

## AGREEMENT

This Agreement made this \_\_\_\_\_ day of \_\_\_\_\_, 2003, by and between Dr. Bruce Cappo, Ph.D. of Clinical Associates, P.A., located at 7315 Frontage Road, Suite 110, Shawnee Mission, Kansas, hereinafter referred to as “Dr. Cappo,” and the City of Overland Park, Kansas, a municipal corporation and City in the first class, located at 8500 Antioch, Overland Park, Kansas, hereinafter referred to as “City.”

The parties to this Agreement, in consideration of the mutual covenants and stipulations set out herein, agree as follows:

1. Psychological Services. Dr. Cappo shall provide the following psychological services on an as needed basis to the City of Overland Park, Kansas Police Department, hereinafter referred to as “Police Department”:
  - a. Pre-employment psychological examinations with written reports for police officers, reserve officers and communication officer candidates, as well as any other individual referred for such examinations by the Police Department. All pre-employment psychological examinations shall be conducted post-job offer and shall include written reports that satisfy the City’s requirements pursuant to the Americans with Disabilities Act.
  - b. Re-testing of candidates for pre-employment psychological examinations with written reports.
  - c. Critical incident debriefings for officers who have been involved in critical incidents involving high stress, to include shooting incidents and other incidents as determined by the Chief of Police.
  - d. Fitness for duty evaluations for Police Department personnel as directed by the Chief of Police.
  - e. At the request of the Police Department, Dr. Cappo may provide services in addition to those described herein. Dr. Cappo will be compensated at the hourly rate set forth in paragraph 4 for those additional services.
2. City’s reliance on Dr. Cappo’s professional expertise. The parties agree that the City is relying on Dr. Cappo’s professional expertise in the area of psychological services to make important decisions relating to the operation of the Police Department.
3. Services to be requested as needed by the Police Department. The parties agree and understand that all services rendered by Dr. Cappo pursuant to this Agreement shall be on an as needed basis and solely at the request of the Police Department.

4. Consideration. In consideration of psychological services set forth in paragraph 1 (a) and (b), the City shall pay Dr. Cappo six hundred and 00/100 dollars (\$600.00) for each pre-employment psychological examination for the position of police officer or reserve officer, and four hundred fifty and 00/100 dollars (\$450.00) for all other pre-employment psychological examinations. The City shall pay Dr. Cappo at the rate of one hundred fifteen and 00/100 dollars (\$115.00) per hour for all other services performed at the request of the Police Department. Portions of an hour shall be pro-rated to the nearest fifteen minutes. The parties agree that Dr. Cappo shall only receive payment for those hours or portions of hours actually worked. Dr. Cappo shall provide a detailed billing statement for all services rendered to the City.
5. Services requested by the Police Department. Dr. Cappo agrees and understands that the professional services rendered pursuant to this Agreement are requested by the Police Department and all counseling, findings and opinions, whether written or otherwise, shall be communicated to the Police Department as the Department requests it, subject to the confidentiality limitations of the Americans with Disabilities Act.
6. Terms of Agreement. The term of this Agreement shall be one (1) year from the date of execution of this document.
7. Right of termination. Either party has a right to terminate this Agreement with or without cause by giving thirty (30) days prior written notice to the other party. The City may terminate this Agreement at any time should Dr. Cappo fail to fulfill the obligations set forth in this Agreement.
8. Agreement not exclusive. This Agreement is not an exclusive agreement for services between the parties. The Police Department has an absolute right to use or seek psychological services from anyone at any time. In addition, the Police Department has an absolute right to have any work performed by Dr. Cappo reviewed by anyone it chooses.
9. Insurance. Dr. Cappo shall secure and maintain throughout the duration of this Agreement, insurance of such types and in at least such amounts as set forth herein. Professional liability insurance must be maintained for a period of no less than two (2) years after the term of this Agreement. Dr. Cappo shall provide certificates of insurance and renewals thereof to the City. The City shall be notified by receipt of written notice from the insurer at least thirty (30) days prior to material modification or cancellation of any policy listed on the Certificate. All insurance coverages and forms are subject to the approval of the City and can be rejected if deemed unacceptable.

Commercial General Liability (Occurrence)

Limits –

General Aggregate: \$500,000.00

Personal and Advertising Injury	\$500,000.00
Each Occurrence:	\$500,000.00

Professional Liability (Claims Made)

Limits –

Each Wrongful Act:	\$1,000,000.00
Aggregate:	\$1,000,000.00

10. Non-discrimination. Dr. Cappel shall observe the provisions of the Kansas Act Against Discrimination and all federal laws concerning discrimination, to include the specific requirements set forth in Appendix A attached hereto and incorporated by reference herein, and shall not discriminate against any person in the performance of work under this Agreement because of race, religion, sex, physical disability, national origin or ancestry. If Dr. Cappel violates the provisions of the Kansas Act Against Discrimination, federal laws or the provisions of this paragraph, he shall be deemed to have breached the conditions of this Agreement and as a result the City may cancel, terminate or suspend the Agreement, in whole or part.
11. Non-Assignment. Dr. Cappel agrees not to assign or transfer the responsibilities of this Agreement without the permission of the Police Department.
12. Performance of services by Dr. Cappel. Dr. Cappel agrees that he shall perform the professional services personally and that he shall not utilize other professionals or staff to perform services unless agreed to in writing by the Police Department.
13. Hold harmless. Dr. Cappel agrees to defend, indemnify and hold harmless the Police Department, the City of Overland Park and its agents and/or employees from any and all claims, settlements and judgments for personal injury, property damage, death or any other cause of action arising out of the services rendered pursuant to this Agreement. Neither acceptance of the completed work nor payment therefore shall be a release from Dr. Cappel's obligation under this paragraph.
14. Independent contractor. In no event, while performing the obligations under this Agreement, shall Dr. Cappel be authorized to act as an employee of the City, but shall for all purposes be deemed an independent contractor in his relation to the City.
15. Entire Agreement. This Agreement contains the entire agreement between the parties, and no statements, promises, or inducements made by either party or agent of either party that are not contained herein shall be valid or binding.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

CITY OF OVERLAND PARK, KANSAS

By \_\_\_\_\_  
Ed Eilert, Mayor

ATTEST:

\_\_\_\_\_  
Marian Cook  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Tammy M. Owens  
Assistant City Attorney II

Bruce Michael Cappo, Ph.D.  
Clinical Associated, P.A.

\_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Notary Public

My commission Expires:

\_\_\_\_\_

## APPENDIX A

Dr. Cappo agrees that:

1. He shall observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, national origin, ancestry or age;
2. In all solicitations or advertisements for employees, he shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission (Commission);
3. If he fails to comply with the manner in which he reports to the Commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, he shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the contracting agency;
4. If he is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the commission which has become final, he shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the contracting agency; and
5. He shall include the provisions of paragraphs (1) through (4) above in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.
6. He further agrees that he shall abide by the Kansas Age Discrimination In Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 1201 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this project and to furnish any certification required by any federal, state or local laws, ordinances and regulations applicable to this project and to furnish any certification required by any federal, state or local governmental agency in connection therewith.