



**CONTRACT / AGREEMENT**

**Number**  
(Assigned by FINANCE)

2001-0113

**Originating Department:** HR-Wellness  
Contract with: APS Healthcare Northwest, Inc.  
Contract Name/Project #: Employee Assistance Program  
Termination Date: 4/30/2002

**Modification of Contract #:**  
(Attach Copy of Original Contract)

Contract Name/Project #:

If Contract is Extended, New Termination Date:

Certificate of Insurance Attached

**Signatures:**

- Contracting Party
- Department Head

Date Executed: 4-25-01

Property Index Form

Record Document

**SPECIAL INSTRUCTIONS:**

I am routing 2 originals for signatures.  
Please return 1 original and 1 certified copy to Donna Seifert, HR-Benefits. Email copy to Donna  
4/25/01 Notes/Jackie/ITSO-Sean

**Distribution**

**Original:** Attach to Contract

**Copy:** Return to Originating Department

## AGREEMENT

**THIS AGREEMENT** is entered into by **APS HEALTHCARE NORTHWEST, INC. (APS)**, a Montana corporation of 3011 Palmer, Missoula, Montana 59808 and the **CITY OF BELLINGHAM ("Employer")**, of 210 Lottie Street, Bellingham, WA 98225.

### RECITALS:

- A. Employer wishes to provide a program of services for its employees and their dependents.
- B. Among its business activities, APS organizes, operates, and evaluates such programs for employers.

**NOW, THEREFORE**, in consideration of the following mutual covenants, conditions, representations, and promises, APS and Employer agree as follows:

1. **Employer's Program.** APS agrees to provide such program to Employer consisting of the services defined in this Agreement and the attached Exhibits.
2. **Scope of Services.** APS shall provide services to the Employer's eligible employees and dependents. Services are outlined in **Exhibit A, "Scope of Services."**
3. **Area of Service.** APS shall furnish services to designated employees and dependents in the geographic service area(s) specified in **Exhibit B, "Scope of Coverage, Rates, and Payments."**
4. **Optional Services and Fees.** Employer may request any of the services listed in **Exhibit C, "Optional Services and Fees,"** on a fee for service basis.
5. **Special Provisions.** **Exhibit D, "Special Provisions"** contains specially negotiated provisions which are controlling for purposes of this Agreement. If any of the contents of this Agreement are inconsistent with the provisions of Exhibit D, Exhibit D shall be controlling because it contains specifically negotiated terms.
6. **Payment and Notification.** Employer agrees to pay APS such sums, at such times, and under such conditions as set forth in **Exhibit B, "Scope of Coverage, Rates and Payments."** All payments due to APS and notifications between the parties as required by this Agreement shall be remitted to the address shown in the signature section on page 4 of this Agreement. Notifications shall be by certified mail.

Employer agrees to pay interest at the rate of 1.0% per month on all amounts not paid within 30 days after the date of APS's invoice.

7. **Term.** The term of this Agreement shall commence on the 1<sup>st</sup> day of May, 2001 ("inception date") and shall remain in full force and effect for one (1) year, unless a different expiration date is specified in **Exhibit D, "Special Provisions"**, subject to earlier termination as provided herein. This Agreement shall automatically renew for two (2) successive one-year terms, unless canceled by either party upon at least 60 days' written notice. The automatic renewal terms may include a rate adjustment for each successive term. The number of employees covered, rates, and payment provisions agreed to by the parties are outlined in **Exhibit B, "Scope of Coverage, Rates, and Payments."**

8. **Exhibits Incorporated Into Agreement.** Attached to and by this reference incorporated into and made part of this Agreement are the following exhibits:

**Exhibit A - Scope of Services**

**Exhibit B - Scope of Coverage, Rates, and Payments**

**Exhibit C - Optional Services and Fees**

**Exhibit D - Special Provisions**

9. **General Provisions.**

(a) **Professional Qualifications.** Services pursuant to this Agreement shall be provided by qualified, clinical professionals able to perform their assignments without conflict of interest. APS, in its sole discretion, shall provide such professional services either from its employees or by retaining qualified professionals as independent contractors to provide services under this Agreement. If independent contractors are utilized, APS shall nevertheless be solely responsible for ensuring that services are provided by such independent contractors as required by this Agreement.

(b) **Legal Compliance.** APS shall be required to obtain, at its sole expense, all necessary licenses and permits. Both APS and Employer agree to comply with all applicable local, state, and federal laws, rules, and regulations prohibiting discrimination or otherwise regulating the terms and conditions of the services provided hereunder.

(c) **Confidentiality.** Employer agrees that all participation by its employees and their dependents in programs hereunder is confidential. APS shall not disclose to Employer any information with respect to program participants obtained by APS pursuant to their participation in programs hereunder, except with the written consent of those participants or as required by law. APS shall have exclusive control over the direction and guidance of the professionals rendering services under this Agreement. APS agrees to keep confidential all Employer information obtained in the course of delivering services.

(d) **Employer's Rights Respecting Employees.** In entering into this Agreement, Employer is not relinquishing any of its rights and obligations to control any aspects of the employment relationship between Employer and participants in programs hereunder. APS agrees that the programs it provides for Employer hereunder will not be made available as a sanctuary of disciplinary immunity for employees of Employer. Employer agrees that APS shall bear no responsibility with respect to Employer's decisions or actions concerning discipline or termination of its employees.

(e) **APS Proprietary Data and Materials.** Employer agrees that all publications furnished by APS pursuant to this Agreement shall remain APS's sole property and Employer will do nothing to interfere with or appropriate APS's proprietary rights therein. At the termination of this Agreement, Employer agrees to return all such materials remaining unused to APS. Further, Employer agrees that it will not appropriate for its own use the systems or knowledge acquired from APS hereunder. Employer agrees to keep confidential and not to disclose to any such person or entity, except the employees of Employer and others entitled to such disclosure by law, the information and/or management reports or systems utilized by APS in discharging its responsibilities.

(f) **Employer's Obligations.** Employer agrees to cooperate with APS as necessary for APS to perform under this Agreement including, at a minimum, distributing promotional literature provided by APS to employees and their family members and providing an individual to act as a liaison.

(g) **Status of the Parties.** APS and Employer agree that APS is an independent contractor and, except as otherwise provided in this Agreement or its exhibits, neither is the agent of the other, nor is either authorized to act on behalf of the other in any manner. APS shall be required, at its sole expense, to provide all supplies, equipment, and personnel necessary for its performance as required herein.

**10. Indemnity and Insurance.**

(a) APS and Employer shall each indemnify and hold the other harmless from damages (as defined in subparagraph 10b below) suffered by any party to the extent that such damages are based upon the acts or omissions of the indemnifying party, its employees and/or agents.

(b) For purposes of this paragraph 10, "damages" shall mean the liability, expressed in monetary terms, which a party becomes obligated to pay to a third party, whether by judgment, arbitration, settlement, or otherwise, plus the costs and expenses (including reasonable attorney's fees) incurred by that party in defending itself from such claim.

(c) APS agrees to obtain and maintain during the term of this Agreement the following insurance: (i) comprehensive general liability in the amount of \$1,000,000 per occurrence and \$2,000,000 in the aggregate; and (ii) professional liability insurance in the amount of \$1,000,000 per occurrence and \$5,000,000 in the aggregate.

(d) If either party finds it necessary to institute legal proceedings to protect or enforce any rights hereunder, the prevailing party shall be entitled to recover from the other party reasonable attorney's fees and costs, plus all other reasonable expense necessarily incurred in any such proceedings.

**11. Termination:** Either party may terminate this Agreement without cause upon giving the other party sixty (60) days' written notice specifying the effective date of such termination.

**12. Procedures upon Termination:**

(a) **Generally.** Upon termination of this Agreement, APS shall deliver to Employer final reports of Employer's program hereunder. Employer shall deliver to APS all unused proprietary materials. The confidentiality and nondisclosure provisions of this Agreement shall survive termination and shall remain binding upon each party. Employer shall pay APS for fees earned on a pro-rata basis for all services provided prior to termination. APS shall refund fees prepaid by Employer on a pro-rata basis applicable to post-termination periods.

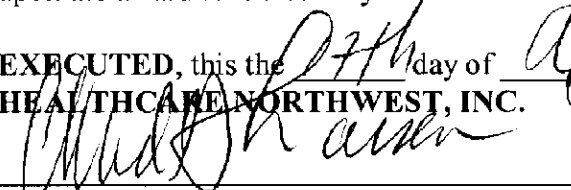
(b) **Existing Clients.** Employer acknowledges that at the time of termination, some of its employees or their dependents may be active cases receiving services from APS and it may be unethical and/or illegal to terminate such services without providing further treatment for such clients. Prior to the termination date, APS shall furnish Employer with a list of the number of active cases which fall into this category, together with certification that it has examined the nature of the active cases and that further treatment is recommended. Employer shall allow APS to continue to provide such services on mutually agreeable terms or to make other clinically acceptable arrangements for continued services.

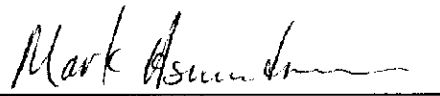
13. **Assignment.** Neither party may assign its rights or delegate its duties hereunder without the prior written consent of the other, provided, however, that either party may make such an assignment or delegation to a subsidiary or parent entity, as long as such assignment or delegation does not result in a material change in the non-assigning party's rights and/or duties.

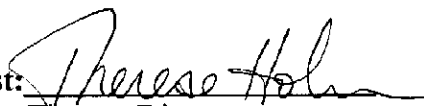
14. **Entire Agreement.** This Agreement, including all exhibits, contains all of the terms and conditions of the agreement between APS and Employer. There are no representations or understandings except as contained herein. This Agreement may only be changed by a written instrument signed by both parties.

15. **Governing Law.** This Agreement has been entered into between the parties in Washington and, unless the parties specify a different jurisdiction in Exhibit D, "Special Provisions," the laws of such state shall govern its interpretation and enforcement. The venue for any dispute resolution action shall lie exclusively in Whatcom County, Washington.

16. **Arbitration.** The parties agree to meet and confer in good faith to resolve any problems or disputes that may arise under this Agreement. Any controversy or claim arising from or relating to this Agreement that cannot be amicably resolved shall be settled by arbitration in accordance with the rules of the American Arbitration Association under its Commercial Arbitration Rules, and judgment upon the award rendered may be entered in any court having jurisdiction thereof.

EXECUTED, this the 27<sup>th</sup> day of April, 2001 for the Contractor, APS  
HEALTHCARE NORTHWEST, INC.  
  
Clifford G. Larsen, CEO

EXECUTED, this 25<sup>th</sup> day of April, 2001 for the CITY OF BELLINGHAM.  
  
R. Mark Asmundson, Mayor

Attest:   
Finance Director

Approved as to form:   
Asst. City Attorney

Departmental Approval: 

**EXHIBIT A**  
**SCOPE OF SERVICES**

**1. EAP General Program Services**

Employer wishes to provide an Employee Assistance Program (EAP) for its employees through which employees and their dependents are able to obtain appropriate and necessary care for problems they may suffer, and for such other personal problems as may interfere with their productivity and general well-being.

APS agrees to provide such program to the Employer and consists of the following services:

- a) Counseling sessions including an initial evaluation to identify problems, with follow-up contact as deemed appropriate by the counselor. APS agrees to provide a maximum of counseling sessions (hours) per incident per year for each eligible employee and their family members, as specified in 2(a) of this Exhibit. A counselor may deem it necessary to hold longer sessions to facilitate the needs of the client. If session length is extended, the number of sessions are reduced to equal a maximum of counseling hours.
- b) A plan of assistance, including referral to outside agencies, for employees and their dependents who seek assistance through the EAP. Dependents, also referred to as eligible family members, are those individuals living with the employee or eligible for coverage under the employee's health insurance policy maintained through the Employer. Fees incurred by any employee or family member at agencies other than APS are not included in the EAP coverage and are the full responsibility of the employee or eligible family member.
- c) Twenty-four hour, seven-day per week, toll-free telephone crisis counseling.
- d) Standard Utilization Reports submitted regularly (as specified in 2 b) of this Exhibit). **The reports will not indicate the names of employees using the service.** The frequency of reporting is specified below.
- e) Promotion of the EAP by making the following available:
  - (1) Initial orientation for employees and supervisors, and annually thereafter as requested by Employer;
  - (2) Employee brochures and wallet cards distributed at orientation sessions;
  - (3) Supervisor manuals provided for distribution;
  - (4) EAP promotional materials provided to Employer for distribution to the employee's family (promotional materials may be in the form of payroll inserts, newsletters, or brochures);
  - (5) One Topical Training Session, one hour in duration, if requested by Employer;
  - (6) Posters displaying a toll-free hotline telephone number to reach an EAP counselor 24 hours per day;
  - (7) Additional services which the parties may agree to as outlined below.

f) Optional Services provided on a fee-for-service basis at the request of the Employer. Optional Services and Fees are shown in **Exhibit C, "Optional Services and Fees."**

**2. EAP Program Services Specific to Employer**

APS and Employer agree to the following stipulations as to level of service:

a) **Number of Sessions**

During 2001, APS and Employer agree to provide a maximum of 5 counseling sessions (hours) per incident per year for employees, their dependents and household members. Beginning the calendar year 2002 and thereafter, APS and Employer agree to provide a maximum of 6 counseling sessions (hours) per incident per year for employees, their dependents and household members.

b) **Standard Utilization Reports**

APS will provide Employer with Standard Utilization Reports at least on a regular basis which shall be: quarterly ( X ) or annual (). Occasionally, Employer may request special (non-standard) reports from APS. The formats, frequency, and price for the custom reports are specified in **Exhibit D, "Special Provisions."**

**EXHIBIT B**  
**SCOPE OF COVERAGE, RATES AND PAYMENTS**

1) **Number of Employees Covered**

Employer agrees to provide APS with a detailed list of employees and their geographic area of employment at the inception of the Agreement. APS shall provide services pursuant to this Agreement to all employees in the geographic areas to which both parties agree as indicated below or in the attachment if the below space is not adequate:

<b><u>Employee Location</u></b>	<b><u>Employee Count</u></b>
Bellingham, WA	793
_____	_____
<b>Total</b>	793

Employer agrees to annually provide APS with an estimate of the average number of employees and their locations for the purpose of calculating fees owed to APS. These counts and locations shall be provided to APS 15 days prior to the beginning of the calendar year.

2) **Rates**

During calendar year 2001, Employer shall compensate APS at the rate of \$1.85 per employee per month for services provided by APS which are included in the agreement. During the calendar year 2002, Employer shall compensate APS at a rate of \$2.04 per employee per month for services provided by APS which are included in the agreement. Thereafter, the rate will increase by no more than 4% on each anniversary, unless other terms are agreed to in writing by both parties at the time of renewal. Optional Services shown in Exhibit C will be provided at APS's current rate during any renewal term of this agreement. The parties agree that the rate is firm and not subject to any refunds, rebates, or other changes unless agreed to in writing and specified in Exhibit D, "Special Provisions."

3) **Payments**

Employer will pay APS on a monthly (\_\_\_), quarterly (X) or annual (\_\_\_) basis in advance of the service period.

**EXHIBIT C**  
**OPTIONAL SERVICES AND FEES**

<b>Services</b>	<b>Description</b>	<b>Fees</b>	<b>Expenses</b>
Topical Training	Topical Training, also called "Brown Bag Lunch" Programs, are brief (typically one-hour) introductions to relevant and timely topics. The employer may select from a list of topics or request a custom-developed program. Training is held in the workplace or at a specified site.	\$90 per hour of training.  \$45 per hour of custom program development	travel and expenses incurred
CISD	Critical Incident /Stress Debriefing	\$90 per hour per staff person	travel and expenses incurred
DoT Substance Abuse Evaluations		\$300 per evaluation	
Conflict Resolution		\$150 per session hour	travel and expenses incurred
Customized literature and promotional items	Employer may desire to add Employer's name and/or logo to APS's literature and promotional items or may desire to create custom literature and promotional items.	incremental cost to APS plus 10% admin. fee	

## **EXHIBIT D SPECIAL PROVISIONS**

Notwithstanding any stated provision of the main Agreement, the parties have negotiated and agreed to the following special provisions also covered under the rates outlined in Exhibit B (2), Rates.

### **Exhibit A, # 2 Page 6: EAP Program Services Specific to Employer**

#### **Employee Orientation and Supervisor Training Sessions**

There will be 16 one-half hour initial employee orientation sessions provided during the 1<sup>st</sup> year and for every other year thereafter, for the **City of Bellingham**, as well as 2 one and a half hour supervisor training sessions, at the request of the employer. (The training can be exchanged for additional orientation sessions)

#### **Legal and Financial Telephonic Services**

APS will provide legal and financial referral services per employee per issue.

#### **Critical Incident/Stress Debriefing**

As needed within 24-72 hours after a critical incident occurs, upon request.

#### **Program Level Services**

Four (4) additional training sessions (or Brown Bag Seminars) will be provided to **CITY OF BELLINGHAM** each year during the contract period, upon employer's request. Topics covered in the Brown Baggers may vary, but will be mutually agreed upon between **CITY OF BELLINGHAM** and **APS HEALTHCARE**.

#### **Rates**

Exhibit B, #2 & #3, Page 7

Rates and services to be reviewed annually.

#### **Exhibit C, Page 9: Optional Services and Fees**

Two DOT Substance Abuse Professional (SAP) evaluations will be provided at no additional charge when conducted by an APS staff clinician at the request of the City of Bellingham, for those DOT employees testing positive. Any additional SAP evaluations, whether conducted by APS Staff clinicians or a contracted provider, will cost the City of Bellingham \$300.00 per evaluation.

#### **Other SAP Services:**

As requested by the Employer, the employee orientation and supervisory training may be expanded to meet the U.S. DOT and/or WA State regulations with regards to issues of drug use in the workplace and is offered on an annual basis. These sessions will be scheduled as part of the 16 included orientation sessions as noted above.

Assistance in establishing and implementing drug testing policies according to DOT regulations as defined in the Omnibus Act of 1988.

For last-chance agreement supervisory referrals, on-going monitoring throughout the entire agreement period according to DOT and Washington State DFWP regulations.