

#8

**MEMORANDUM**

TO: Mayor Blad and City Council  
FROM: Jared Johnson, City Attorney  
DATE: September 22, 2022 *JWJ*  
RE: CuraLinc EAP Service Agreement

I have reviewed the attached EAP service agreement between the City of Pocatello and CuraLinc, LLC and I have no legal concerns with the Mayor executing said agreement once authorized by the Council to do so.

Please let me know if you have any questions or concerns.

#8

## Employee Assistance Program (EAP) Services Agreement

THIS AGREEMENT is made and entered into on *May 27, 2022* by and between *City of Pocatello*, an Idaho corporation (herein after referred to as Company), located at 911 N. 7th Avenue, Pocatello, ID 83201, and *CuraLinc, LLC*, otherwise known as *CuraLinc Healthcare*, an Illinois corporation (herein after referred to as *CuraLinc*), located at 314 W. Superior St., Suite 601, Chicago, IL 60654. The parties of this Agreement, in consideration of the mutual covenants and stipulations set forth herein, agree as follows:

### I. CONTRACT TERM

The Initial Term of this Agreement shall commence on *October 1, 2022* (the “Effective Date”) and continue through *September 30, 2025*. Thereafter, this Agreement shall automatically be renewed for successive one (1) year terms, unless either party has notified the other in writing of its intention not to renew this Agreement at least 90 days prior to the anniversary.

Notwithstanding the foregoing, Company shall have the right to terminate this Agreement at any time prior to *September 30, 2025* (the “Early Termination Option”) provided that on the date that Company delivers written notice of its election to exercise its Early Termination Option, no Event of Default exists, and no condition exists which, with the giving of notice or the passage of time, or both, would constitute an Event of Default. Company will exercise the Early Termination Option by delivering written notice to *CuraLinc* no less than 90 days prior to the date upon which the early termination shall occur. Failure by Company to deliver such written notice will constitute a failure by Company to exercise its termination option. Further, if Company elects to terminate this Agreement within twelve months of the Effective Date, Company shall pay to *CuraLinc* an early termination fee in an amount equal to the fees for the first three (3) months of the Program.

### II. DEFINITIONS

The following definitions apply to this Agreement:

1. **“Agreement”** means the contents of this document in full, including attachments incorporated herein by reference.
2. **“Allocation Value”** applies to Company’s bank of onsite CISM, Topical Training and Benefit Training hours and refers to a reduction of said hours if a notice to cancel is not provided to *CuraLinc* within 48 hours of the event.
3. **“Assessment”** refers to an element of the intake into the Program that includes a telephonic evaluation of the CIEBD’s Presenting Issue(s).
4. **“Benefit Training”** consists of an Orientation Meeting(s) to describe the Program to CIEBDs.
5. **“Benefits”** means the services to which CIEBD’s are entitled under the Employee Assistance Program Services Agreement.
6. **“Covered Employee(s)” (“CE”)** refers to benefit-eligible employees of the Company.
7. **“Covered Individuals and Eligible Beneficiaries/Dependents” (“CIEBD”)** refers to benefit-

eligible employees of the Company and their family members who are eligible for the services described herein. Eligible Beneficiaries/Dependents include, but are not limited to, spouses, domestic partners and children, up to age 26.

8. **“Covered Services”** means the services described in this Agreement. Any services not explicitly set forth in this Agreement are not included as part of this Agreement.
9. **“Critical Incident(s)”** refers a traumatic event that occurs at the workplace or to a crisis that negatively impacts the workforce.
10. **“Critical Incident Stress Management Services” (“CISM”)** will be provided for Critical Incidents. These services will be handled face-to-face, whenever possible, or telephonically, when a face-to-face appointment cannot be arranged.
11. **“Distance Counseling”** refers to a Short-Term Counseling approach that takes the best practices of traditional counseling and adapts them for delivery to clients via electronic means in order to maximize the use of technology-assisted counseling techniques.
12. **“eConnect®”** refers to CuraLinc’s proprietary Distance Counseling platform.
13. **“EAP Provider”** refers to the licensed mental health professionals employed by, or under contract with, CuraLinc to provide services to CIEBDs.
14. **“Employee Assistance Program” (“EAP” or “Program”)** An EAP is a service for CIEBDs to provide confidential assessments, Short-Term Counseling and referrals to address their Presenting Issue(s).
15. **“Employee Count”** refers to the number of Covered Employees eligible for EAP services.
16. **“Event of Default”** refers to delinquent or non-payment of the fees outlined in this Agreement.
17. **“Fee for Service”** entails invoicing and payment for non-Agreement services on a mutually agreed upon hourly rate.
18. **“Initial Term”** refers to the first time period covered under this Agreement, at the end of which the Agreement will either terminate or be renewed.
19. **“Limitation”** means the maximum number of sessions available to a CIEBD per separate Presenting Issue brought to the Program.
20. **“Mental Health Navigator”** refers to a web and mobile tool that guides CIEBDs to a personalized set of resources within the Program.
21. **“Plan Implementation”** means the tasks required by the Company and CuraLinc in order to implement the services covered within this Agreement.
22. **“Presenting Issue”** means the problem or concern for the CIEBD to receive assistance through the Program. These issues include, but are not limited to: family and marital problems; relationship problems; substance abuse; emotional distress; depression; anxiety; grief and loss; domestic and

workplace violence; and legal and financial concerns.

23. “**Short-Term Counseling**” refers to a series of counseling sessions available under the Program. Short-Term Counseling sessions are intended to be applied to Presenting Issue(s) in which the EAP Provider believes can be reasonably and appropriately resolved within the Program.
24. “**SupportLinc**” is the brand name for the Employee Assistance Program (EAP) offered by CuraLinc.
25. “**Textcoach®**” refers to a technology-based forum that allows CIEBDs to confidentially and securely exchange text messages, voice notes and resources with an EAP Provider.
26. “**Topical Training**” refers training provided to supervisors, managers and staff of the Company about issues related to the workplace, to include stress management, communication, identification and referral of employee problems.
27. “**Work/Life Services**” refers to information concerning local community and/or professional resources for dependent care (parenting, childcare, aging, eldercare, education, etc.), legal and financial concerns. Work/Life Services do not include Short-Term Counseling.

### III. SERVICES PROVIDED BY CURALINC

CuraLinc hereby agrees to perform or assist in the performance of the following services for Company.

1. Provide on-going consultation for the Company’s EAP, to include the overall design, development, implementation and management of the Program.
2. Provide telephonic access to the Program 24 hours per day, seven days per week, 365 days per year.
3. Provide an intake Assessment including, but not limited to: gathering psychosocial history; identifying Presenting Issue(s), evaluating treatment and substance abuse history; completing a risk profile for the CIEBD; and developing the appropriate care plan.
  - a. If the Presenting Issue(s) can be resolved within the framework of the EAP’s Short-Term Counseling model, CuraLinc will provide clinical consultation and individual case management to CIEBDs, which will include:
    - i. In-the-moment support and, if necessary, immediate crisis counseling.
    - ii. Short-Term Counseling.
      1. Referral for up to *six (6) sessions* per Presenting Issue (the Limitation), for non-fire and non-police CIEBD’s.
      2. Referral for up to *twenty (20) sessions* per Presenting Issue (the Limitation), for fire and police CIEBD’s.
      3. At the CIEBD’s discretion, the aforementioned sessions may be delivered either in-person or via CuraLinc’s eConnect® platform.

- iii. Post-case referral to an appropriate professional or helping agency, when appropriate.
    - iv. Follow-up on each case to determine success of the rehabilitation process or need for further assistance.
  - b. If the initial Assessment reveals that treatment is required beyond the scope of the EAP, CuraLinc will provide the CIEBD with appropriate referrals for providers or facilities that are in the CIEBD's community or benefit plan network.
    - i. CuraLinc will verify the CIEBD's eligibility.
    - ii. CuraLinc will educate the CIEBD regarding the upcoming sequence of events.
    - iii. CuraLinc will give the CIEBD names and contact information of in-network providers or facilities that are appropriate for his/her condition.
- 4. Assist in the internal promotion of the Program, including the development of an engagement strategy, which may include the preparation and delivery of posters, flyers, wallet cards, introductory letters, electronic messages and newsletters.
- 5. Provide activity reports that include aggregated trends and utilization from the Program, but do not include information about individual CIEBD participants.
- 6. Create and provide an EAP web platform customized for Company that includes, but is not limited to, information, articles, resource search engines, audio and video files, "how-to" guides, a form to schedule a call back or request more information, a comprehensive topical resource library, Textcoach®, Mental Health Navigator and online educational and training seminars.
- 7. Create and provide an EAP mobile platform customized for Company that includes, but is not limited to, information, articles, resource search engines, audio and video files, "how-to" guides, a form to schedule a call back or request more information, a comprehensive topical resource library, Textcoach®, Mental Health Navigator and online educational and training seminars.
- 8. Provide Work/Life Services as described below:
  - a. **Legal Consultation:** Each CIEBD is entitled to Telephonic Legal Services and In-Person Legal Services as described below at no cost. All additional costs following the consultation will be identified by the attorney in the retainer agreement, which must be agreed to in advance by the CIEBD, who is solely responsible for payment for services delivered beyond the scope of the Program. Excluded services are any matters involving current or prior work-related issues of the eligible employee or dependents, or any issues related to Company. Legal content is also available on the Program's web or mobile portals.
    - i. **Telephonic Legal Consultation:** CuraLinc will provide the CIEBD with one thirty-minute telephonic consultation from an attorney who: has been licensed to practice law in the forum state for at least ten (10) years; has no public record of non-administrative discipline within the last ten (10) years; carries malpractice insurance; and has not been convicted of any felony or crime involving moral

turpitude, been the subject of any non-administrative public discipline in any jurisdiction, or been the subject of a malpractice action or judgment. The attorney shall provide, via telephone and at no cost to the CIEBD, up to thirty minutes of time to answer general questions of law according to the applicable state law.

ii. **In-Person Legal Consultation:** CuraLinc will provide the CIEBD with one thirty-minute office consultation from an attorney or law firm that: is duly licensed to practice law in the CIEBD's forum state; has a managing or operating partner with a minimum of five (5) years' experience from the date admitted to the bar of the forum state; carries malpractice insurance; and has not been convicted of any felony or crime involving moral turpitude, been the subject of any non-administrative public discipline in any jurisdiction, or been the subject of a malpractice action or judgment.

b. **Financial Consultation:** Each CIEBD is entitled to consultation with financial counselor or budget specialist who can address questions on all matters of financial management including debt reduction, home buying, budgeting, foreclosure prevention, bankruptcy prevention, financial goal-setting, estate/financial planning, identity theft recovery and credit report review. Brief consultations without an appointment are available any weekday, Monday through Friday, or for up to an hour by appointment. In appropriate circumstances, a referral to non-profit service provider(s) may be suggested to further address the CIEBD's need. Financial content is also available on the Program's web or mobile portals.

c. **Child Care Resource and Referral Services** – Each CIEBD is entitled to unlimited access to referral services, mapping and reference library materials including telephonic consultation to assess need, financial ability, geographic limitations, facility/provider credentials and licensure and unlimited access to information materials offered through CuraLinc. It is understood that the selection of a facility/provider is the responsibility of the CIEBD. The delivery of the aforementioned materials is to be provided to CIEBD by CuraLinc and/or available through the Program's web or mobile portals.

d. **Elder Care Resource and Referral Services** – Each CIEBD is entitled to unlimited access to referral services, mapping and reference library materials including telephonic consultation to assess need, financial ability, geographic limitations, facility/provider credentials and licensure and unlimited access to information materials offered through CuraLinc. It is understood that the selection of a facility/provider is the responsibility of the CIEBD. The delivery of the aforementioned materials is to be provided to CIEBD by CuraLinc and/or available through the Program's web or mobile portals.

e. **Convenience Resource and Referral Services** – Each CIEBD is entitled to unlimited telephone consultation on enhanced services/convenience services that include, but are not limited to, diet and nutrition, smoking cessation, clubs/associations, kennels/pet care, relocation services, home repair, automobile services, etc. Costs associated with membership and retention of services will be the sole responsibility of the CIEBD.

9. Training and Critical Incident Stress Management Services as described below:

a. **Training** – CuraLinc provides a comprehensive array of customized workshops and personal development modules designed to make employees more effective and to amplify the

availability of the Program. CuraLinc will provide onsite or virtual Topical or Benefit Training sessions to CEs, selected from the most current version of CuraLinc's training catalog.

- b. **Critical Incident Stress Management** – Incidents such as workplace violence, robbery, a natural disaster, suicide or a workplace accident can leave employees shocked, distracted and unable to perform their job effectively. Even non-violent acts, such as the natural death of an employee, spouse or child, can be temporarily debilitating. CISM services are offered to CEs following these traumatic events.
  - i. **Level I (Referral):** CuraLinc will provide unlimited telephonic consultation to Company and to CEs, as well as distribution of educational materials and program flyers for all impacted CEs. CEs (and, if applicable, family members) have around-the-clock access to the Program for in-the-moment support, if necessary. *Level I responses, which do not include onsite resources, are included on an unlimited basis at no additional cost.*
  - ii. **Level II (Onsite Response):** CuraLinc will provide all services included in a Level I response, plus the coordination and delivery of onsite CISM services in the workplace. The purpose of onsite CISM services is to provide impacted CEs (and, if applicable, family members) with an opportunity to discuss their reactions to the event, to provide education and coping skills for managing reactions, and to assist CIEBDs who need additional services with linkage to the most appropriate resources, including the EAP. Onsite Critical Incident Stress Management may be delivered individually or in a group setting. CuraLinc will provide consultation regarding the most clinically appropriate timing, location and modality of services, based on the nature of the event. A written response plan, which outlines the goals and objectives for the response, as well as the plan for follow-up, is provided for all Level II Onsite Response services.
- c. CuraLinc will provide Company with a bank of *two (2) hours* of Topical or Benefit Training, or Level II CISM services, per calendar year at no additional cost. *At additional cost to Company and only at Company's request*, additional in-person Topical or Benefit Training, or Level II CISM services, are available for \$225.00 per hour.
  - i. Additional fees may apply if a Topical or Benefit Training session is not scheduled with CuraLinc at least 45 days before the event.
  - ii. Company will be responsible for the Allocation Value or cost of a Topical or Benefit Training session, or a Level II CISM response, if a notice to cancel is not provided to CuraLinc within 48 hours of the event.
  - iii. If the number of CEs covered by the Program changes by twenty percent (20%) or more from the Employee Count referenced in Appendix A, CuraLinc reserves the right to adjust the aforementioned bank of hours with thirty (30) days' notice to Company.

10. *At additional cost to Company and only at Company's request*, any additional onsite services will be provided for \$225.00 per hour.

#### IV. WARRANTIES AND REPRESENTATIONS

CuraLinc represents and warrants that: (i) CuraLinc is and will remain a company duly organized, validly existing and in good standing under the laws of its jurisdiction of organization; (ii) those providing Covered Services on CuraLinc's behalf (including, but not limited to, employees and permitted subcontractors) shall have the proper skill, training and experience to provide Covered Services, and must be subject to binding written confidentiality agreements with CuraLinc under which they shall hold Company's confidential information and CIEBD's Personal Health Information (PHI) in strict confidence; and (iii) CuraLinc will perform all Covered Services with requisite care, skill and diligence, in accordance with all applicable laws, rules, regulations, orders and industry best standards. These warranties are in lieu of all other warranties, including all warranties or merchantability, fitness for particular purpose or other warranties, express or implied.

#### V. INDEMNIFICATION

Each party shall defend, indemnify and hold the other party harmless from and against any loss or damage (including reasonable attorneys' fees) to the extent incurred in connection with any actions or claims made or brought by a third party against the indemnified party alleging: (i) negligence, recklessness or willful misconduct on the part of the indemnifying party; (ii) the failure of the indemnifying party to comply with applicable laws, rules or regulations; or (iii) any breach of this Agreement by the indemnifying party.

The indemnified party shall give prompt written notice of any such claim to the indemnifying party, give the indemnifying party the opportunity to solely control, defend and resolve such claim and provide reasonable information and assistance to the defense and resolution such claim. This section shall survive any expiration or termination of this Agreement.

#### VI. PAYMENT

**In Consideration** for the above-mentioned services, Company agrees to pay CuraLinc a sum of **three dollars and ten cents (\$3.10)** per non-fire and non-police Covered Employee per month, based on the Employee Count referenced in Appendix A. Company agrees to pay CuraLinc a sum of **sixteen dollars and zero cents (\$16.00)** per fire and police Covered Employee per month, based on the Employee Count referenced in Appendix A. **The aforementioned price(s) will be guaranteed to the Company until September 30, 2025.**

The Program will be invoiced on a quarterly basis, thirty (30) days in advance of the first day of the quarter. The fee for the Program shall be calculated based upon the number of Covered Employees designated as eligible as of the start of each period. Payment is due by the first day of the billing period. A finance charge of 2.0% of unpaid invoices will be assessed each month for any amounts that are not the subject of a good faith dispute and are unpaid past the due date. If this Agreement terminates for any reason prior to the expiration of a period for which Company has paid the aforementioned fees, then CuraLinc shall refund to Company that portion of the fees that relate to the unexpired portion of the period.

If, at any time, the number of Covered Employees eligible for the Program varies from the Employee Count referenced in Appendix A by twenty percent (20%) or more, CuraLinc reserves the right to adjust the aforementioned price for the Program with thirty (30) days' notice to Company.



After the Initial Term, CuraLinc may impose a three percent (3%) increase to the pricing set forth in this Agreement by providing Company with written notice of its intent to do so no later than one hundred and twenty (120) days prior to the first day of the subsequent term. CuraLinc may impose similar increases for each successive renewal period by providing Company with written notice of its intent to do so no later than one hundred and twenty (120) days prior to the first day of the subsequent term.

## VII. ADDITIONAL TERMS AND CONDITIONS

1. **Entire Agreement.** This Agreement constitutes the entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, oral or written, with respect to the subject matter of this Agreement. No change, modification, addition or amendment of this Agreement shall be enforceable unless in writing and signed by the party against whom enforcement is sought.
2. **Severability.** To the extent that any one or more of the provisions of this Agreement shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Agreement shall not in any way be affected or impaired thereby.
3. **Headings.** The headings and captions of this Agreement have been included solely for convenience of reference and shall in no way define, limit or describe any of the provisions of this Agreement.
4. **Intellectual Property.** The Covered Services and all other materials provided by CuraLinc hereunder, including, but not limited to, all manuals, reports, records, programs, data and other materials, and all intellectual property rights in each of the foregoing, are the exclusive property of CuraLinc and its suppliers. The trademarks, service marks, logos and product and service names of CuraLinc are trademarks of CuraLinc (the "CuraLinc Marks"). Company agrees not to display or use the CuraLinc Marks in any manner inconsistent with the purpose and intent of this Agreement.
5. **Eligibility.** Company agrees that it will not knowingly permit any ineligible party to use the Covered Services, other than users authorized by CuraLinc.
6. **Jurisdiction and Choice of Law.** This Agreement shall be deemed to have been made in and shall be construed pursuant to the laws of the State of Idaho without regard to conflicts of laws provisions thereof.
7. **Waiver.** The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver of any such provision, or prevent such party thereafter from enforcing such provision or any other provision of this Agreement.
8. **Attorneys' Fees.** If any legal action, arbitration, or any other proceeding is brought for the interpretation or enforcement of this Agreement because of any alleged dispute, breach, default or misrepresentation in connection with any provision of this Agreement, the prevailing party shall be entitled to recover from the other party the prevailing party's reasonable attorneys' and accounting fees and costs incurred in such proceeding, together with any other relief to which the prevailing party may be entitled.
9. **Notice.** Proper notice to each party as often required by this Agreement means delivery by U.S. mail or by facsimile. Delivery is considered to be made on the date that such correspondence is placed in

the postbox and addressed to the party on the address set forth on the first page of this Agreement in the case of U.S. Mail, or as of the date of transmission in the case of facsimile.

- 10. **No Presumption Against Drafting Party.** This Agreement shall not be construed or interpreted for or against either Party because said Party drafted any of its provisions.
- 11. **Assignability.** This Agreement may be assigned by CuraLinc with written notice to Company, but in no case shall assignment change the terms of the Agreement. The Agreement shall be binding upon the Company's heirs, successors and assigns.
- 12. **Confidentiality of Terms.** Company agrees not to disclose the contents of this Agreement to any other person or entity without first receiving express written consent of CuraLinc. This Agreement shall not be filed with any court and shall remain confidential except in an action to enforce or for breach of the Agreement.

*IN WITNESS WHEREOF*, the parties hereto have executed this agreement between Company and CuraLinc on the day and year first above written.

City of Pocatello

CuraLinc, LLC (d.b.a. CuraLinc Healthcare)

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

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

Brian C. Blad  
Its: Mayor

Sean Fogarty

Its: President and Chief Executive Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**APPENDIX A  
COVERED EMPLOYEE HEADCOUNT**

As of the Effective Date, the number of Covered Employees eligible for the Program (the “Employee Count”) is as follows:

Covered Employees (non-fire & non-police): 331

Covered Employees (fire & police): 206

**United States Combined Total of Covered Employees: 537**