

## CONTRACTUAL AGREEMENT

**THIS AGREEMENT** made and entered into this the 27<sup>th</sup> day of March 2023, by and between the OFFICE OF THE STATE AUDITOR, an agency of the State of Mississippi, (hereinafter "OSA") and Colby Spence, at, hereinafter "Contract Worker" for the performance of duties in support of the Performance Audit Division.

### WITNESSETH:

In consideration of the mutual covenants contained herein, and subject to the terms and conditions hereinafter stated, it is hereby understood and agreed by the parties hereto as follows:

1. **SCOPE OF SERVICES:** The Contract Worker shall serve as an Auditor Analyst in support of the State Auditor and discharge such duties as may be assigned by the State Auditor or the Director of Performance Audit, but specifically shall assist in the conduct of Performance Audit Projects. The Contract Worker shall participate in research, data collection, data analysis, and report preparation. The Contract Worker will assist in providing oral and/or written answers to inquiries and will participate in on-site field work. The Contract Worker is expected to work 40 hours per week, not to exceed 160 hours in any calendar month.
2. **PERIOD OF PERFORMANCE:** The term of this Agreement shall commence on June 1, 2023, and shall expire on June 30, 2023.
3. **COORDINATION OF SERVICES:** The Contract Worker shall coordinate the performance of its services, including, but not limited to, courses of action, with the Director of Performance Audit or the appropriate assigned Performance Audit project manager.
4. **RELATIONSHIP OF PARTIES:** It is expressly understood and agreed that Colby Spence is employed as a contract worker according to the guidelines from the Internal Revenue Service and the Mississippi State Personnel Board and not an independent contractor. As a contract worker, Colby Spence shall not be eligible to receive personal and medical leave and shall not be eligible for benefits under the State Employee's health insurance plan. As a contract worker, Colby Spence shall not be considered a "state service employee" and shall not be eligible for the procedures and protections for termination of such employee. As a contract worker of OSA, Colby Spence shall be eligible for OSA's worker's compensation coverage. As a contract worker of OSA, Colby Spence shall be entitled to all benefits and coverage of the Mississippi Tort Claims Act.
5. **COMPENSATION:** As full and complete compensation for the services to be provided hereunder, Intern will be paid at the hourly rate of \$15.00 (fifteen dollars). Any necessary travel will be based on a mileage allowance for use of automobile at the maximum rate permitted by the Internal Revenue Services. The total contract, including fringe and travel, shall not exceed \$5,500.00 (five thousand and five hundred dollars).
6. **AVAILABILITY OF FUNDS:** It is expressly understood that the fulfillment of the conditions of the Contract by the Office of the State Auditor must be conditioned upon receipt of State funds, and any cessation or reduction in State funds shall, at the option of the Office the State Auditor, constitute grounds for the termination of this Contract.

7. **EQUAL OPPORTUNITY:** In connection with the performance of work under this contractual Agreement, Contract Worker agrees not to discriminate in any manner whatsoever, including, but not limited to, hiring, termination/discharge, promotion/demotion, or other terms and conditions of employment against any person otherwise qualified because of race, creed, color, religion, sex, age, national origin, disability, ancestry or political affiliation.
8. **APPLICABLE LAW:** The contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of laws, provisions, and venue for resolution of any dispute shall be Jackson, Hinds County, Mississippi. Contract Worker shall comply with applicable federal, state and local laws and regulations. Contract Worker expressly agrees that under no circumstances shall OSA be obligated to pay an attorney's fee, prejudgment interest or the cost of legal action to Contract Worker. Further, nothing in this Contract shall affect any statutory rights that OSA may have and such rights cannot be waived or limited by contract.
9. **TRANSPARENCY:** In accordance with the Mississippi Accountability and Transparency Act of 2008, §27-104-151, et seq., of the Mississippi Code of 1972, as Amended, the American Accountability and Transparency Act of 2009 (P.L. 111-5), where applicable, and §31-7-13 of the Mississippi Code of 1972, as amended, where applicable, a fully executed copy of this agreement shall be posted to the State of Mississippi's accountability website at: <https://merlin.state.ms.us>.
10. **EMPLOYEE STATUS VERIFICATION SYSTEM:** Contract Worker represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act and will register and participate in the status verification system for all newly hired employees. The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. Contract Worker agrees to maintain records of such compliance, and upon request of the State, to provide a copy of each such verification to the State. Contract Worker further represents and warrants that any person assigned to perform services hereunder meets the employment eligibility requirements of all immigration laws of the State of Mississippi. Contract Worker understands and agrees that any breach of these warranties may subject Contract Worker to the following: (a) termination of this Agreement and ineligibility for any state or public contract in Mississippi for up to three (3) years, with notice of such cancellation/termination being made public, or (b) the loss of any license, permit, certification or other document granted to Contract Worker by an agency, department or governmental entity for the right to do business in Mississippi for up to one (1) year, or (c) both. In the event of such cancellation/termination, Contract Worker would also be liable for any additional costs incurred by the State due to the Contract cancellation or loss of license or permit.
11. **SEVERABILITY:** It is understood and agreed by the parties hereto that, if any part, term or provision of this Agreement is by the courts or other judicial body held to be illegal or in conflict with any law of the State of Mississippi, the validity of the remaining portions or provisions shall not be affected and the obligations of the parties shall be construed in full force as if this Agreement did not contain that particular part, term, or provision held to be invalid.



12. **MODIFICATION OR AMENDMENT:** Modifications or amendments to this Agreement may be made upon mutual agreement of the parties, in writing and signed by the parties hereto and approved as required by law.
13. **TERMINATION:** Any party may terminate this contract at any time, with or without cause, by giving written notice to the other parties of such termination and specifying the effective date thereof. In the event of such, Contract Worker shall be entitled to receive just and equitable compensation for any specific services completed to the date of termination in a satisfactory manner.
14. **NON-WAIVER OF BREACH:** Failure by OSA, at any time, to enforce the provisions of the Contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the Contract or any part thereof or the right of OSA to enforce any provision at any time in accordance with its terms.
15. **CONFIDENTIAL INFORMATION:** Contract Worker shall treat all OSA data and information to which it has access by its performance under this Contract as confidential and shall not disclose such data or information to a third party without specific written consent of OSA. In the event that Contract Worker receives notice that a third party requests divulgence of confidential or otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of such information, Contract Worker shall promptly inform OSA and thereafter respond in conformity with such subpoena to the extent mandated by state and/or federal laws, rules and regulations. This Article shall survive termination or completion of this Contract and shall continue in full force and effect and shall be binding upon Contract Worker and its agents, employees, successors, assigns, subcontractors, or any party or entity claiming an interest in this Contract on behalf of, or under the rights of Contract Worker following any termination or completion of this Contract.
16. **ENTIRE AGREEMENT:** This Agreement constitutes the entire Agreement of the parties with respect to the subject matter contained herein and supersedes or replaces any and all prior negotiations, understandings, written or oral, between the parties relating thereto.

**IN WITNESS WHEREOF,** the parties have executed this Agreement to be effective as of the date first written above.

OFFICE OF THE STATE AUDITOR

By: Shad White by [Signature]  
SHAD WHITE, STATE AUDITOR  
STATE OF MISSISSIPPI

By: [Signature]  
Colby Spence, Contract Worker

Date: 3/28/23

Date: 3/28/23