

## AGREEMENT

**THIS AGREEMENT (“Agreement”)** is made and entered into, effective as of the date set forth on the City’s signature page (“**Effective Date**”), by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “**City**”) and **JUSTICE BENEFITS, INC.**, a Texas corporation lawfully authorized to conduct business in the State of Colorado, with an address of 2010 Valley View Lane, Suite 300, Dallas, Texas 75234 (the “**Contractor**”), who shall be individually referred to herein as a “Party” and jointly as the “Parties”.

In consideration of the mutual agreements contained in this Agreement, and subject to the terms and conditions stated in this Agreement, the Parties agree as follows:

**1. WORK TO BE PERFORMED:**

A. Services: The Contractor shall diligently and professionally perform the services and produce all the deliverables described in the scope of services and the schedule and rates attached hereto as **Exhibit A**, which exhibit is incorporated herein by this reference. The Contractor shall faithfully perform the work required under this Agreement in accordance with the standards of care, skill, training, diligence and judgment provided by highly competent professionals who perform work of a similar nature to the work described in this Agreement. Any professional services specified under this Agreement which requires the employment of licensed or registered personnel shall be performed by licensed or registered personnel.

B. Oversight: The Contractor shall conduct the work under the general direction of and in coordination with the Manager of Safety or other designated supervisory personnel (the “**Manager**”) and the Sheriff’s Department employee(s) assigned to manage this work (the “**Department**”) and make every reasonable effort to fully coordinate all services with any City agency or any person or firm under contract with the City doing work which affects the Contractor’s work. All records, data, specifications and documentation prepared by the Contractor under this Agreement, when delivered to and accepted by the Manager, shall become the property of the City. The Contractor agrees to allow the City to review any of the procedures used by it in doing the work under this Agreement and to make available for inspection all notes and other documents used in performing the work.

2. **TERM:** The term of the Agreement is from January 1, 2014 until December 31, 2016, or until the Maximum Contract Amount specified in sub-section 3.A. below is expended and all of the tasks specified in **Exhibit A** has been satisfactorily performed, whichever is sooner, unless this Agreement is terminated earlier as provided in this Agreement or is extended as provided in a separate amendment to this Agreement (“**Term**”). Subject to the Manager’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 Manager.

3. **COMPENSATION AND PAYMENT:**

A. **Maximum Contract Amount:** The Maximum Contract Amount to be paid by the City to the Contractor for the performance of the work set out in **Exhibit A** shall in no event exceed the sum of **THREE HUNDRED THOUSAND DOLLARS AND ZERO CENTS (\$300,000.00)**, unless this Agreement is modified to increase said amount by a duly authorized and written amendment to this Agreement executed by the Parties in the same manner as this Agreement.

B. **Payments:** Monthly payments shall be made to the Contractor in accordance with the progress of the work and the schedule and rates as set out in **Exhibit A**. Monthly invoices submitted by the Contractor to the Department must fully document services rendered and hours spent providing the specified services, and any other authorized and actually incurred expenses, and must be approved by the Manager in writing in order to be eligible for compensation under this Agreement. All invoicing and payments are subject to the City’s Prompt Payment Ordinance, §§ 20-107 through 20-118, D.R.M.C.

C. **Subject to Appropriation; No Multiple Year Obligation:** It is understood and agreed that any payment obligation of the City hereunder, whether direct or contingent, shall extend only to funds appropriated by the Denver City Council for the purpose of this Agreement, encumbered for the purpose of the Agreement and paid into the Treasury of the City. The Contractor acknowledges that (i) the City does not by this Agreement, irrevocably pledge present cash reserves for payments in future fiscal years, and (ii) this Agreement is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

D. **Amendment:** The Contractor acknowledges that the City is not obligated to execute an amendment to this Agreement for any further phase of work by the Contractor

other than the work described in **Exhibit A**, and that any further phase of work performed by Contractor beyond that specifically described or without an amendment to this Agreement is performed at Contractor's risk and without authorization under this Agreement.

**4. TERMINATION:**

**A. Termination for Convenience of the City:** The Manager, upon giving twenty (20) calendar days written notice (unless a longer period is given), may terminate this Agreement, in whole or part, when it is in the best interest of the City as determined by the Manager. Any unfinished portion of the work shall be faithfully and timely performed by the Contractor to the extent directed by the Manager (in the Manager's discretion), and compensation for all such authorized Work performed shall be paid to the Contractor in accordance with this Agreement.

**B. Termination for Cause:** The City and the Contractor shall each have the right to terminate this Agreement, with cause, upon written notice to the other party. A termination shall be deemed "with cause" when it is based on a material breach of the covenants or a substantial default under this Agreement which has not been corrected or resolved to the satisfaction of the non-breaching or non-defaulting party within a reasonable time specified by the non-breaching or non-defaulting party in a written notice to the breaching or defaulting party. In addition, the City shall have the right to terminate this Agreement immediately for cause 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, kickbacks, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature, in connection with the Contractor's business. Nothing herein shall be construed as giving the Contractor the right to continue performing work under this Agreement beyond the time when the Manager notifies the Contractor that the Contractor's work has become unsatisfactory to the Manager and the Manager is terminating the Agreement, except to the extent that the Manager specifies certain work to be completed prior to terminating this Agreement.

**B. Compensation:** If this Agreement is terminated by the City for cause, the Contractor shall be compensated for all work satisfactorily completed and delivered to the City, and such compensation shall be limited to: (1) the sum of the amounts contained in invoices already submitted and approved by the Manager and (2) the cost of any work which the Manager

authorizes in writing which the Manager determines is needed to accomplish an orderly termination of the work. If this Agreement is terminated by the City without cause or by the Contractor with cause, the Contractor shall also be compensated for any reasonable costs the Contractor has actually incurred in performing authorized work hereunder prior to the date on which all work is terminated. Upon termination of this Agreement by the City, the Contractor shall have no claim of any kind whatsoever against the City by reason of such termination or by reason of any act incidental thereto, except for compensation for work satisfactorily performed as described herein.

C. Product Delivery: If this Agreement is terminated for any reason, the City shall take possession of all videos, materials, equipment, tools and facilities owned by the City which the Contractor is using by whatever method the City deems expedient. The Contractor shall deliver to the City all videos, drafts or other documents the Contractor has completed or partially completed under this Agreement, together with all other items, videos, materials and documents which have been paid for by the City. These videos, documents and materials shall be the property of the City. Copies of work product incomplete at the time of termination shall be marked "DRAFT-INCOMPLETE".

5. **RIGHTS AND REMEDIES NOT WAIVED**: In no event shall any action or inaction, including any payments to the Contractor, by the Contractor constitute or be construed to be a waiver by the City of any breach of covenant or default which may then exist on the part of the Contractor, and the City's action or inaction when any such breach or default shall exist shall not impair or prejudice any right or remedy available to the City with respect to such breach or default. No assent, expressed or implied, to any breach or default shall be deemed or taken to be a waiver of any other breach or default.

6. **INDEPENDENT CONTRACTOR**: It is understood and agreed that the status of the Contractor shall be that of an independent contractor and an entity or person retained on a contractual basis to perform professional or technical services for limited periods of time as described in Section 9.1.1.E.x. of the Charter of the City. It is not intended, nor shall it be construed, that the Contractor or the Contractor's employees, agents, or subcontractors are employees or officers of the City under Chapter 18 of the Denver Revised Municipal Code or for any purpose whatsoever. The Contractor is responsible for the operational management, errors and omissions of the Contractor's employees, agents, and subcontractors. Without limiting the

foregoing, the Contractor understands and acknowledges that the Contractor and the Contractor's employees, agents and subcontractors: a) are not entitled to workers' compensation benefits through the City; b) are not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by the Contractor or some other entity besides the City; and c) are obligated to pay federal and state taxes on any monies earned pursuant to this Agreement. Furthermore, it is understood and agreed that nothing in this Agreement is intended, or shall be construed, to constitute a joint venture between the Parties.

**7. INSURANCE:**

**A. General Conditions:** The 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. The Contractor shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for three (3) years after termination of the 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 required policies is 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, the 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. The 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:** The Contractor shall provide a copy of this Agreement to its insurance agent or broker. The Contractor may not commence services or work relating to the Agreement prior to placement of coverage. The Contractor certifies that the certificate of insurance attached as **Exhibit B**, preferably an ACORD certificate, complies with all insurance requirements of this Agreement. 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 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 and Business Auto Liability, the Contractor and subcontractor's insurer(s) shall name the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

**D. Waiver of Subrogation:** For all coverages, the Contractor's insurer shall waive subrogation rights against the City.

**E. Subcontractors and Subconsultants:** All subcontractors and subconsultants (including independent contractors, 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 Contractor. The Contractor shall include all such subcontractors and subconsultants as additional insured under its policies (with the exception of Workers' Compensation) or shall ensure that all such subcontractors and subconsultants maintain the required coverages. The Contractor agrees to provide proof of insurance for all such subcontractors and subconsultants upon request by the City.

**F. Workers' Compensation/Employer's Liability Insurance:** The 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. The Contractor expressly represents to the City, as a material representation upon which the City is relying in entering into this Agreement, that none of the Contractor'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 Contractor executes this Agreement.

**G. Commercial General Liability:** The Contractor 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 Liability:** The Contractor 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. Professional Liability:** The Contractor shall maintain limits of \$1,000,000 for each claim, and \$1,000,000 aggregate limit for all claims.

**J. Additional Provisions:**

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

(i) That this Agreement is an Insured Contract under the policy;

(ii) Defense costs in excess of policy limits;

(iii) A severability of interests, separation of insureds or cross liability provision; and

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

(2) For claims-made coverage, 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.

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

**8. DEFENSE & INDEMNIFICATION:**

**A.** The Contractor hereby agrees to defend, indemnify, and hold harmless the City, its appointed and elected officials, agents and employees 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 and until such Claims have been specifically determined by the trier of fact to be due to 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 Contractor or its subconsultants or subcontractors either passive or active, irrespective of fault, including the City’s concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of the City.

**B.** The Contractor’s duty to defend and indemnify the City shall arise at the time written notice of the Claim is first provided to the City regardless of whether an action has been filed in court on the Claim. The Contractor’s duty to defend and indemnify the City shall arise even if the City is the only party sued and/or it is alleged that the City’s negligence or willful misconduct was the sole cause of the alleged damages.

**C.** The Contractor will defend any and all Claims which may be brought or threatened against the City and will pay on behalf of the 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 the City shall be in addition to any other legal remedies available to City and shall not be considered the 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.

**9. COLORADO GOVERNMENTAL IMMUNITY ACT:** The Parties hereto understand and agree that the City is relying upon, and has not waived, the monetary limitations and all other rights, immunities and protection provided by the Colorado Governmental Act, § 24-10-101, *et seq.*, C.R.S.

**10. PERMITS, LICENSES, TAXES, CHARGES AND PENALTIES:** The Contractor agrees to pay promptly all taxes, excises, license fees, and permit fees of whatever nature applicable to its operations or activities under this Agreement, and to take out and keep



current all required licenses or permits (federal, state, or local) required for the conduct of its business hereunder, and further agrees not to permit any of said taxes, excises or license or permit fees to become delinquent. The Contractor further agrees to pay promptly when due all bills, debts and obligations incurred by it in connection with its operations and the performance of this Agreement and not to permit the same to be come delinquent. The City shall not be liable for the payment of taxes, late charges or penalties of any nature, except for any additional amounts which the City may be required to pay under § 20-107 to § 20-115, D.R.M.C. The City is a tax exempt entity.

**11. EXAMINATION OF RECORDS:** The Contractor agrees that any duly authorized representative of the City, including the City Auditor, shall, until the expiration of three (3) years after the final payment under this Agreement, have access to and the right to examine any books, documents, papers and records of the Contractor, involving transactions related to this Agreement.

**12. ASSIGNMENT & SUBCONTRACT:** Unless otherwise expressly provided in this Agreement, the Contractor covenants and agrees that the Contractor will not assign, transfer or subcontract the Contractor's rights and obligations hereunder without first obtaining the written consent of the Manager. Any assignment or subcontract approved by the Manager may require new or extended insurance being provided by the Contractor or the Contractor's assignee or subcontractor, as specified in the Manager's written consent. Any attempt by the Contractor to assign, transfer or subcontract the Contractor's rights and obligations hereunder without such prior written consent of the Manager may, at the option of the Manager, terminate this Agreement and all rights of the Contractor hereunder. Such consent may be granted or denied at the sole and absolute discretion of the Manager.

**13. NO THIRD PARTY BENEFICIARY:** The Parties understand and expressly agree that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties. Nothing contained in this Agreement shall give or allow any such claim or right of action by any third person. It is the express intention of the Parties that any person other than the City or the Contractor receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

**14. NO AUTHORITY TO BIND CITY TO CONTRACTS:** The Contractor has no authority to bind the City on any contractual matters. Final approval of all contractual matters which obligate the City must be executed by the City, as required by Charter and ordinance.

**15. INTEGRATION & AMENDMENTS:** This Agreement, including the exhibits and attachments hereto (each of which is specifically incorporated herein), is intended as the complete integration of all understandings between the Parties. No prior or contemporaneous addition, deletion, or other modification hereto shall have any force or effect, unless embodied in this Agreement in writing. No subsequent novation, renewal, addition, deletion, or other modification shall have any force of effect unless embodied in a written amendment to this Agreement properly executed by the Parties. Any oral representation by any officer or employee of the City at variance with terms and conditions of this Agreement or any written amendment to this Agreement shall not have any force or effect nor bind the City.

**16. SEVERABILITY:** The Parties agree that if any provision of this Agreement or any portion thereof is held by a court of competent jurisdiction to be invalid, illegal, unenforceable, or in conflict with any law, except for the provisions of the Agreement requiring prior appropriation of funds and limiting the total amount payable by the City, the validity of the remaining portions or provisions shall 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 the Agreement; and the Contractor shall not hire, or contract for services with, any employee or officer of the City 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 which would result in a conflict of interest under this Agreement. The Contractor represents that the Contractor 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, shall determine the existence of a conflict of interest and may terminate this Agreement in the event such a conflict exists after the City has given the Contractor written notice which describes the conflict.

**18. NOTICES:** Notices concerning the termination of this Agreement, notices of alleged or actual violations of the terms or conditions of this Agreement, and other notices of similar importance, including changes to the persons to be notified or their addresses, shall be made:

By the Contractor to: Director  
Denver Sheriff's Department  
490 West Colfax Avenue  
Denver, Colorado 80204

By the City to: Justice Benefits, Inc.  
2010 Valley View Lane, Suite 300  
Dallas, Texas 75234

All notices shall be in writing and provided by either personal delivery, certified mail, return receipt requested, or overnight courier. All notices are effective upon personal delivery or upon placing in the United States mail or with the courier service.

**19. DISPUTES:** All disputes of whatsoever nature between the City and the Contractor regarding this Agreement shall be resolved by administrative hearings pursuant to the procedure established by Denver Revised Municipal Code ("D.R.M.C."), § 56-106(b), *et seq.* For the purposes of that procedure, the City official rendering a final determination shall be the Manager.

**20. GOVERNING LAW; COMPLIANCE WITH LAW; VENUE:**

**A. Governing Law:** This Agreement shall be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter and Revised Municipal Code of the City and County of Denver, and the ordinances, regulations and Executive Orders enacted and/or promulgated pursuant thereto, including any amendments. The Charter and Revised Municipal Code of the City and County of Denver, as the same may be amended from time to time, are hereby expressly incorporated into this Agreement as if fully set out herein by this reference.

**B. Compliance with Law:** The Contractor shall perform or cause to be performed all services and work under this Agreement in full compliance with all applicable laws, ordinances, codes, rules, regulations and executive orders of the United States of America, the State of Colorado, and the City and County of Denver.

C. Venue: Venue for any legal action relating to this Agreement shall lie in the District Court in and for the City and County of Denver.

21. **NO DISCRIMINATION IN EMPLOYMENT**: In connection with the performance of work under this Agreement, the Contractor agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the Contractor further agrees to insert the foregoing provision in all subcontracts hereunder.

22. **SMALL BUSINESS ENTERPRISES**: The Contractor shall make a good faith effort to utilize qualified and available Small Business Enterprises (SBE) to the extent required by § 28-205, *et seq.*, D.R.M.C.

23. **PREVAILING WAGES**: Employees of the Contractor or the Contractor's subcontractors may be subject to the payment of prevailing wages pursuant to § 20-76, D.R.M.C., depending upon the nature of their work. By executing this Agreement, the Contractor covenants and affirms that the Contractor is familiar with the prevailing wages provisions and is prepared to pay or cause to be paid prevailing wages, if any, required by the scope of work of the Contractor or the Contractor's subcontractors.

24. **USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS**: The Contractor shall cooperate and comply with the provisions of Executive Order 94 concerning the use, possession or sale of alcohol or drugs. Violation of this provision or refusal to cooperate with implementation of the policy can result in the City barring the Contractor from City facilities or participating in City operations.

25. **PROPRIETARY OR CONFIDENTIAL INFORMATION; OPEN RECORDS**:

A. **City Information**: The Contractor acknowledges and accepts that, in performance of all work under the terms of this Agreement, the 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 confidential information may be damaging to the City or third parties. The Contractor agrees that all proprietary data or confidential information provided or otherwise disclosed by the City to the Contractor shall be held in confidence and used only in the performance of the Contractor's obligations under this Agreement. The Contractor shall exercise the same standard of care to protect such proprietary data and

confidential information as a reasonably prudent Contractor would to protect the Contractor's own proprietary data or confidential information. Proprietary data and confidential information shall include, but not limited to, any materials or information which is designated or marked "Proprietary" or "Confidential" by the City or its agents, provided to or made available to the Contractor by the City subject to a confidentiality agreement or notice of confidentiality, or used by the City under a licensing agreement or other authorization by the owner of the materials or information. Proprietary data and confidential information may be in hardcopy, printed, digital or electronic format.

(1) **Use of Proprietary Data or Confidential Information:** Except as expressly provided by the terms of this Agreement and subject to written permission of the Manager, the Contractor agrees that the Contractor shall not disclose, 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 the proprietary data or confidential information, or any part thereof, or any repackaged form of the proprietary data or confidential information, or any part thereof, to any other person, party or entity in any form or media for any purpose other than performing the Contractor's obligations under this Agreement. The Contractor further acknowledges that by providing this proprietary data or confidential information, the City is not granting to the Contractor any right or license to use such data or information except as provided in this Agreement.

The Contractor agrees that any ideas, concepts, knowledge, computer programs, or data processing techniques developed by the Contractor or provided by the City in connection with this Agreement, including any proprietary data or any confidential information, shall be deemed to be the sole property of the City and all rights, including copyright, shall be reserved to the City. The Contractor agrees, with respect to the proprietary data and confidential information, that: (1) the Contractor shall not copy, recreate, reverse, engineer or decompile such data, in whole or in part, unless authorized in writing by the Manager; (2) the Contractor shall retain no copies, recreations, compilations, or decompilations, in whole or in part, of such data or information; (3) the Contractor shall, upon the expiration or earlier termination of the Agreement, destroy (and, in writing, certify destruction) or return all such data or information or work products incorporating such data or information to the City.

(2) **Employees and Subcontractors:** The Contractor shall inform the Contractor's employees and officers of the obligations under this Agreement, and all requirements and obligations of the Contractor under this Agreement shall survive the expiration or earlier termination of this Agreement. The Contractor shall not disclose proprietary data or confidential information to subcontractors unless such subcontractors are bound by non-disclosure and confidentiality provisions at least as strict as those contained in this Agreement.

(3) **Disclaimer:** Notwithstanding any other provision of this Agreement, **the City is furnishing proprietary data and confidential information 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 confidential information. The Contractor is hereby advised to verify the Contractor's work performed in reliance upon the proprietary data or confidential information. 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, the Contractor agrees to contact the City immediately.**

**B. Contractor's Information:** The Parties understand that all the material provided or produced under this Agreement may be subject to the Colorado Open Records Act., § 24-72-201, *et seq.*, C.R.S., and that in the event of a request to the City for disclosure of such information, the City shall advise the Contractor of such request in order to give the Contractor the opportunity to object to the disclosure of any of the Contractor's proprietary or confidential material. In the event of the filing of a lawsuit to compel such disclosure, the City will tender all such material to the court for judicial determination of the issue of disclosure and the Contractor agrees to intervene in such lawsuit to protect and assert the Contractor's claims of privilege and against disclosure of such material or waive the same. The Contractor further agrees to defend, indemnify and save and hold harmless the City, its officers, agents and employees, from any claim, damages, expense, loss or costs arising out of the Contractor's intervention to protect and assert the Contractor's claim of privilege against disclosure under this subsection including, but

not limited to, prompt reimbursement to the City of all reasonable attorney fees, costs and damages that the City may incur directly or may be ordered to pay by such court.

**26. INTELLECTUAL PROPERTY RIGHTS:** The Parties intend that all property rights to any and all materials, text, logos, documents, booklets, manuals, references, guides, brochures, advertisements, music, sketches, plans, drawings, prints, photographs, specifications, software, data, products, ideas, inventions, and any other work or recorded information created by the Contractor and paid for by the City pursuant to this Agreement, in preliminary or final forms and on any media whatsoever (collectively, “Materials”), shall belong to the City. The Contractor shall disclose all such Materials to the City. 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 hereby 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 copyright, patent, trademark and other intellectual property rights in perpetuity.

**27. SOFTWARE PIRACY PROHIBITION:** The Contractor shall perform no work under this Agreement that results in or from the acquisition, operation, maintenance, or use of computer software in violation of United States copyright laws or applicable licensing restrictions. The Contractor hereby covenants and agrees that, for the term of this Agreement and any extensions, the Contractor has in place appropriate systems and controls to prevent such violations of federal law and licensing restrictions. If the City determines that the Contractor is in violation of this provision, the City may exercise any remedy available at law or equity or under this Agreement, including immediate termination of the Agreement and any remedy consistent with United States copyright laws or applicable licensing restrictions. The indemnification provision of this Agreement shall be applicable to any such violations by the Contractor.

**28. NO EMPLOYMENT OF ILLEGAL ALIENS.**

**A.** The Agreement is subject to Article 17.5 of Title 8, Colorado Revised Statutes, and as amended hereafter (the “Certification Statute”) and the Contractor is liable for any violations as provided in the Certification Statute.

**B.** The Contractor 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 either the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., or the employment verification program established by the Colorado Department of Labor and Employment under § 8-17.5-102(5)(c), C.R.S. (the “Department Program”), to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

**C.** The Contractor also agrees and represents that:

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

2) It shall not enter into a contract with a sub-Contractor or subcontractor that fails to certify to the Contractor that it shall not knowingly employ or contract with an illegal alien to perform work under the 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 either the E-Verify Program or the Department Program.

4) It is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement.

5) If it obtains actual knowledge that a sub-Contractor or subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such sub-Contractor or subcontractor and the City within three days. The Contractor will also then terminate such sub-Contractor or subcontractor if within three days after such notice the sub-Contractor or subcontractor does not stop employing or contracting with the illegal alien, unless during such three day period the sub-Contractor or subcontractor provides information to establish that the sub-Contractor 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.



**D.** The Contractor is liable for any violations as provided in the Certification Ordinance. If Contractor violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If the Agreement is so terminated, the Contractor 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 Contractor from submitting bids or proposals for future contracts with the City.

29. **LEGAL AUTHORITY:** The Contractor assures and guarantees that the Contractor possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement.

The person or persons signing and executing this Agreement on behalf of the Contractor, do hereby warrant and guarantee that he/she or they have been fully authorized by the Contractor to execute this Agreement on behalf of the Contractor and to validly and legally bind the Contractor to all the terms, performances and provisions herein set forth.

The City shall have the right, at its option, to either temporarily suspend or permanently terminate this Agreement, if there is a dispute as to the legal authority of either the Contractor or the person(s) signing the Agreement to enter into this Agreement.

30. **NO CONSTRUCTION AGAINST DRAFTING PARTY:** The Parties acknowledge that each of them and their respective counsel have had the opportunity to review this Agreement and that this Agreement shall not be construed against any party merely because this Agreement or any of its provisions have been prepared by a particular party.

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

32. **SURVIVAL OF CERTAIN PROVISIONS:** The Parties understand and agree that all terms and conditions of this Agreement, together with the exhibits and attachments hereto, which, by reasonable implication, contemplate continued performance or compliance beyond the expiration or earlier termination of this Agreement, shall survive such expiration or termination and shall continue to be enforceable as provided herein. Without limiting the generality of the foregoing, the Contractor's obligations for the provision of insurance and to indemnify the City shall 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.

33. **INUREMENT:** The rights and obligations of the Parties herein set forth shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns permitted under this Agreement.

34. **TIME IS OF THE ESSENCE:** The Parties agree that in the performance of the terms, conditions, and requirements of this Agreement, time is of the essence.

35. **PARAGRAPH HEADINGS:** The captions and headings set forth herein are for convenience of reference only and shall not be construed so as to define or limit the terms and provisions hereof.

36. **CITY EXECUTION OF AGREEMENT:** This Agreement shall not be or become effective or binding on the City until it has been fully executed by all signatories of the City and County of Denver.

37. **COUNTERPARTS OF THIS AGREEMENT:** This Agreement may be executed in counterparts, each of which shall be deemed to be an original of this Agreement.

38. **ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS:** The Contractor consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, 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.

**[SIGNATURES ON FOLLOWING PAGES]**

**Contract Control Number:** SAFTY-201313993-00

**Contractor Name:** Justice Benefits, Inc

By: April Farmer

Name: April Farmer  
(please print)

Title: Regional Director of Business Development  
(please print)

**ATTEST: [if required]**

By: Kimberly King

Name: Kimberly King  
(please print)

Title: Senior VP Business Development  
(please print)



**Contract Control Number:**

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:

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_



**Exhibit A**

**(Exhibit on Following Page)**

# SCAAP CONSULTING SERVICES

## PURPOSE

Justice Benefits, Inc (JBI) will perform the activities necessary to prepare and file claims under the State Criminal Alien Assistance Program (SCAAP) on behalf of the City and County of Denver (the City).

SCAAP provides Federal assistance to States and Localities that are incurring costs of incarcerating undocumented criminal aliens who have been

1. convicted of a felony or two misdemeanors *and*
2. incarcerated for a minimum of four consecutive days during the applicable reporting period.

SCAAP application and payment process is managed through the innovative Web-based, electronic system that was premiered in FY 2000. Applicants apply, transmit inmate data, and request payments via this Internet-based system. The SCAAP Catalog of Federal Domestic Assistance (CFDA) number is 16.606.

If a person in the applicant's custody meets the requirements, applicant jurisdictions may count all inmate days attributed to this person during the reporting period, including:

- Pretrial detention time served during the reporting period for a conviction of one felony or two misdemeanors.
- Pretrial detention time served during the reporting period on subsequent charges for persons with prior qualifying convictions, regardless of the type or number of new criminal charges.
- Post-conviction, sentenced time served during the reporting period on a conviction of one felony or two misdemeanors.
- Post-conviction, sentenced time served during the reporting period on subsequent convictions for persons with prior qualifying convictions, regardless of the type or number of new convictions.

Undocumented criminal aliens housed in the applicant's facility exclusively on behalf of a neighboring jurisdiction must be excluded from the application, regardless of whether the applicant jurisdiction receives reimbursement for associated costs. These inmates should be accounted for and reported by the sending jurisdiction.

## SCOPE

### JBI's responsibilities

JBI will assume responsibility for all the work and tasks necessary for filing such claims on behalf of the City which includes, but is not limited to, performing the following tasks and assuming the following responsibilities:

- Prepare and develop the cost per inmate per day data;
- Secure the data required to document qualified inmates;
- Apply its federally approved claiming methodology to the City's inmate database;
- Prepare and submit claims to the City for final approval;

- Determine and document the City's costs associated with the incarceration of certain criminal aliens;
- Prepare any claim adjustments necessitated by review or audits by the SCAAP grantor.
- Monitor and be aware of all tasks, deadlines, and requirements for filing for SCAAP funds as defined by Bureau of Justice Assistance (BJA).
- Provide an annual summary report to the City no later than 30 days after the award receipt;
- When the analysis is complete, JBI will prepare the application information needed by the City in the format required by the Bureau of Justice Assistance (BJA). JBI will assist the City with the completion of the application process;

JBI and the City must strictly observe the confidentiality of the information obtained by JBI, as required by law, in any reporting, auditing, invoicing, and evaluation of the work performed under this Contract. **The parties agree that all information relating to the criminal aliens that may be obtained or maintained in connection with this Contract is confidential to the extent provided by law.**

JBI must provide adequate notice of the schedule for such provision of information and materials so as not to compromise timely submission under SCAAP guidelines.

JBI should actively seek out all Bureau of Justice Assistance eligible grants and other eligible reimbursement programs for the Denver Sheriff Department. Once an eligible grant or program is identified, JBI should meet with Denver Sheriff Department representatives to discuss how the Department can apply and successfully obtain the grant or reimbursement program revenue. JBI should provide detailed instructions and assistance to the Denver Sheriff Department for each grant or reimbursement program throughout the application and other required information process.

#### **City and County of Denver's Responsibilities**

The most important and significant portion of the on-line application is the detailed inmate file information that reflects the jurisdiction's good faith effort to identify and list undocumented criminal aliens in their correctional facilities. The application cannot be properly vetted or approved without having inmate records in the proper format and order. Required inmate data includes the INS A-Number, if known; last, middle and first names, date of birth, unique inmate number assigned by the applicant jurisdiction; foreign country of birth; date taken into custody; date released from custody (or the last day of the reporting period if the inmate is still in custody at the end of the reporting period); and FBI number, if known.

The City must provide JBI with access to review the City's claims, grant awards, and such other books, records and documents as may be required, and permitted under law, to ensure that the payments of JBI's fees is in accordance with this Contract.

The City will upload the data and complete the application process (after JBI has prepared the application in the format required by BJA).

The City will provide a work area and phone if needed when JBI is onsite.

## **FEES/PAYMENTS**

JBI is solely responsible for its own staff, administrative, overhead, and other out-of-pocket expenses incurred in providing services to the City under this Contract.

Should any funds recovered by JBI on behalf of the City be subsequently disallowed by the SCAAP, any related fees paid to JBI based upon such disallowed funds will be credited against future payments made to JBI. In the event this Contract is no longer in effect at the time such funds are disallowed, JBI must refund such related fees to the City within 45 days. Failure to refund any fees to which JBI is not entitled is a material breach of this Contract and may result in termination of the Contract or any other remedy available to the City.

The City will pay JBI **8%** of the recovery amount (received from the SCAAP program) above \$100,000. Up to and including the \$100,000 threshold shall be at no charge to the City. This is an all-encompassing fee, including all services rendered.

After the award has been received by the City, the City will notify JBI, and JBI will submit an invoice to the City.



**Exhibit B**

**(Exhibit on Following Page)**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
11/18/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Carol Loper & Associates dba CLA USA P & C 9300 Wade Boulevard Suite 101 Frisco TX 75035		<b>CONTACT NAME:</b> Patty Starrett <b>PHONE (A/C No. Ext):</b> (214) 423-3120 <b>FAX (A/C, No):</b> (214) 423-2240 <b>E-MAIL ADDRESS:</b> pstarrett@clausa.com	
<b>INSURED</b> Unificare LTD and Justice Benefits Inc. 2010 Valley View Lane Suite 300 Dallas TX 75234		<b>INSURER(S) AFFORDING COVERAGE</b> INSURER A: Travelers Insurance Company INSURER B: Evanston Insurance Co. INSURER C: INSURER D: INSURER E: INSURER F:	

**COVERAGES** CERTIFICATE NUMBER: CL1352301519 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X		PACP002D077343	6/1/2013	6/1/2014	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
A	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	X		PACP002D077343	6/1/2013	6/1/2014	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input type="checkbox"/> EXCESS LIAB DED RETENTION \$			CUP002D077785 All States including Virginia	6/1/2013	6/1/2014	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	UB2D077970	6/1/2013	6/1/2014	<input checked="" type="checkbox"/> WC STATUTORY LIMITS E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	<b>Professional Liability</b> Claims Made	X		E0852280 Retro: 12/28/2001	12/2/2012	12/28/2013	\$10,000 Retention \$1,000,000 Aggregate \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
See Additional Remarks

### CERTIFICATE HOLDER

City and County of Denver  
 Sheriff Department - Manager of finance  
 5440 Roslyn St.  
 Denver, CO 80216

### CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE  
 Patty Starrett/STARRE *Patty Starrett*

## COMMENTS/REMARKS

The City and County of Denver, its Elected and Appointed Officials, Employees and Volunteers are named as Additional insured with regards to the GL and Auto Liability Policies.