

## A G R E E M E N T

**THIS AGREEMENT** is made between the **CITY AND COUNTY OF DENVER**, a home rule and municipal corporation of the State of Colorado (the “City”) and **COMPSYCH EMPLOYEE ASSISTANCE PROGRAM, INC.**, an Illinois corporation, doing business as **ComPsych Corporation** and authorized to conduct business in Colorado, with an address of 455 N. Cityfront Plaza Drive, 13th Floor, Chicago, Illinois 60611 (the “Contractor”), jointly (“the Parties”).

The Parties agree as follows:

**1. COORDINATION AND LIAISON:** The Contractor shall fully coordinate all services under the Agreement with the Executive Director of the Office of Human Resources, (“Executive Director”) or the Executive Director’s Designee.

**2. SERVICES TO BE PERFORMED:**

**a.** As the Executive Director directs, the Contractor shall diligently undertake, perform, and complete all of the services and produce all the deliverables set forth on **Exhibit A, Scope of Work, and Exhibit A-1 Performance Guarantees**, to the City’s satisfaction.

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

**c.** The Contractor 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 the Agreement and in accordance with the terms of the Agreement.

**3. TERM:** The Agreement will commence on **January 1, 2024**, and will expire at 11:59 p.m. on **December 31, 2028** (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 Executive Director’s prior written authorization, the Contractor shall complete any work in progress as of the expiration date and the Term of the Agreement will extend until the work is completed or earlier terminated by the Executive Director.

**4. COMPENSATION AND PAYMENT:**

a. **Budget/Fees.** The City shall pay and the Contractor shall accept as the sole compensation for services rendered and costs incurred under the Agreement the line item amounts set forth in **Exhibit B**. Amounts billed may not exceed the rates set forth in **Exhibit B**.

b. **Reimbursable Expenses:** There are no reimbursable expenses allowed under the Agreement. All of the Contractor's expenses are contained in the budget in **Exhibit B**.

c. **Invoicing:** Contractor 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 the Agreement, the City's maximum payment obligation will not exceed **ONE MILLION ONE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$1,100,000.00)** (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 Contractor beyond that specifically described in **Exhibit A**. Any services performed beyond those in **Exhibit A** are performed at Contractor's risk and without authorization under the 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 the Agreement. The City does not by this Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years. The 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 CONTRACTOR:** The Contractor is an independent contractor retained to perform professional or technical services for limited periods of time. Neither the Contractor nor any of its employees are employees or Directors 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 the Agreement with cause upon written notice effective immediately, and without cause upon ninety (90) days prior written notice to the

Contractor. However, nothing gives the Contractor the right to perform services under the Agreement beyond the time when its services become unsatisfactory to the Executive Director.

b. Notwithstanding the preceding paragraph, the City may terminate the Agreement if the Contractor 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 Contractor's business. Termination for the reasons stated in this paragraph is effective upon receipt of notice.

c. Upon termination of the Agreement, with or without cause, the Contractor 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 the Agreement.

d. If the 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 Contractor's possession, custody, or control by whatever method the City deems expedient. The Contractor shall deliver all documents in any form that were prepared under the 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 Contractor shall mark all copies of work product that are incomplete at the time of termination "DRAFT-INCOMPLETE".

7. **EXAMINATION OF RECORDS AND AUDITS:** 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 Contractor's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. Contractor 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 the 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 Contractor. 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 the Agreement constitutes a waiver of any other breach.

**9. INSURANCE:**

**a. General Conditions:** Contractor 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. Contractor shall keep the required insurance coverage in force at all times during the term of the Agreement, including any extension thereof, and during any warranty period. 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 require notification to the City in the event any of the required 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, Contractor 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. Contractor 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 Contractor. The Contractor 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:** Contractor may not commence services or work

relating to this Agreement prior to placement of coverages required under this Agreement. Contractor certifies that the certificate of insurance attached as **Exhibit C**, preferably an ACORD form, complies with all insurance requirements of this Agreement. The City requests that the City's contract number be referenced on the certificate of insurance. 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 Contractor'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, Technology (Errors and Omission), Cyber, and Excess Liability/Umbrella (if required). Contractor and subcontractor'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, Contractor's insurer shall waive subrogation rights against the City.

e. **Subcontractors and Subconsultants**: Contractor shall confirm and document that all subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services required by this Agreement) procure and maintain coverage as approved by the Contractor and appropriate to their respective primary business risks considering the nature and scope of services provided.

f. **Workers' Compensation and Employer's Liability Insurance**: Contractor 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.

g. **Commercial General Liability**: Contractor shall maintain a Commercial General Liability insurance policy with minimum limits of \$1,000,000 for each bodily injury and property damage occurrence, \$2,000,000 products and completed operations aggregate (if applicable), and \$2,000,000 policy aggregate.

h. **Business Automobile Liability**: Contractor shall maintain Automobile Liability with minimum 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. **Technology Errors & Omissions:** Contractor shall maintain Technology Errors and Omissions insurance including network security, privacy liability and product failure coverage with minimum limits of \$1,000,000 per occurrence and \$1,000,000 policy aggregate. The policy shall be kept in force, or a Tail policy placed, for three (3) years.

j. **Cyber Liability:** Contractor shall maintain Cyber Liability coverage with minimum 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. If Claims Made, the policy shall be kept in force, or a Tail policy placed, for three (3) years.

**10. DEFENSE AND INDEMNIFICATION:**

a. Contractor 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 Contractor 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. Contractor’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. Contractor’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. Contractor 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 Contractor under the terms of this indemnification obligation. The Contractor 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 Contractor shall promptly pay when due, all taxes, bills, debts and obligations it incurs performing the services under the Agreement and shall not allow any lien, mortgage, judgment or execution to be filed against City property.

12. **ASSIGNMENT; SUBCONTRACTING:** The Contractor shall not voluntarily or involuntarily assign any of its rights or obligations, or subcontract performance obligations, under this Agreement without obtaining the Executive Director'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 Executive Director has sole and absolute discretion whether to consent to any assignment or subcontracting, or to terminate the Agreement because of unauthorized assignment or subcontracting. In the event of any subcontracting or unauthorized assignment: (i) the Contractor shall remain responsible to the City; and (ii) no contractual relationship shall be created between the City and any subconsultant, subcontractor or assign.

13. **INUREMENT:** The rights and obligations of the Parties to the 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 the Agreement.

14. **NO THIRD PARTY BENEFICIARY:** Enforcement of the terms of the Agreement and all rights of action relating to enforcement are strictly reserved to the Parties. Nothing contained in the 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 Contractor receiving services or benefits pursuant to the Agreement is an incidental beneficiary only.

**15. GRANT OF LIMITED LICENSE TO USE LOGO:** The City hereby grants to Contractor, subject to the terms and conditions set forth herein, a non-exclusive, nontransferable, limited license (“**License**”) during the Agreement Term (as defined herein) to Use of the Denver City Logo, and the goodwill appurtenant thereto, in the United States of America and the world (“**Territory**”) on advertisements, banners, posters, tee shirts, signage, letterheads, templates, text, data, correspondence booklets, reports, brochures, informational flyers, marketing and promotional materials, and documents in preliminary or final forms (“**Materials**”).

**a.** Contractor shall use the Denver City Logo in accordance with any and all logo usage guidelines in effect from time to time as provided by the City, pursuant to Denver’s Brand Guide that can be found at: <https://denvergov.org/Government/Agencies-Departments-Offices/Agencies-Departments-Offices-Directory/Marketing-Services/Brand-Guide>.

**b.** There is no limit on how many times the Denver City Logo may be used on Materials during the Agreement Term.

**c.** This License is being granted specifically due to the nature of the work performed by the Contractor and this License is therefore non-transferable and non-assignable to anyone other than those acting under the supervision and authority of the Contractor with respect to the creation and distribution of the Materials.

**16. NO AUTHORITY TO BIND CITY TO CONTRACTS:** The Contractor 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.

**17. SEVERABILITY:** Except for the provisions of the Agreement requiring appropriation of funds and limiting the total amount payable by the City, if a court of competent jurisdiction finds any provision of the 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.

**18. CONFLICT OF INTEREST:**

**a.** No employee of the City shall have any personal or beneficial interest in the services or property described in the Agreement. The Contractor 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 Contractor shall not engage in any transaction, activity or conduct that would result in a conflict of interest under the Agreement. The Contractor 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 Contractor by placing the Contractor's own interests, or the interests of any party with whom the Contractor 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 the Agreement if it determines a conflict exists, after it has given the Contractor written notice describing the conflict.

19. **NOTICES:** All notices required by the terms of the 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 Contractor at the address first above written, and if to the City at:

Executive Director of the Office of Human Resources or Designee  
201 W. 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.

20. **DISPUTES:** All disputes between the City and Contractor arising out of or regarding the 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 Executive Director as defined in this Agreement.

21. **GOVERNING LAW; VENUE:** The 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 the 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 the 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 the Agreement, the Contractor may not refuse to hire, discharge, promote, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability. The Contractor shall insert the foregoing provision in all subcontracts.

**23. COMPLIANCE WITH ALL LAWS:** Contractor 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:** Contractor 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 the Agreement. Each person signing and executing the Agreement on behalf of Contractor represents and warrants that he has been fully authorized by Contractor to execute the Agreement on behalf of Contractor and to validly and legally bind Contractor to all the terms, performances and provisions of the Agreement. The City shall have the right, in its sole discretion, to either temporarily suspend or permanently terminate the Agreement if there is a dispute as to the legal authority of either Contractor or the person signing the Agreement to enter into the Agreement.

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

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

**27. INTELLECTUAL PROPERTY RIGHTS:** The City and Contractor intend that all property rights to any City specific reports created by the Contractor and paid for by the City pursuant to this Agreement, in preliminary or final form (collectively, “Materials”), shall belong to the City. The Contractor shall disclose all such items to the City and shall 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 Contractor (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 the Agreement and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of the Agreement survive the Agreement and will continue to be enforceable. Without limiting the generality of this provision, the Contractor’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 Contractor shall not include any reference to the Agreement or to services performed pursuant to the Agreement in any of the Contractor’s advertising or public relations materials without first obtaining the written approval of the Executive Director. Any oral presentation or written materials related to services performed under the Agreement will be limited to services that have been accepted by the City. The Contractor shall notify the Executive Director in advance of the date and time of any presentation. Nothing in this provision precludes the transmittal of any information to City officials.

**30. CONFIDENTIAL INFORMATION:**

**a. City Information:** Contractor acknowledges and accepts that, in performance of all work under the terms of this Agreement, Contractor 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. Contractor agrees that all Proprietary Data, confidential information or any other data or information provided or otherwise disclosed by the City to Contractor shall be held in confidence and used only in the performance of its obligations under this Agreement. Contractor shall exercise the same standard of care to protect such Proprietary Data and information as a reasonably prudent Contractor 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 Contractor by the City. Such Proprietary Data may be in hardcopy, printed, digital or electronic format.

**b. Personal Identifying Information:** If the Contractor receives personal identifying information of a Colorado resident under this Agreement, the Contractor shall implement and maintain reasonable written security procedures and practices that are appropriate to the nature of the personal identifying information and the nature and size of the Contractor's business and its operations. Unless the Contractor agrees to provide its own security protections for the information it discloses to a third-party service provider, the Contractor shall require all its third-party service providers to implement and maintain reasonable written security procedures and practices that are appropriate to the nature of the personal identifying information disclosed and reasonably designed to help protect the personal identifying information subject to this Agreement from unauthorized access, use, modification, disclosure, or destruction. The Contractor and its third-party service providers that maintain electronic or paper documents containing personal identifying information under this Agreement shall develop a written policy for the destruction of such records by shredding, erasing, or otherwise modifying the personal identifying information to make it unreadable or indecipherable when the records are no longer needed.

**c. Data Security:** Contractor shall provide for the security of all City Data in accordance with all applicable laws, rules, policies, publications, and guidelines including, without limitation: (i) the most recently promulgated IRS Publication 1075 for all Tax Information, (ii) the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, (iii) the most recently issued version of the U.S. Department of Justice, Federal Bureau of

Investigation, Criminal Justice Information Services Security Policy for all CJ, (iv) the Colorado Consumer Protection Act, (v) the Children's Online Privacy Protection Act (COPPA), (vi) the Family Education Rights and Privacy Act (FERPA), (vii) Colorado House Bill 18-1128, and (viii) the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Addendum attached to this Contract, if applicable. The Contractor shall submit to the Executive Director, within fifteen (15) days of the Executive Director's written request, copies of the Contractor's policies and procedures to maintain the confidentiality of protected health information to which the Contractor has access, and if applicable, the Contractor shall comply with all requirements contained in the attached

**d. Use and Protection of Proprietary Data or Confidential Information:**

(1) Contractor shall take all necessary precautions, including, but not limited to, safeguarding the storage of City Data, restricting which employees are given access to City Data, and protecting City Data from unauthorized access, usage, or release. By way of illustration and not of limitation, Contractor will not use such Data for Contractor's own benefit and, in particular, will not engage in "data mining" of Data or communications, whether through automated or human means, except as specifically and expressly required by law or authorized in writing by City.

(2) The Contractor recognizes that it alone is responsible for the use of information provided to it pursuant to the terms of this Agreement. Except as expressly provided by the terms of this Agreement, Contractor also agrees that it shall not disseminate, transmit, license, sublicense, assign, lease, release, publish, post on the internet, transfer, sell, permit access to, distribute, allow interactive rights to, or otherwise make available any data, including Proprietary Data or City Data or any part thereof to any other person, party or entity in any form of media for any purpose other than performing its obligations under this Agreement. Contractor further acknowledges that by providing data, Proprietary Data or City Data, the City is not granting to Contractor any right or license to use such data except as provided in this Agreement. Contractor further agrees not to disclose or distribute to any other party, in whole or in part, the data, Proprietary Data or confidential information without written authorization from the Executive Director and will immediately notify the City if any information of the City is requested from the Contractor from a third party.

(3) Contractor further agrees, with respect to the Proprietary Data and City Data, that, unless otherwise required by applicable law: (1) Contractor shall not copy, recreate, reverse engineer or decompile such data, in whole or in part, unless authorized in writing by the Executive Director; (2) Contractor shall retain no copies, recreations, compilations, or decompilations, in whole or in part, of such data; and (3) Contractor shall, upon the expiration or earlier termination of the Agreement, destroy (and, in writing, certify destruction) or return all such data or work products incorporating such data or information to the City. The Contractor shall use, hold and maintain City Data in compliance with all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all City Data wherever located. The Contractor shall provide the City with access, subject to the Contractor's reasonable security requirements and to the extent allowed under applicable law, for purposes of inspecting and monitoring access and use of City Data and evaluating security control effectiveness (the scope of such access shall be mutually agreed to by the City and Contractor). The City shall distribute or electronically transmit City Data to the Contractor using a secured method chosen by the City in its sole discretion.

(4) Contractor shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all electronically maintained or transmitted data received from, or on behalf of City. It is the responsibility of the Contractor to ensure that all possible measures have been taken to secure the computers or any other storage devices used for City data. This includes industry accepted firewalls, up-to-date anti-virus software, controlled access to the physical location of the hardware itself.

e. **Employees and Subcontractor:** Contractor will ensure that, prior to being granted access to the Data, Contractor Staff who perform work under this Agreement have all undergone and passed criminal background screenings; have successfully completed annual instruction of a nature sufficient to enable them to effectively comply with all Data protection provisions of this Agreement; and possess all qualifications appropriate to the nature of the employees' duties and the sensitivity of the Data they will be handling. Only those employees of the Contractor who have a direct need for City Data shall have access to any information provided to Contractor under this Agreement. Prior to allowing any employee of the Contractor to access or use any City Data, the Contractor shall require any such employee to review and agree to the

usage and access terms outlined in this Agreement. Contractor will inform its employees and officers of the obligations under this Agreement, and all requirements and obligations of Contractor under this Agreement shall survive the expiration or earlier termination of this Agreement. Contractor shall not disclose Proprietary Data or City Data to subcontractors unless such subcontractors are bound by non-disclosure and confidentiality provisions at least as strict as those contained in this Agreement. Unless Contractor provides its own security protection for the information it discloses to a third-party service provider, the Contractor shall require the third party service provider to implement and maintain reasonable security procedures and practices that are appropriate to the nature of the City Data and protected information disclosed and reasonably designed to protect the City Data and protected information from unauthorized access, use, modification, disclosure, or destruction.

**f. Disclaimer:** Notwithstanding any other provision of this Agreement, the City is furnishing Proprietary Data and City Data on an “as is” basis, without any support whatsoever, and without representation, warranty or guarantee, including but not in any manner limited to, fitness, merchantability or the accuracy and completeness of the Proprietary Data or City Data. Contractor is hereby advised to verify its work. The City assumes no liability for any errors or omissions herein. Specifically, the City is not responsible for any costs including, but not limited to, those incurred as a result of lost revenues, loss of use of data, the costs of recovering such programs or data, the cost of any substitute program, claims by third parties, or for similar costs. If discrepancies are found, Contractor agrees to contact the City immediately.

**g. Incident Notice and Remediation:** “Incident” means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the City, as described in C.R.S. §§ 24-37.5-401 et. seq. Incidents include, without limitation (i) successful attempts to gain unauthorized access to a City system or City information regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a City system for the processing or storage of data; or (iv) changes to City system hardware, firmware, or software characteristics without the City’s knowledge, instruction, or consent. The Contractor shall maintain documented policies and procedures for Incident and breach reporting, notification, and mitigation. If the Contractor becomes aware of any Incident, it shall notify the City immediately and cooperate with the City regarding recovery, remediation, and

the necessity to involve law enforcement, as determined by the City. If there is an Incident impacting residents of Colorado or any other jurisdiction, the Contractor shall cooperate with the City to satisfy notification requirements as currently defined in either federal, state, or local law. Unless Contractor can establish that none of Contractor or any of its agents, employees, assigns or subcontractors are the cause or source of the Incident, Contractor shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Contractor shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the City, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the City at no additional cost to the City.

**h. Data Retention and Destruction:** Using appropriate and reliable storage media, Contractor will regularly backup Data when applicable and retain such backup copies consistent with the Contractor's data retention policies. Upon termination of the Agreement, at the City's election, and as allowed under applicable law, Contractor will either securely destroy or transmit to City the City Data in an industry standard format. Upon the City's request, Contractor will supply City a certificate indicating the records disposed of, the date disposed of, and the method of disposition used. With respect to City Data controlled exclusively by Contractor, Contractor will immediately preserve the state of the City Data at the time of the request and place a "hold" on City Data destruction or disposal under its usual records retention policies of records that include City Data, in response to an oral or written request from City indicating that those records may be relevant to litigation that City reasonably anticipates. Oral requests by City for a hold on record destruction will be reduced to writing and supplied to Contractor for its records as soon as reasonably practicable under the circumstances. City will promptly coordinate with Contractor regarding the preservation and disposition of these records. Contractor shall continue to preserve the records until further notice by City.

**i. Data Transfer Upon Termination:** Upon termination or expiration of this Agreement and City's request, Contractor will ensure that, as allowed under applicable law, all City Data is securely transferred to City, or a party designated by City, within thirty (30) calendar days. Contractor will ensure that the data will be provided in an industry standard format. Contractor will provide City with no less than ninety (90) calendar days' notice of impending cessation of its business or that of any Contractor subcontractor and any contingency plans in the event of notice of such cessation. In connection with any cessation of Contractor's business with



its customers, Contractor shall implement its contingency and/or exit plans and take all reasonable actions to provide for an effective and efficient transition of service with minimal disruption to City. Contractor will work closely with its successor to ensure a successful transition to the new service and/or equipment, with minimal downtime and effect on City, all such work to be coordinated and performed in advance of the formal, final transition date mutually agreed upon by Contractor and City.

**j. HIPAA and Substance Use Records:** The Contractor may receive from, disclose to, or create on behalf of each other certain health or medical information (“protected health information” or “PHI” as defined in 45 C.F.R 164.501) or substance use records as outlined in 42 C.F.R. part 2 in connection with the performance of this Agreement. Use or disclosure of this PHI or substance use records is subject to protection under state and federal law, including the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”), Confidentiality of Substance Use Disorder Patient Records (“Part 2”) and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the “Regulations”). The Contractor specifically agrees to take such action as is necessary to implement the requirements of the Regulations, and other applicable laws relating to the security and confidentiality of PHI and substance use disorder records.

**31. CITY EXECUTION OF AGREEMENT:** The 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:** The Agreement is the complete integration of all understandings between the Parties as to the subject matter of the Agreement. No prior, contemporaneous or subsequent addition, deletion, or other modification has any force or effect, unless embodied in the Agreement in writing. No oral representation by any officer or employee of the City at variance with the terms of the Agreement or any written amendment to the Agreement will have any force or effect or bind the City.

**33. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS:** Contractor 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:** Contractor consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature under the 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 the 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 the 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.

**Exhibit List**

**Exhibit A** – Scope of Work.

**Exhibit B** - Budget.

**Exhibit C** – Certificate of Insurance.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]**

**Contract Control Number:** CSAHR-202370373  
**Contractor Name:** ComPsych Employee Assistance Programs, Inc.

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:

\_\_\_\_\_

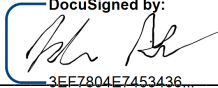
\_\_\_\_\_

By:

\_\_\_\_\_

**Contract Control Number:**  
**Contractor Name:**

CSAHR-202370373  
ComPsych Employee Assistance Programs, Inc.

By:  \_\_\_\_\_  
DocuSigned by:  
3EE7804E7453436...

Adam Gotskind  
Name: \_\_\_\_\_  
(please print)

counsel  
Title: \_\_\_\_\_  
(please print)

ATTEST: [if required]

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

**Exhibit A**  
**to Agreement with**  
**ComPsych Employee Assistance Programs, Inc.**

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**Scope of Work**

## **EXHIBIT A SCOPE OF WORK**

- 1. Account Management:** ComPsych will assign an account manager to the City who will serve as the contact person and provide City with reports and feedback on the Program.
- 2. Management Report:** ComPsych will prepare and provide to City customary statistical management reports, without disclosure of the identity of any Participant utilizing the Services.
- 3. Training:** ComPsych will provide City with up to one hundred (100) hours of a combination of the following types of Services per contract year; 1) employee/supervisor orientation sessions (in-person or via Webinar), 2) personal development workshops, and 3) health/enrollment fairs. Each training session will be a minimum of thirty (30) minutes in length and same-day training sessions must run consecutively, unless otherwise mutually agreed upon. Training must be scheduled thirty days in advance. In the event City's employee population decreases by 10% or more, the number of allotted training hours shall decrease proportionately.
- 4. Critical incident stress management ("CISM"):** ComPsych will provide CISM services at no charge, up to a maximum of twelve (12) hours per event. If an event requires more than twelve (12) CISM hours, ComPsych will invoice City as set forth in Exhibit B, Fees. ComPsych will provide critical incident stress debriefing services as and when determined necessary by City. However, if there is an event that impacts a large number of ComPsych customers in the same general location where City requires services, CISM services shall be limited to the extent reasonably necessary to ensure that ComPsych is able to provide support to such other customers. The date and time of the on-site intervention shall be mutually agreed upon by City and ComPsych.
- 5. Program Promotion:** ComPsych will provide customary promotional materials, including an annual home mailing, announcing and explaining the Program to City employees.
- 6. Service Access:** ComPsych will provide both a toll-free telephone line and an online portal to access guidance consultants. Unless declined, ComPsych will also provide appointment assistance over the phone to help City staff connect to counselling providers. Unless declined, ComPsych will provide online scheduling for counselling providers.
- 7. Assessment, Counseling and Referral:** ComPsych consultants will assess the presenting problem of each Participant requesting counseling Services and provide a maximum of six (6) sessions per presenting problem if such problem is determined by ComPsych to be resolvable within the above number of sessions. If the Participant's presenting problem is determined not to be resolvable in the above number of sessions, the Participant will be referred for alternative Services after assessment.
- 8. Supervisor Consultation:** ComPsych professionals are available to provide technical support and policy-based information to supervisors and managers of City.
- 9. LegalConnect®:** Provide City Participants with telephonic legal information and local referral upon request. If a local referral is requested, the Participant shall be entitled to a free thirty-minute consultation and thereafter a 25% reduction in the attorney's customary rates. However, ComPsych does not guarantee the availability of discounted fees in certain rural areas. The decision as to whether or not to utilize a resource identified by ComPsych shall rest solely with the Participant who has the sole and independent obligation to decide whether or not to retain such resource. ComPsych does not assume any liability with regard to the Services performed by any resource.

- 10. FinancialConnect®:** Provide City Participants with telephonic financial information regarding their personal finances and related issues.
  
- 11. FamilySource®:** Provide City Participants with child and/or elder care resources in the Participant's community. In addition, provide information on automobile purchases, relocation, pet Services and apartment shopping. ComPsych does not control and is not responsible for the quality of Services rendered by resources nor does ComPsych review or monitor their activities. A referral by ComPsych to a resource is not a recommendation, approval or representation by ComPsych regarding the standards, quality, competence or adequacy of such resource or its agents and employees or its facilities. The decision as to whether or not to utilize a resource identified by ComPsych shall rest solely with the Participant who has the sole and independent obligation to decide whether or not to contract with or otherwise retain or employ such resource. ComPsych does not assume any liability with regard to the Services performed by any resource. FamilySource Services are defined as individual Participant requests that are completed by providing information and, if applicable, local referrals based on a Participant's specific criteria. Any requests by City for information to be used as a company "directory" or "guide," such as multi-state, multi-county, or multi-zip code searches, are outside the scope of FamilySource Services and development of such directories or guides will be billed at a rate of \$125/hour.
  
- 12. GuidanceResources® Online:** Online (via [www.guidanceresources.com](http://www.guidanceresources.com)) information, resources, tools and other features on topics such as health & wellness, law & regulations, family & relationships, work & education, money & investments, consumer & leisure and home & auto.
  
- 13. WellthSource:** Provide Participants with access to an interactive financial wellness resource that helps employees and their family members create and manage a well-planned, flexible and sustainable lifestyle of healthy financial habits.
  
- 14. DOT Services:** ComPsych shall coordinate referrals to and compensate Substance Abuse Professionals. Substance Abuse Professionals shall provide required services and communicate directly with City's designated employer representative. It is agreed and acknowledged that ComPsych shall have no responsibility or liability whatsoever to City, its employees or any other person, firm, corporation or entity for any employment related decisions made by City. Fees set forth in Exhibit B, Fees.
  
- 15. GuidanceEnhanced:** Provide City with appointment assistance. Unless declined by the Participant at time of intake, the ComPsych Guidance Consultant will coordinate an appointment for the Participant.

**EXHIBIT B**  
**FEES**

1. Fully Integrated 6-session EAP, LegalConnect®, GuidanceResources® Online, FamilySource®, FinancialConnect®, WellthSource, and GuidanceEnhanced for \$1.03 per employee per month (“PEPM”).
2. Additional Training hours will be billed at \$150.00 per hour. ComPsych shall invoice City and City agrees to pay ComPsych within thirty (30) days after its receipt of each invoice.
3. Additional on-site CISM services (if an event requires more than twelve (12) hours) to be billed at a rate of \$225.00 an hour. ComPsych shall invoice City and City agrees to pay ComPsych within thirty (30) days after its receipt of each invoice.
4. DOT cases to be billed at a rate of \$840.00 per DOT case. ComPsych shall invoice City and City agrees to pay ComPsych within thirty (30) days after its receipt of each invoice.



**Exhibit A-1**  
**to Agreement with**  
**ComPsych Employee Assistance Programs, Inc.**

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**Performance Guarantees**

## PERFORMANCE GUARANTEES

Performance guarantees will be measured annually for determination of whether a penalty amount will be credited, not to exceed a twenty eight percent (28%) credit of administrative fees paid by City during the most recent completed contract year. Reconciliation of performance guarantees shall occur within sixty (60) days after the end of each contract year.

CATEGORY	MEASUREMENT	PENALTY (as a % of Fees)
Average Speed of Answer	Calls to intake answered within an average of 30 seconds or less	3%
Utilization Reports	Quarterly, within 30 days after the end of each quarter	3%
Call Abandonment	5% or less of calls to intake	3%
Satisfaction	Average participant satisfaction rating of 3 (on a 5 point scale) from all City participants responding to a satisfaction survey. A minimum of 50 responses or 2% of the employee population, whichever is greater, is required for this category to apply.	3%
Network Access	ComPsych agrees to ensure the level of network access available to City employees meets the following requirements: <ul style="list-style-type: none"> <li>• Urban: 90% of employees have access to two providers within 15 miles of work location.</li> <li>• Suburban: 90% of employees have access to a provider within 20 miles of work location.</li> <li>• Rural: 90% of employees have access to a provider within 30 miles of work location (if a provider is available within such a distance).</li> </ul>	3%
Appointment Availability	95 percent of counseling requests will be offered appointments within the following timeframes: <ul style="list-style-type: none"> <li>• Routine: 5 business days</li> <li>• Urgent: 48 hours</li> <li>• Emergent: immediate or same day</li> </ul>	4%
Treatment Outcomes – Well-being	60 percent of EAP cases in which the Workplace Outcome Suite (WOS) survey has been completed at both stages (beginning and end of counseling) will report improved well-being. Improved well-being is measured as an increase of 20 percent or more in the average score reported in the five questions of the “Life Satisfaction” category. A minimum of 50 responses or 2 percent of the employee population, whichever is greater, is required for this category to apply.	3%
Treatment Outcomes – Improved Work Performance	60 percent of EAP cases in which the Workplace Outcome Suite (WOS) survey has been completed at both stages (beginning and end of counseling) will report improved work performance. Improved work performance is measured as an increase of 20 percent or more in the average score reported in the five questions of the “Work Engagement” category. A minimum of 50 responses or 2 percent of the employee population, whichever is greater, is required for this category to apply.	3%
CISM	98% of the time, On-site briefing shall be made available within 24 hours of a critical incident being reported, upon request.	3%



**Exhibit B**  
**to Agreement with**  
**ComPsych Employee Assistance Programs, Inc.**

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**Budget**



**Mental Wellbeing Services**

Employee Lives

Member Lives

Rate PEPM (if applicable)

Rate PMPM (if applicable)

Rate Utilization (if applicable)

Flat Annual Cost

**Ancillary Services**

Work/Life Services

Critical Incident Services- 2 per year

Training Services

Financial referral and consultation

Elder Care referral and consultation

Child Care referral and consultation

**Additional Services (Please list):**

Please describe any additional services, if they are included with the proposal or optional, and if there is an extra cost.

**Performance Guarantees/Fees at Risk**

Notes

# EAP Financial Analysis

Session Model Pricing (EAP Providers)

## ComPsych Corporation

6 session model

1/1/24

14,000

~28,000

**\$1.03 PEPM**

N/A

N/A

**\$173,040.00**

**(projected annual cost; based on 14,000 employees and our proposed PEPM rate of \$1.03)**

**Included**

**Included**

Support for critical incidents included; including expert consultation and on-site debriefings for an unlimited number of events such as workplace accidents, employee deaths, organizational restructuring and layoffs, natural disasters and other incidents (12 hours of support included per CISM event). Above and beyond 12 hours of support per each CISM event, additional onsite CISM services are available for \$225/hour.

**Included**

Our quoted pricing includes 100 training hours per contract year which the City can use towards any mix of the following services and these services can be delivered on-site or virtually:

- Employee orientations
- Manager/supervisor orientations
- Personal development training workshops (behavioral wellness seminars, brown bags or lunch and learns)
- Health and enrollment fair representation

Additional training is available for \$150/hour.

**Included**

**Included**

**Included**

Our WellthSource digital financial wellness platform is included in our quoted pricing at no additional cost. WellthSource, offers interactive, guided programs, tools and resources, 24/7. Available on desktop, tablet and mobile platforms, WellthSource helps users create a well-planned, flexible and sustainable lifestyle of healthy financial choices and habits. Features include:

- o Interactive digital platform creates a personalized financial wellness curriculum for each user
- o Easy-to-follow digital modules to create a legally binding will and personalized financial plan
- o Access to ComPsych's dedicated staff of impartial, in-house CPAs, CFPs and other financial experts

Additionally, we offer our proposed well-being coaching, which we have quoted at an additional fee for the City's consideration. ComPsych knows that employees do not view their lives in compartments, and that mental health, work-life challenges and physical issues often intertwine. Available as a fully integrated add-on to our proposed EAP, our one-on-one coaching services (via telephonic or video sessions) address mental health, physical health and well-being through one holistic solution. Our certified, in-house coaches help participants address a wide variety of socio-emotional well-being issues including, but not limited to, burnout, stress, resiliency, time management, self-esteem and motivation. Our program also addresses physical well-being issues, such as exercise, nutrition, weight management, sleep, back care and tobacco cessation. **Well-being coaching is available for an additional \$0.16 PEPM.**

Expanded EAP Session Model (8-session EAP): ComPsych would like to take this opportunity to offer the City the option to expand its EAP counseling model to 8-sessions. As available sessions increase, employees see the value, and more of them participate in the EAP. In addition, as more employees participate, more issues are resolved within the EAP, without referral to costly medical plans. **Should the City look to increase its EAP counseling model to 8-sessions, our quoted rate is \$1.16 PEPM and includes all the same features and program services aligned with our 6-session EAP offering.**

As a critical program administration note, ComPsych is including an annual home mailer at no additional cost within our quoted pricing. Our experience shows that a home mailer typically increases program utilization by approximately 40 percent and is an effective engagement tool to ensure family members are aware of the GuidanceResources benefit.

**Please see attached for details on our updated, proposed performance guarantees. As an important note, ComPsych remains open to feedback on our proposed performance guarantees and is willing and open to tailoring and mutually agreeing upon additional performance measures most important to the City.**

**Additionally, ComPsych wishes to highlight 2 additional program enhancements we are going to offer at no additional**



**Exhibit C**  
**to Agreement with**  
**ComPsych Employee Assistance Programs, Inc.**

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**ACORD Certificate of Liability Insurance**

