The term of this Agreement will commence on the Effective Date and continue in effect until **December 31, 2026** (the "Initial Term"), unless earlier

¹ This agreement governs services provided by the following legal entities: The Segal Company (Eastern States), Inc. (EIN: 13-1835864), a New York corporation; The Segal Company (Southeast), Inc. (EIN: 13-2619259), a Georgia corporation; The Segal Company (Midwest), Inc. (EIN: 13-1975125), an Illinois corporation; The Segal Company (Western States), Inc. (EIN: 94-1503999), a Maryland corporation and The Segal Company, Ltd. (EIN: 13-2776405), a Michigan corporation, authorized to conduct business in Canada.

terminated by a Party in accordance with Section 2(b) of this Agreement. Notwithstanding the foregoing, should any SOW entered into during the Initial Term or any renewal or extension term require Services to be performed beyond the expiration or termination of this MCA, the terms of this Agreement shall remain in full force and effect until the expiration or termination of such SOW.

- (b) **Termination.** Either Party may terminate this MCA or any SOW for convenience and without cause upon at least sixty (60) calendar days' written notice, or such shorter period as may be required by applicable law or as set forth in an SOW. Upon termination of this Agreement, the Parties agree and understand that any corresponding business associate agreements (each a "BAA") and/or personal information processing agreements (each a "PIPA") shall terminate under the same terms, subject to any data retention, return and destruction provisions contained therein.

3. Fees and Expenses

- (a) **Fees.** Segal's fee for the Services will be set forth in the applicable SOW.
- (b) **Expenses.** Any reimbursable expenses related to the Services will be set forth in the applicable SOW. If Segal is requested or compelled to participate in actual or anticipated disputes, investigations, arbitrations, litigation or other dispute resolution proceedings (each an "Action") as a result of its relationship with Client, Client will reimburse Segal for all reasonable costs (including, but not limited to, Segal time spent and costs incurred in connection with responding to subpoenas and other document requests) and fees, including attorney's fees, that Segal incurs, during or after the term of this Agreement, except where Segal is itself a party to such Action.
- (c) **Invoices and Payment.** Unless otherwise set forth in the applicable SOW, Segal will bill ongoing annual retainer fees quarterly in advance and hourly-time charges monthly in arrears. Segal will bill for permitted expenses incurred as soon as practicable. All sums are payable in United States dollars. All undisputed invoices (or portions thereof) will be paid by Client within thirty (30) days of receipt by electronic funds transfer (e.g. ACH or wire) in immediately available funds, as specified in the applicable invoice. If, within forty-five (45) days of the invoice date, Segal has not received payment for any undisputed fees or expenses payable hereunder, Segal may assess a late payment fee equal to 1% interest per annum, until such fees and/or expenses are paid in full. Upon termination of this Agreement, Segal will be compensated for all work performed up until the date of Termination.
- (d) **Indirect Compensation.**
 - (i) **General.** Other than commissions from the placement of insurance policies, as described below and set forth in the SOW, Segal does not anticipate receiving indirect compensation in connection with providing Services under this Agreement.

- (ii) **Insurance Commissions.** Segal is a licensed insurance producer. In the course of providing Services related to health and welfare plans or benefits, the Client may appoint Segal as its broker of record and Segal may place insurance policies for Client. Acting in this capacity and consistent with applicable law, Segal may earn commissions from the placement of insurance policies. Prior to placing any commission-bearing insurance policy on Client's behalf, the Parties will enter into an additional compensation disclosure agreement describing all compensation paid or payable to Segal in connection with Client's purchase of insurance. If this Agreement is terminated or Client removes Segal as its broker of record, consistent with applicable insurance law, Segal will retain all commissions received prior to the date of termination or removal.

Segal also participates in contingent compensation programs with insurance carriers, which may result in additional compensation to Segal from the Client's insurance carrier(s). Segal has established procedures to prevent its participation in any contingent compensation programs from influencing the neutrality in recommending insurance products and uses such contingent compensation to offset firm-wide operating expenses and improve client support services.

(iii) **ERISA Acknowledgements.**

(1) *Client Fiduciary Authority.* If Client is an employee benefit plan, each person(s) signing this Agreement is doing so in his/her capacity as representative or agent of the plan's "Named Fiduciary" (as defined by ERISA). The Named Fiduciary acknowledges that it has sole authority to select the plan's service providers and has responsibility to determine whether the service arrangements, including compensation paid, are reasonable. This Agreement describes the Services and Segal's compensation for Services. The Named Fiduciary agrees and acknowledges that it has received a copy of this Agreement for review reasonably in advance of entering into this Agreement and that the designation of Segal as a service provider, and any other transactions contemplated by this Agreement, are consistent with and permissible under the plan documents.

(2) *ERISA Fee Disclosures.* If Segal receives any indirect compensation in connection with the Services, Segal:

- acknowledges that it is a "covered service provider" within the meaning of Section 408(b)(2) of ERISA when providing Services; and
- will disclose any fees and other compensation it receives in accordance with the requirements of ERISA Section 408(b)(2).

A copy of Segal's firm-wide ERISA Section 408(b)(2) fee disclosure is available at <http://www.segalco.com/disclosure-of-compensation>.

4. Information and Ownership.

- (a) **Client Information.** Client agrees to supply to Segal (either directly or through Client's agents and representatives) on a timely basis all of the data, documentation and information (e.g., current plan design and plan documents, information concerning all plan participants and beneficiaries) reasonably needed by Segal to perform the Services ("Client Information"), in a usable format. If Client Information is not provided in a usable format, Segal will notify Client and Client shall have an opportunity to reformat such information and resend. If Client is unwilling or unable to reformat, Segal may charge Client for actual costs incurred in converting it to a usable a format. Segal. Segal will have the right to reasonably rely on the accuracy and completeness of Client Information and will have no responsibility for independently verifying or checking Client Information for accuracy or completeness. Client will notify Segal promptly upon gaining knowledge of any material change to Client Information. Client acknowledges and agrees that Segal shall have no liability for errors resulting from latent defects in Client Information or Client's failure to notify Segal of changes to Client Information.
- (b) **Ownership of Client Information.** Client Information is and will remain the sole and exclusive property of Client. In addition to the Services, Segal is authorized to use Client Information for internal purposes and may aggregate Client Information with other data collected by Segal and distribute such data, or analysis of such data, to third parties, provided such distributed data does not identify Client or any Client participants or beneficiaries. Further, Segal is expressly authorized to include Client's name and logo/trademark in a list of representative clients for marketing and/or sales purposes. For the avoidance of doubt, Segal will not sell or otherwise receive remuneration for Client Information or materials derived from Client Information.
- (c) **Ownership of Deliverables.** Client acknowledges that, in providing the Services, Segal will distribute or make available certain proprietary materials ("Segal's Proprietary Information"), including, but not limited to, publications, software, know-how, techniques, methodologies and report formats. Except to the extent that they are or incorporate Segal's Proprietary Information, all documents, data, and other tangible materials authored or prepared and delivered by Segal to Client under the terms of this Agreement (collectively, the "Deliverables"), are the sole and exclusive property of Client, once paid for by Client. To the extent that Segal's Proprietary Information is incorporated into such Deliverables, Client will have a perpetual, fully paid, non-exclusive, non-transferable and non-sublicensable right to use, copy, and modify Segal's Proprietary Information as part of the Deliverables internally and for their intended purpose. Segal will not have any responsibility or liability for use of any Deliverable in any manner other than for the intended purpose.

5. Confidentiality and Data Privacy.

- (a) **Confidential Information.** Confidential Information includes (i) Client Information; (ii) Segal's Proprietary Information; and (iii) any other information clearly identified by a Party as confidential at the time of disclosure or that a reasonable person should understand to be confidential or proprietary in nature.

Confidential Information will not include information which: (i) is or becomes a part of the public domain through no fault of the receiving Party; (ii) was in the receiving Party's lawful possession prior to the disclosure; (iii) is disclosed by the disclosing Party without restriction on disclosure; (iv) is independently developed by the receiving Party without reliance on the disclosing Party's Confidential Information; (v) is required to enforce a Party's rights hereunder; or (vi) is required to be disclosed by a governmental authority or pursuant to a subpoena, provided that to the extent not prohibited by applicable law, the receiving Party gives the disclosing Party a reasonable opportunity to contest the disclosure and/or seek any available protections for the Confidential Information.

- (b) **Obligations Related to Confidential Information.** With respect to a disclosing Party's Confidential Information, the receiving Party agrees to:
- (i) Not use or disclose Confidential Information for any reason other than the reason it was disclosed or as otherwise permitted by this Agreement (the "Purpose"), without the express permission of the disclosing Party;
 - (ii) Not misappropriate or use Confidential Information in order to intentionally damage the disclosing Party's business or reputation or otherwise gain a competitive advantage over the disclosing Party;
 - (iii) Only disclose, or otherwise make available, Confidential Information to those of its affiliates, officers, employees and agents ("Representatives") who have a legitimate need to know the Confidential Information in furtherance of the Purpose and have been made aware of the obligations of this Agreement and their responsibility for complying with those obligations. The receiving Party acknowledges that it is fully responsible for a breach of this Agreement by its Representatives;
 - (iv) Notify the disclosing Party promptly upon becoming aware of any unauthorized use, disclosure or release of Confidential Information of which it is aware.
- (c) **Cybersecurity.** Segal maintains procedures, consistent with industry standards and as required by law, to ensure the security of all data maintained on Segal's information technology systems. In addition, Segal maintains a reasonable and appropriate business continuity/disaster recovery program. Segal agrees to provide Client with any information Client reasonably requests related to Segal's information security protocols and disaster recovery program, provided that such information will be treated by Client as Confidential Information and not disclosed to any third party without Segal's consent.
- (d) **Personal Information.** Segal acknowledges that Client Information may include personally identifiable information ("PII") related to Client's employees and/or

participants and beneficiaries under Client's sponsored employee benefit plans, including, but not limited to Personal Information ("PI"), as such term is defined in the California Consumer Privacy Act of 2018 ("CCPA"), as amended, and Protected Health Information ("PHI"), as such term is defined in the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act ("HITECH") and the American Recovery and Reinvestment Act of 2009 ("ARRA") (together "HIPAA"), and the regulations promulgated thereunder (the "HIPAA Rules"). Prior to Segal's receipt of PII, PHI, or PI, the Parties will enter into a BAA and/or a PIPA that set out the additional terms, requirements, and conditions on which Segal will obtain, handle, process, disclose, transfer, or store PII when providing services under this Agreement. The PIPA and/or BAA will be attached to this Agreement. In the event of any conflict or ambiguity between:

- (i) any provision contained in this Agreement, including any attachments, amendments or addendums thereto, and any provision contained in the body of any PIPA, the provision in the body of the PIPA will prevail;
- (ii) any provision contained in this Agreement or the PIPA, including any attachments, amendments or addendums thereto, and any provision contained in the body of any separately executed BAA between the Parties, the provision in the body of such BAA will prevail with respect to PHI.

6. Liability and Insurance.

- (a) **Force Majeure.** Neither Party will be in default or otherwise liable for any delay in or failure of its performance under this Agreement where such delay or failure arises by reason of any Act of God, act or failure to act by a governmental body, the elements, strikes or labor disputes, global pandemic, or other cause beyond the control of such Party.
- (b) **Remedies.** SEGAL WILL NOT BE LIABLE UNDER ANY LEGAL OR EQUITABLE THEORY, WHETHER IN CONTRACT OR IN TORT, FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OR COSTS (WHETHER OR NOT SEGAL HAS BEEN ADVISED OF OR COULD HAVE FORESEEN THE POSSIBILITY OF SUCH DAMAGES), OR FOR ANY LOST PROFITS, APPRECIATION, EARNINGS, OR SAVINGS, OR FOR ANY CLAIMS AGAINST CLIENT BY ANY OTHER PARTY.

SEGAL'S LIABILITY FOR DIRECT DAMAGES INCURRED BY CLIENT WILL NOT EXCEED THE FEES PAID TO SEGAL DURING THE PRECEDING TWELVE-MONTH PERIOD.

NOTHING IN THIS SECTION WILL ACT TO RELIEVE SEGAL FROM ANY RESPONSIBILITY, LIABILITY OR DUTY WHICH SEGAL MAY NOT DISCLAIM UNDER APPLICABLE FEDERAL OR STATE LAWS, INCLUDING ERISA.

- (c) **Insurance.** Segal is, and will continue to be while performing Services, insured by insurers of recognized financial responsibility against such losses and risks

and in such amounts as are prudent and customary in the businesses in which Segal is engaged, including, but not limited to, professional liability and cyber liability coverage. A description and evidence of such insurance coverage will be provided by Segal upon request.

7. **Notices.** Any notices or other communications under this Agreement will be in writing and will be given to the Parties at the addresses set forth below:

If to Client, to:

Webb County, TX
1000 Houston Street
Laredo, Texas 78040
United States
Attention: Rose Magaña
rmagana@webbcountytx.gov

Copy to:

Nathan Bratton
Chief General Counsel
1000 Houston Street, 2nd Floor
Laredo, Texas 78040
nbratton@webbcountytx.gov

If to Segal, to:

The Segal Group
333 West 34th Street
New York, NY 10001
Attention: General Counsel
Contract_Notice@segalco.com

Copy to:

Ruth Ann Eledge
reledge@segalco.com

Notices will be deemed to have been received upon the earlier of actual receipt thereof or, with respect to delivery (i) by electronic mail, upon confirmation of receipt, whether telephonically or by electronic transmission; (ii) by overnight courier or overnight express mail, the next business day following delivery to such overnight courier or the U.S. Postal Service; and (ii) by mail, the fifth business day following such delivery to the U.S. Postal Service. Any Party may change the contact information above by written notice to the other.

8. **Dispute Resolution; Governing Law; Waiver of Jury Trial.** Any disputes between the Parties hereto are subject to non-binding mediation as a condition precedent to the commencement of any legal proceeding hereunder. Mediation shall take place in Webb County Texas. Except to the extent superseded by federal law, the validity,

interpretation, enforceability, and performance of this Agreement will be governed by the laws of the State of Texas. Unless otherwise agreed by the Parties, any dispute, controversy or claim arising out of or to enforce the terms of this Agreement may only be brought in the state courts in the State of Texas, Webb County.

9. General

- (a) **Entire Agreement; Modification of Agreement.** This MCA, along with the applicable SOW(s) constitutes the entire agreement between the Parties regarding the furnishing of the Services and supersedes all prior oral or written understandings between the parties. Neither party has relied on any promises, representations, or warranties except as expressly set forth in this Agreement. No modification or amendment hereto will be valid unless it is in writing and signed by the Parties.
- (b) **Assignment of the Agreement.** A Party may only assign this Agreement with the other Party's prior written consent, except that either party may assign this Agreement: (i) to any of its affiliates or subsidiaries (whether existing now or in the future); (ii) in connection with the transfer or sale of all or substantially all of its assets or business or business to which this Agreement relates or (iii) its merger or consolidation with another company. No assignment will discharge a party from its obligations or duties under **Section 4 (Information and Ownership)**, **Section 5 (Confidentiality and Data Privacy)** and **Section 6 (Liability and Insurance)** of this Agreement. This Agreement will be binding upon both Parties hereto, and their respective successors and assigns.
- (c) **Subcontractors and Sub-advisers.** Client understands and agrees that Segal may, from time to time, consult with or receive services from subcontractors in connection with providing the Services under this Agreement.
- (d) **Non-Solicitation.** While this Agreement is in effect and for eighteen (18) months thereafter, Client agrees to not directly solicit for employment any Segal employees directly involved in providing any Services or otherwise induce such individuals to terminate their relationship with Segal. The preceding sentence will not prohibit Client from considering for employment any Segal employee or former employee who (i) seeks employment with Client in response to a general advertisement by Client or (ii) is identified in the course of employment searches by an independent third party retained by Client (so long as the search is not directed toward Segal's employees).
- (e) **Survival of Terms.** The provisions of **Section 4 (Information and Ownership)**, **Section 5 (Confidentiality and Data Privacy)**, **Section 6 (Liability and Insurance)**, **Section 8 (Dispute Resolution; Governing Law)** and **Section 9 (General)** will survive the termination of this Agreement.
- (f) **Severability and Waiver.** If any provision of this Agreement is found to be illegal or otherwise unenforceable, that provision will be severed and the remainder of this Agreement will remain in full force and effect. No consent to or waiver of any default hereunder will be effective unless in writing and no such

consent or waiver will be construed as a consent to or waiver of any default in the future or of any other default hereunder.

(g) Authority to Enter Agreement.

(i) Segal represents and warrants that: (A) it has all necessary power and authority to enter into this Agreement; (B) the person signing has been duly authorized to execute this Agreement on its behalf; (C) the execution and delivery of this Agreement and any action contemplated herein does not conflict with, or violate, any provision of law, rule or regulation, contract, deed of trust or other instrument to which it is a party or otherwise bound; (D) this Agreement is a valid and binding contract enforceable against it; and (E) to its knowledge, it is in compliance with all applicable law and regulation related to its performance pursuant to the terms of this Agreement.

(ii) Client represents and warrants that: (A) it has all necessary power and authority to enter into this Agreement; (B) the person signing has been duly authorized to execute this Agreement on its behalf, (C) the execution and delivery of this Agreement and any action contemplated herein does not conflict with, or violate, any provision of law, rule or regulation, contract, deed of trust or other instrument to which it is a party or otherwise bound; (D) this Agreement is a valid and binding contract enforceable against it; and (E) to its knowledge, it is in compliance with all applicable law and regulation related to its performance pursuant to the terms of this Agreement.

(h) No Third Party Beneficiaries. This Agreement (and any amendment or addendum thereto) is made and entered into solely for the benefit and protection of the Parties hereto, their successors and permitted assigns, and does not confer any rights or privileges upon any third parties, including any participant or beneficiary of Client.

(i) Independent Contractors. Nothing in this Agreement shall make Segal and Client partners, joint venturers, or otherwise associated in or with the business of the other. Segal is and shall always remain an independent contractor. Neither Party shall be liable for any debts, accounts, obligations, or other liabilities of the other Party, its agents, or employees. The Parties are not authorized to incur debts or obligations of any kind, on the part of or as agent for the other except as may specifically be authorized in writing.

(j) Counterparts. This Agreement may be executed in any number of counterparts using ink or electronic signatures, each of which will be deemed an original. Facsimile or other electronic copies (e.g., PDF) thereof will be deemed to be originals.

* * * * *

Execution Page Follows

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

The Segal Group, Inc.

Webb County, TX

By: *R Eledge*
Name: Ruth Ann Eledge
Title: Vice President
Date: 2/22/2022

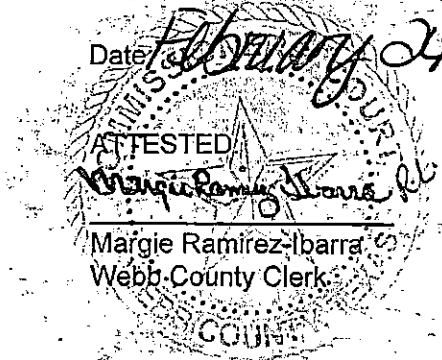
By: *[Signature]*
Name: Tano E. Tijerina
Title: Webb County Judge
Date: February 24, 2022

If second signature is required:

By: *[Signature]*
Name: Fortunato Paredes

Title: Chief Assistant Civil Legal Division

Date: February 24, 2022



ATTESTED
[Signature]
Margie Ramirez-Ibarra
Webb County Clerk