

A G R E E M E N T

THIS AGREEMENT is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and **UnifyHR, LLC**, a Texas limited liability company, doing business at 105 Decker Court, Suite 310, Irving, Texas 75062 (the “Service Provider”), jointly (“the Parties”).

The Parties agree as follows:

1. COORDINATION AND SIGNATURE DELEGATION: The Service Provider shall fully coordinate all services under this Agreement with the Director of the Office of Human Resources or, the Director’s Designee (the “Manager”). The Director is authorized to sign any ancillary agreements necessary to implement the services contemplated in this agreement as intended by the Parties. Such signature authority is expressly limited and must not be used to expand the City’s liability beyond what is expressly contemplated in this Agreement.

2. SERVICES TO BE PERFORMED:

a. As the Manager directs, the Service Provider shall diligently undertake, perform, and complete all of the services and produce all the deliverables set forth on **Exhibit A, the Scope of Work**, to the City’s satisfaction.

b. The Service Provider is ready, willing, and able to provide the services required by this Agreement.

c. The Service Provider shall faithfully perform the services in accordance with the standards of care, skill, training, diligence, and judgment provided by highly competent individuals performing services of a similar nature to those described in this Agreement and in accordance with the terms of this Agreement.

3. TERM: This Agreement will commence on **January 1, 2021** and will expire at 11:59 p.m on **December 31, 2025** (the “Term”). The term of this Agreement may be extended by the City under the same terms and conditions by a written amendment to this Agreement. Subject to the Manager’s prior written authorization, the Service Provider shall complete any work in progress as of the expiration date and the Term of this Agreement will extend until the work is completed or earlier terminated by the Manager.

4. COMPENSATION AND PAYMENT:

a. Budget. The City shall pay and the Service Provider shall accept as the sole compensation for services rendered and costs incurred under this Agreement, appropriate

amounts billed for fees. Amounts billed may not exceed the rates set forth in **Exhibit B, Renewal Fees**.

b. Reimbursable Expenses: There are no reimbursable expenses allowed under this Agreement unless specifically stated in Exhibit B.

c. Invoicing: Service Provider shall provide the City with a monthly invoice in a format and with a level of detail acceptable to the City including all supporting documentation required by the City. The City's Prompt Payment Ordinance, §§ 20-107 to 20-118, D.R.M.C., applies to invoicing and payment under this Agreement.

d. Maximum Contract Amount:

(1) Notwithstanding any other provision of this Agreement, the City's maximum payment obligation will not exceed **FIVE HUNDRED FIFTY THOUSAND DOLLARS AND NO CENTS (\$550,000.00)** (the "Maximum Contract Amount"). The City is not obligated to execute an Agreement or any amendments for any further services, including any services performed by the Service Provider beyond that specifically described in **Exhibit A**. Any services performed beyond those in **Exhibit A** are performed at Service Provider's risk and without authorization under this Agreement.

(2) The City's payment obligation, whether direct or contingent, extends only to funds appropriated annually by the Denver City Council, paid into the Treasury of the City, and encumbered for the purpose of this Agreement. The City does not by this Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years. This Agreement does not and is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

5. STATUS OF SERVICE PROVIDER: The Service Provider is an independent contractor retained to perform professional or technical services for a limited period of time. Neither the Service Provider nor any of its employees are employees or officers of the City under Chapter 18 of the Denver Revised Municipal Code, or for any purpose whatsoever.

6. TERMINATION:

a. The City has the right to terminate this Agreement with cause upon written notice effective immediately, and without cause upon thirty (30) days prior written notice to the Service Provider. However, nothing gives the Service Provider the right to perform services under this Agreement beyond the time when its services become unsatisfactory to the Manager.

b. **Termination with cause:** Both parties shall have the right to terminate this Agreement with cause upon written notice effective immediately. If the Service Provider gives written notice of cause for termination, the City shall have thirty (30) days from the date of receipt of such notice to cure. However, nothing gives the Service Provider the right to perform services under this Agreement beyond the time when its services become unsatisfactory to the Manager.

c. **Termination without cause:** Both parties shall have the right to terminate this Agreement without cause upon sixty (60) days prior written notice to the other party.

c. Notwithstanding the preceding paragraphs, the City may terminate this Agreement if the Service Provider or any of its officers or employees are convicted, plead *nolo contendere*, enter into a formal agreement in which they admit guilt, enter a plea of guilty or otherwise admit culpability to criminal offenses of bribery, kick backs, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature in connection with Service Provider's business. Termination for the reasons stated in this paragraph is effective upon receipt of notice.

d. Upon termination of this Agreement, with or without cause, the Service Provider shall have no claim against the City by reason of, or arising out of, incidental or relating to termination, except for compensation for work duly requested and satisfactorily performed as described in this Agreement.

e. If this Agreement is terminated, the City is entitled to and will take possession of all materials, equipment, tools and facilities it owns that are in the Service Provider's possession, custody, or control by whatever method the City deems expedient. The Service Provider shall deliver all documents in any form that were prepared under this Agreement and all other items, materials and documents that have been paid for by the City to the City. These documents and materials are the property of the City. The Service Provider shall mark all copies of work product that are incomplete at the time of termination "DRAFT-INCOMPLETE".

7. **EXAMINATION OF RECORDS:** Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access and the right to examine, copy and retain copies, at City's election in paper or electronic form, any pertinent books, documents, papers and records related to Service Provider's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. Service Provider shall cooperate with City representatives and City representatives shall be granted

access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the final payment under this Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Agreement, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audit pursuant to this paragraph shall require Parties to make disclosures in violation of state or federal privacy laws. Parties shall at all times comply with D.R.M.C. 20-276.

8. WHEN RIGHTS AND REMEDIES NOT WAIVED: In no event will any payment or other action by the City constitute or be construed to be a waiver by the City of any breach of covenant or default that may then exist on the part of the Service Provider. No payment, other action, or inaction by the City when any breach or default exists will impair or prejudice any right or remedy available to it with respect to any breach or default. No assent, expressed or implied, to any breach of any term of this Agreement constitutes a waiver of any other breach.

9. INSURANCE:

a. General Conditions: Service Provider agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. Service Provider shall keep the required insurance coverage in force at all times during the term of this Agreement, or any extension thereof, during any warranty period, and for three (3) years after termination of this Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as “A-“VIII or better. Each policy shall contain a valid provision or endorsement requiring notification to the City in the event any of the above-described policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the Parties identified in the Notices section of this Agreement. Such notice shall reference the City contract number listed on the signature page of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, Service Provider shall provide written notice of cancellation, non-renewal and any reduction in coverage to the Parties identified in the Notices section by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City’s

contract number. If any policy is in excess of a deductible or self-insured retention, the City must be notified by the Service Provider. The Service Provider shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Service Provider. The Service Provider shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

b. Proof of Insurance: The Service Provider shall provide a copy of this Agreement to its insurance agent or broker. The Service Provider may not commence services or work relating to this Agreement prior to placement of coverages required under this Agreement. The Service Provider certifies that the certificate of insurance attached as **Exhibit C**, preferably an ACORD certificate, complies with all insurance requirements of this Agreement. Service Provider will self-insure over any required insurance coverages not obtained at the commencement of services and shall continue to do so until all required insurance is obtained. The City requests that the City's contract number be referenced on the Certificate. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Service Provider's breach of this Agreement or of any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.

c. Additional Insureds: For Commercial General Liability, Business Auto Liability, Crime, Cyber, Professional Liability, and Excess Liability/Umbrella (if required). The Service Provider's insurer(s) shall include the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

d. Waiver of Subrogation: For all coverages required under this Agreement, Service Provider's insurer shall waive subrogation rights against the City.

e. Service Providers and Subcontractors: All Service Providers and subcontractors (including independent Service Providers, suppliers or other entities providing goods or services required by this Agreement) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of the Service Provider. The Service Provider shall include all such subcontractors as additional insured under its policies (with the

exception of Workers' Compensation) or shall ensure that all such subcontractors and subservice providers maintain the required coverages. The Service Provider agrees to provide proof of insurance for all such service Providers and subcontractors upon request by the City.

f. Workers' Compensation/Employer's Liability Insurance: The Service Provider shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims. The Service Provider expressly represents to the City, as a material representation upon which the City is relying in entering into this Agreement, that none of the Service Provider's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Agreement, and that any such rejections previously effected, have been revoked as of the date the Service Provider executes this Agreement.

g. Commercial General Liability: The Service Provider shall maintain a Commercial General Liability insurance policy with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.

h. Business Automobile Insurance: The Service Provider shall maintain Business Automobile Liability with limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement.

i. Commercial Crime: The Service Provider shall maintain \$1,000,000 in commercial crime insurance coverage. Coverage shall include theft of City's money, securities or valuable property by the Service Provider's employees, including any extended definition of employee. The City and County of Denver shall be named as Loss Payee as its interest may appear.

j. Cyber Liability: The Service Provider shall maintain Cyber Liability coverage with limits of \$1,000,000 per occurrence and \$1,000,000 policy aggregate covering claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security.

k. Professional Liability (Errors & Omissions): The Service Provider shall maintain limits of \$1,000,000 per claim and \$1,000,000 policy aggregate limit. Policy shall

include a severability of interest or separation of insured provision (no insured vs. insured exclusion) and a provision that coverage is primary and non-contributory with any other coverage or self-insurance maintained by the City.

I. Additional Provisions:

(1) For Commercial General Liability, the policy must provide the following:

- (a) That this Agreement is an Insured Contract under the policy;
- (b) Defense costs are outside the limits of liability;
- (c) A severability of interests, separation of insureds provision (no insured vs. insured exclusion); and

(d) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.

(2) For claims-made coverage:

(a) The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier.

(b) The Service Provider shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At their own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, the Service Provider will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

10. DEFENSE AND INDEMNIFICATION:

a. The Service Provider hereby agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement (“Claims”), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of the Service Provider or its subcontractors either passive or active, irrespective of fault, including City’s concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

b. The Service Provider's duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. The Service Provider's duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/or claimant alleges that City's negligence or willful misconduct was the sole cause of claimant's damages.

c. The Service Provider will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City's exclusive remedy.

d. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Service Provider under the terms of this indemnification obligation. The Service Provider shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

e. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

11. TAXES, CHARGES AND PENALTIES: The City is not liable for the payment of taxes, late charges or penalties of any nature, except for any additional amounts that the City may be required to pay under the City's prompt payment ordinance D.R.M.C. § 20-107, *et seq.* The Service Provider shall promptly pay when due, all taxes, bills, debts and obligations it incurs performing the services under this Agreement and shall not allow any lien, mortgage, judgment or execution to be filed against City property.

12. ASSIGNMENT; SUBCONTRACTING: Excepting data storage on the Microsoft Azure Cloud, and for form printing services as disclosed to the City, the Service Provider shall not voluntarily or involuntarily assign any of its rights or obligations, or subcontract performance obligations, under this Agreement without obtaining the Manager's prior written consent. Any assignment or subcontracting without such consent will be ineffective and void, and will be cause for termination of this Agreement by the City. The Manager has sole and absolute discretion whether to consent to any assignment or subcontracting, or to terminate this Agreement because of unauthorized assignment or subcontracting. In the event of any subcontracting or

unauthorized assignment: (i) the Service Provider shall remain responsible to the City; and (ii) no contractual relationship shall be created between the City and any subcontractor, subservice provider or assign.

13. INUREMENT: The rights and obligations of the Parties to this Agreement inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns, provided assignments are consented to in accordance with the terms of this Agreement.

14. NO THIRD PARTY BENEFICIARY: Enforcement of the terms of this Agreement and all rights of action relating to enforcement are strictly reserved to the Parties. Nothing contained in this Agreement gives or allows any claim or right of action to any third person or entity. Any person or entity other than the City or the Service Provider receiving services or benefits pursuant to this Agreement is an incidental beneficiary only.

15. NO AUTHORITY TO BIND CITY TO CONTRACTS: The Service Provider lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter and the Denver Revised Municipal Code.

16. SEVERABILITY: Except for the provisions of this Agreement requiring appropriation of funds and limiting the total amount payable by the City, if a court of competent jurisdiction finds any provision of this Agreement or any portion of it to be invalid, illegal, or unenforceable, the validity of the remaining portions or provisions will not be affected, if the intent of the Parties can be fulfilled.

17. CONFLICT OF INTEREST:

a. No employee of the City shall have any personal or beneficial interest in the services or property described in this Agreement. The Service Provider shall not hire, or contract for services with, any employee or officer of the City that would be in violation of the City's Code of Ethics, D.R.M.C. §2-51, et seq. or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.

b. The Service Provider shall not engage in any transaction, activity or conduct that would result in a conflict of interest under this Agreement. The Service Provider represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of the Service Provider by placing the Service Provider's own interests, or the interests of any party with whom the Service Provider has a contractual arrangement, in conflict with those of the City. The

City, in its sole discretion, will determine the existence of a conflict of interest and may terminate this Agreement if it determines a conflict exists, after it has given the Service Provider written notice describing the conflict.

18. NOTICES: All notices required by the terms of this Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid, if to the Service Provider at the address first above written, and if to the City at:

Director of the Office of Human Resources or their Designee
201 West Colfax Avenue, Dept. 412
Denver, Colorado 80202

With a copy of any such notice to:

Denver City Attorney's Office
1437 Bannock St., Room 353
Denver, Colorado 80202

Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. The Parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

19. NO EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THE AGREEMENT:

a. This Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the "Certification Ordinance").

b. The Service Provider certifies that:

(1) At the time of its execution of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement.

(2) It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

c. The Service Provider also agrees and represents that:

(1) It shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

(2) It shall not enter into a contract with a subservice provider or subcontractor that fails to certify to the Service Provider that it shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

(3) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in the E-Verify Program.

(4) It is prohibited from using either the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under this Agreement, and it is required to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.

(5) If it obtains actual knowledge that a service provider or subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, it will notify such service provider or subcontractor and the City within three (3) days. The Service Provider shall also terminate such service provider or subcontractor if within three (3) days after such notice the service provider or subcontractor does not stop employing or contracting with the illegal alien, unless during such three-day period the service provider or subcontractor provides information to establish that the service provider or subcontractor has not knowingly employed or contracted with an illegal alien.

(6) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S., or the City Auditor, under authority of D.R.M.C. 20-90.3.

d. The Service Provider is liable for any violations as provided in the Certification Ordinance. If the Service Provider violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of this Agreement. If this Agreement is so terminated, the Service Provider shall be liable for actual and consequential damages to the City. Any such termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying the Service Provider from submitting bids or proposals for future contracts with the City.

20. DISPUTES: All disputes between the City and the Service Provider arising out of or regarding this Agreement will be resolved by administrative hearing pursuant to the procedure established by D.R.M.C. § 56-106(b)-(f). For the purposes of that administrative procedure, the City official rendering a final determination shall be the Manager as defined in this Agreement.

21. GOVERNING LAW; VENUE: This Agreement will be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into this Agreement. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments or supplements to same. Venue for any legal action relating to this Agreement will be in the District Court of the State of Colorado, Second Judicial District (Denver District Court).

22. NO DISCRIMINATION IN EMPLOYMENT: In connection with the performance of work under this Agreement, the Service Provider may not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability. The Service Provider shall will request similar non-discrimination policies be enforced with subcontractors..

23. COMPLIANCE WITH ALL LAWS: The Service Provider shall perform or cause to be performed all services in full compliance with all applicable laws, rules, regulations and codes of the United States, the State of Colorado; and with the Charter, ordinances, rules, regulations and Executive Orders of the City and County of Denver.

24. LEGAL AUTHORITY: The Service Provider represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement. Each person signing and executing this Agreement on behalf of the Service Provider represents and warrants that he or she has been fully authorized by the Service Provider to execute this Agreement on behalf of the Service Provider and to validly and legally bind the Service Provider to all the terms, performances and provisions of this Agreement. The City shall have the right, in its sole discretion, to either temporarily

suspend or permanently terminate this Agreement if there is a dispute as to the legal authority of either the Service Provider or the person signing this Agreement to enter into this Agreement.

25. NO CONSTRUCTION AGAINST DRAFTING PARTY: The Parties and their respective counsel have had the opportunity to review this Agreement, and this Agreement will not be construed against any party merely because any provisions of this Agreement were prepared by a particular party.

26. ORDER OF PRECEDENCE: In the event of any conflicts between the language of this Agreement and the exhibits, the language of this Agreement controls.

27. INTELLECTUAL PROPERTY RIGHTS: The City and the Service Provider intend that all property rights to any and all materials, text, logos, documents, booklets, manuals, references, guides, brochures, advertisements, URLs, domain names, music, sketches, web pages, plans, drawings, prints, photographs, specifications, software, data, products, ideas, inventions, and any other work or recorded information created by the Service Provider and paid for by the City pursuant to this Agreement, in preliminary or final form and on any media whatsoever (collectively, “Materials”), shall belong to the City. The Service Provider shall disclose all such items to the City and shall register such items in the name of the City and County of Denver unless the Manager directs otherwise in writing. assign such rights over to the City upon completion of the Project. To the extent permitted by the U.S. Copyright Act, 17 USC § 101, *et seq.*, the Materials are a “work made for hire” and all ownership of copyright in the Materials shall vest in the City at the time the Materials are created. To the extent that the Materials are not a “work made for hire,” the Service Provider (by this Agreement) sells, assigns and transfers all right, title and interest in and to the Materials to the City, including the right to secure copyright, patent, trademark, and other intellectual property rights throughout the world and to have and to hold such rights in perpetuity.

28. SURVIVAL OF CERTAIN PROVISIONS: The terms of this Agreement and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of this Agreement survive this Agreement and will continue to be enforceable. Without limiting the generality of this provision, the Service Provider’s obligations to provide insurance and to indemnify the City will survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

29. ADVERTISING AND PUBLIC DISCLOSURE: The Service Provider shall not include any reference to this Agreement or to services performed pursuant to this Agreement in any of the Service Provider’s advertising or public relations materials without first obtaining the written approval of the Manager. Any oral presentation or written materials related to services performed under this Agreement will be limited to services that have been accepted by the City. The Service Provider shall notify the Manager in advance of the date and time of any presentation. Nothing in this provision precludes the transmittal of any information to City officials.

a.

30. CONFIDENTIAL INFORMATION:

a. **City Information:** The Service Provider acknowledges and accepts that, in performance of all work under the terms of this Agreement, the Service Provider may have access to Proprietary Data or confidential information that may be owned or controlled by the City, and that the disclosure of such Proprietary Data or information may be damaging to the City or third parties. The Service Provider agrees that all Proprietary Data, confidential information or any other data or information provided or otherwise disclosed by the City to the Service Provider shall be held in confidence and used only in the performance of its obligations under this Agreement. The Service Provider shall exercise the same standard of care to protect such Proprietary Data and information as a reasonably prudent Service Provider would to protect its own proprietary or confidential data. “Proprietary Data” shall mean any materials or information which may be designated or marked “Proprietary” or “Confidential”, or which would not be documents subject to disclosure pursuant to the Colorado Open Records Act or City ordinance, and provided or made available to the Service Provider by the City. Such Proprietary Data may be in hardcopy, printed, digital or electronic format.

31. CITY EXECUTION OF AGREEMENT: This Agreement will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

32. AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS: This Agreement is the complete integration of all understandings between the Parties as to the subject matter of this Agreement. No prior, contemporaneous or subsequent addition, deletion, or other modification has any force or effect, unless embodied in this Agreement in writing. No oral

representation by any officer or employee of the City at variance with the terms of this Agreement or any written amendment to this Agreement will have any force or effect or bind the City.

33. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS: The Service Provider shall cooperate and comply with the provisions of Executive Order 94 and its Attachment A concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in contract personnel being barred from City facilities and from participating in City operations.

34. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS: The Service Provider consents to the use of electronic signatures by the City. This Agreement, and any other documents requiring a signature under this Agreement, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of this Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of this Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

List of Exhibits

Exhibit A – Scope of Work.

Exhibit B – Rates and Renewal Fees.

Exhibit C – Certificate of Insurance.

Exhibit D – Denver Logo Colors Document.

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Contract Control Number: CSAHR-202056161-00
Contractor Name: UNIFYHR, LLC

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of Denver

By:

By:

By:

Contract Control Number:
Contractor Name:

CSAHR-202056161-00
UNIFYHR, LLC

By: A. Allen Gehrki

Name: A. Allen Gehrki
(please print)

Title: President & CEO
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

Exhibit A

Scope of Work

1. PPACA Analysis and Reporting Statement of Work

- a. **Historical Analysis:** Service provider will utilize historical demographic, pay and employment data to determine optimal configuration to meet the City and County of Denver's enrollment goals and PPACA compliance mandates on an annual basis. Milestones are the delivery of said report(s).
- b. **Health Insurance Exchange Enrollment Forms:** Service provider will provide digital generation and distribution of the City and County Denver's portion of the Health Exchange enrollment form for applicable employees (aka "Employer Coverage Tool"). Milestones are the reports listing said forms.
- c. **Health Insurance Exchange Notices of Credit Subsidy:** Service provider will analyze any notices of credit subsidy City and County of Denver receives from a Health Insurance Exchange and determine if the subsidy is warranted. Milestones are the delivery of said analyses
- d. **Affordability:** If pay rate and employee premium information is provided by the City and County of Denver, Service Provider will determine plan affordability for each employee based on current PPACA requirements. Milestones are the distribution of determination(s) to City and County of Denver.
- e. **Eligibility and Enrollment Reconciliation:** Service Provider will review City and County of Denver's Plan enrolled data and compare to those eligible based on hours worked and other plan provisions as exists in the PPACA Reporting System application. Milestones for this process will be the recurring distribution of processing reports and discussion of report contents during meetings between Service Provider and City and County of Denver.
- f. **PPACA Eligibility Analysis:** Service Provider will work with the City and County of Denver to determine the requisite hours new and ongoing employees must work to be eligible to enroll in the Plan(s). Service Provider will use Client-provided data to determine employee full-time/part-time status under applicable methodologies as defined by PPACA and subsequent federal guidance. Similarly, Service Provider will provide City and County of Denver current variable hour employee average hours worked and likely outcome of current ongoing or new hire individual measurement periods. The relevant information will be obtained from data feeds from City and County of Denver. Milestones for this process will be the recurring distribution of processing reports and conduct of meetings between Service Provider and City and County of Denver.
- g. **Reporting (1095 Fulfillment):** Each calendar quarter after implementation processes are completed, Service Provider will provide City and County of Denver with processing result reports of the City and County of Denver's quarterly eligibility data. The reports will be transmitted by the Service Provider to the City and County of Denver within 10 days of receipt of quarterly carrier eligibility data submitted by the City and County of Denver or its designee. Milestones will be review of aforementioned processing reports

in meetings attended by City and County of Denver staff and Service Provider account management staff.

- h. **City and County of Denver Final Submission (1095 Fulfillment):** City and County of Denver final eligibility data will be provided to Service Provider no later than January 15 following the end of the calendar year. Service Provider shall process such data within 5 business days. Milestone(s) indicating successful processing will be Service Provider's provision to the City and County of Denver a processing results report.
- i. **6055 and 6056 Reporting (1095 Fulfillment):** Within 10 days of receipt and successful processing of City and County of Denver's final data submission, Service Provider will create the necessary information returns as mandated by the IRS to fulfill the client's obligations under section 6055 and 6056 of the Internal Revenue Code. Milestone's will include generation of printable files, monitoring of associated printing processes, delivery of printed forms to the U.S. Postal Service, and monitoring for returned mail, i.e., complete physical fulfillment service to the City and County of Denver's employee population (printing, mailing, return mail support). Evidence of milestones successfully completed will be in the form of processing reports and mail location reports in the case of specific employees. Return mail monitoring and resolution will occur no less than two times over the course of the initial quarter of each year. Electronic Filing(s) required of the City and County of Denver will be created and transmitted to the Internal Revenue Service no later than March 1 of each year. Milestone(s) will be the associated IRS acknowledgement of such filings

EXHIBIT B
TO AGREEMENT WITH
UNIFYHR, LLC
Contract No. CSAHR-202056161

FEE SCHEDULE

RENEWAL FEE EXHIBIT

City and County of Denver

This schedule of fees for services enumerated below is subject in all respects to the Outsourcing Services Agreement between Client and UnifyHR ("Agreement"). In the event of a conflict between the Service Description and the Agreement, the Agreement shall prevail.

Service Fee	Description
General Implementation Fee	N/A
Offer of Coverage and/or Affordability Tracking Setup	N/A
6055 and 6056 Setup Fee	N/A
Offer of Coverage and/or Affordability Tracking PEPM	\$0.36
6055 and 6056 Fulfillment and Distribution	\$1.75 Per Notice
Mid-Year New Acquisition Setup fee	Included
Mid-Year New FEIN Setup Fee	Included
Annual Plan Maintenance Fee	
Per each 5 FEINs	Included
Per each 5 Health Plans	Included
Manual Data Entry Fee	\$50.00
Annual Minimum Service Fee Total	N/A

Fees will be invoiced pursuant to section 4c of the Agreement.

EXHIBIT C
TO AGREEMENT WITH
UNIFYHR, LLC
Contract No. CSAHR-202056161

ACORD CERTIFICATE OF LIABILITY INSURANCE

DESCRIPTIONS (Continued from Page 1)

GENERAL LIABILITY INCLUDES:

Blanket Additional Insured, if required by written contract (CG 2010 4/13;CG 2037 4/13)

Blanket Waiver of subrogation, if required by written contract (CG 2004 5/09)

PROFESSIONAL LIABILITY - Claims Made Retro Date 05/22/15:

Blanket Additional Insured, if required by written contract

Blanket Waiver of subrogation, if required by written contract

HIPPA Claims \$250,000 Sublimit/\$25,000 Ded

CYBER LIABILITY - Retro Date 05/22/1015

CRIME FIDELITY AND EMPLOYEE THEFT: Occurrence Basis

WORKERS COMPENSATION:

Blanket Waiver of Subrogation

Proprietors/Partners/Executive Officer/Members Excluded:

Craig Firestone;Laura Firestone;Allen Gehrki;Daniel Mos;Chris Heinefield;

EXCESS LIABILITY Follow Form- Retro Date 05/22/2015:

General, Auto, Workers Compensation