



**STATE OF COLORADO
DEPARTMENT OF HUMAN SERVICES
INTERGOVERNMENTAL AGREEMENT**

SIGNATURE AND COVER PAGES

<p>CMS #: 179120</p>	<p>eClearance#: 2218304</p>
<p>State Agency Colorado Department of Human Services Community Partnerships</p>	<p>County Boulder County Housing & Human Services</p>
<p>Contract Maximum Amount Initial Term Perpetual</p> <p>Maximum Amount for All Fiscal Years See Exhibit A</p>	<p>Agreement Performance Beginning Date The later of the Effective Date or November 1, 2022.</p> <p>Initial Agreement Expiration Date The oldest expiration date of both Leased Computing Asset Supplier Vendor and Leasing/Financing Vendor agreements. If either Leased Computing Asset Supplier Vendor or Leasing/Financing Vendor agreement is in effect, this Agreement is in effect.</p> <p>The total duration of this Agreement shall be perpetual unless either Party terminates this Agreement.</p>
<p>[This Space Intentionally Left Blank]</p>	<p>Options</p> <p>The State shall have the following options if indicated with “Yes,” as further described in §2.C and §5.B.v: Option to Extend Term per §2.C: N/A Option to Increase or Decrease Maximum Amount per §5.B.v: Yes</p>



Authorized State Representative	Authorized County Representative
Insert State Representative Name, Title, Department, Address, Phone, and Email	Insert County Representative Name, Title, Address, Phone, and Email
	Marta Loachamin Chair, Boulder County Commissioner

Exhibits
The following Exhibits are attached and incorporated into this Agreement:
Exhibit A - Statement of Work - County HP IGA

Agreement Purpose
The Parties are entering into this Agreement to establish a consistent procedure to extend to Colorado counties more control over their financial budget to lease computing equipment, software, service, and accessories (Leased Computing Assets) through Colorado Department of Human Services (CDHS), the Department of Personnel and Administration (DPA), Office of Information Technology (OIT), Leasing/Finance Vendor, and/or Leased Computing Asset Supplier Vendor; and to extend more control to Colorado counties over their Leased Computing Assets. This Agreement establishes Party understanding of the processes the Parties will engage in to lease, maintain, dispose of, and buyout (own) Leased Computing Assets.

Signature Page Begins on Next Page

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THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

Each person signing this Agreement represents and warrants that he or she is duly authorized to execute this Agreement and to bind the Party authorizing his or her signature.

<p align="center">COUNTY</p> <p>Insert County's Full Legal Name, including "Inc.", "LLC", etc...</p> <p align="center">County of Boulder, State of Colorado</p> <hr/> <p>By: Name & Title of Person Signing for <u>Boulder</u> County</p> <p align="center">Marta Loachamin Chair, Boulder County Commissioner</p> <p>Date: _____</p>	<p align="center">STATE OF COLORADO</p> <p align="center">Jared S. Polis, Governor Department of Human Services Michelle Barnes, Executive Director</p> <hr/> <p>By: Name & Title of Person Signing for CDHS</p> <p align="center">Date: _____</p>
<p>2nd State or County Signature if Needed</p> <hr/> <p>By: Name & Title of Person Signing for Signatory</p> <p align="center">Cecilia Lacey Clerk of Board Boulder County</p> <p>Date: _____</p>	<p align="center">LEGAL REVIEW</p> <p align="center">Philip J. Weiser, Attorney General</p> <p>By: _____ N/A _____</p> <p align="center">Assistant Attorney General</p> <p>Date: _____ N/A _____</p>
<p align="center">In accordance with §24-30-202 C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p align="center">STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p align="center">By: _____ Andrea Eurich /Toni Williamson</p> <p align="center">Effective Date: _____</p>	



-- Signature and Cover Pages End --

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1. PARTIES

This Agreement is entered into by and between the County named on the Signature and Cover Pages for this Agreement (the “County”), and the STATE OF COLORADO acting by and through the Colorado Department of Human Services (the “State” or “CDHS”). County and the State agree to the terms and conditions in this Agreement.

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Agreement shall not be valid or enforceable until the Effective Date. The State shall not be bound by any provision of this Agreement before the Effective Date and shall have no obligation to pay County for any Work performed or expense incurred before the Effective Date or after the expiration or sooner termination of this Agreement.

B. Initial Term

The Parties' respective performances under this Agreement shall commence on the Agreement Performance Beginning Date shown on the Signature and Cover Pages for this Agreement and shall terminate on the Initial Agreement Expiration Date shown on the Signature and Cover Pages for this Agreement (the "Initial Term") unless sooner terminated or further extended in accordance with the terms of this Agreement.

C. Extension Terms - State's Option

If the Signature and Cover Pages for this Agreement shows that the State has the Option to Extend Term, then the State, at its discretion, shall have the option to extend the performance under this Agreement beyond the Initial Term for a period, or for successive periods, at the same rates and under the same terms specified in the Agreement (each such period an "Extension Term"). In order to exercise this option, the State shall provide written notice to County. The State may include and incorporate a revised budget, as long as the revised budget does not unilaterally change rates or terms specified in the Agreement. Except as stated in §2.D, the total duration of this Agreement, including the exercise of any options to extend, shall not exceed 5 years from its Performance Beginning Date, or the number of years specified on the Signature and Cover Pages if such number is less than 5 years, absent prior approval from the Chief Procurement Officer in accordance with the Colorado Procurement Code.

D. End of Term Extension

If this Agreement approaches the end of its Initial Term, or any Extension Term then in place, the State, at its discretion, upon written notice to County as provided in §15, may unilaterally extend such Initial Term or Extension Term for a period not to exceed 2 months (an "End of Term Extension" or "Holdover"), regardless of whether additional Extension Terms are available or not. Any such extension shall be under the same terms and conditions of the operative Agreement including, but not limited to, prices, rates, and service delivery requirements. The provisions of this Agreement in effect when such notice is given shall remain in effect during the End of Term Extension. The End of Term Extension shall automatically terminate upon execution of a replacement contract or modification extending the total term of the Agreement.

E. Early Termination in the Public Interest

Both Parties are entering into this Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Agreement ceases to further the public interest of the State, the State, in its discretion, may terminate this



Agreement in whole or in part. The County may terminate this Agreement in whole and must pay its financial obligation to the State, in accordance with the Exhibits to this Agreement. A determination that this Agreement should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. This subsection shall not apply to a termination of this Agreement by the State for breach by County, which shall be governed by §12.A.i.

i. Method and Content

The State shall notify County of such termination in accordance with §15. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Agreement, and shall include, to the extent practicable, the public interest justification for the termination.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, County shall be subject to the rights and obligations set forth in §12.A.i.a.

iii. Payments

If the State terminates this Agreement in the public interest, the County shall pay the State the amounts established in the Exhibits of this Agreement.

3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

A. “Agreement” means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto. For purposes of clarification and the removal of any doubt, subject to any future modifications thereto, the Signature and Cover Pages and Sections 1 through 21, as identified in the Table of Contents herein above, shall constitute the “main body” of this Agreement exclusively.

B. “Agreement Funds” means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the County under this Agreement.

C. “Allocation” means the funds the State apportions to each County that participates in the Leased Computer Asset process so Counties may acquire Leased Computing Assets through the State lease program. Counties may not exceed their apportioned amount when selecting a quantity of Leased Computer Assets.

D. “Breach of Agreement” means the failure of a Party to perform any of its obligations in accordance with this Agreement, in whole or in part or in a timely or satisfactory



manner. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against County, or the appointment of a receiver or similar officer for County or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach. If County is debarred or suspended under §24-109-105, C.R.S. at any time during the term of this Agreement, then such debarment or suspension shall constitute a breach.

E. “Business Day” means any day other than Saturday, Sunday, or a Legal Holiday as listed in §24-11-101(1) C.R.S.

F. “Buyout Fee” mean all amounts owed by County to a Leasing/Financing Vendor for the Leased Computing Assets for which it received a buyout agreement to buy the Leased Computer Assets. F. “Chief Procurement Officer” means the individual to whom the Executive Director has delegated his or her authority pursuant to §24-102-202(6), C.R.S. to procure or supervise the procurement of all supplies and services needed by the state.

G. “CJI” means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended and all Criminal Justice Records as defined under 24-72-302 C.R.S.

H. “Computer Lease” means the agreement entered into by State to deliver certain identified Leased Computing Assets from a Leased Computing Asset Supplier Vendor and pay a lease fee to a Leasing/Financing Vendor. Also known as the Lease Schedule.

I. “CORA” means the Colorado Open Records Act, §§24-72-200.1 et. seq., C.R.S.

J. “County Refresh” or “County Original” means one of three annual periods where Leased Computing Assets may be re-ordered. The three periods are for CMBS original Leased Computing Assets, CMBS Refresh Leased Computing Assets, and CYF Leased Computing Assets.

K. “De-installation” means sanitization/wipe of HDD, removing all Leased Computing Assets from site.

L. “Delivery” means transporting all Leased Computing Assets to designated location according to County location. Does not include - unboxing and removal of empty boxes.

M. “End of Term Extension” means the time period defined in §2.D.

N. “Effective Date” means the date on which this Agreement is approved and signed by the Colorado State Controller or designee, as shown on the Signature Page for this Agreement. If this Agreement is for a Major Information Technology Project, as defined in



§24-37.5-102(2.6), then Effective Date of this Agreement shall be the later of the date on which this Agreement is approved and signed by the State’s Chief Information Officer or authorized delegate or the date on which this Agreement is approved and signed by the State Controller or authorized delegate, as shown on the Signature and Cover Page for this Agreement.

O. “Exhibits” means the exhibits and attachments included with this Agreement as shown on the Signature and Cover Pages for this Agreement.

P. “Extension Term” means the time period defined in §2.C. Q. “Goods” means any movable material acquired, produced, or delivered by State as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by State, or on behalf of State, in connection with the Services.

R. “Imaging” means installation of County provided hard drive image. Update Bios/firmware to current versions.

S. “Incident” means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401, et. seq., C.R.S. Incidents include, without limitation, (i) successful attempts to gain unauthorized access to a State system or State Records regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State’s knowledge, instruction, or consent.

T. “Initial Term” means the time period defined in §2.B.

U. “Installation” means all Leased Computing Assets will be unboxed/staged, and the trash will be removed by the Leased Computing Asset Supplier Vendor or its subcontractors; and data will be migrated, ensure network connectivity, printer capability, and end-user acceptance.

V. “Lease Buyout” means for lost, stolen, broken, and retained County Leased Computing Asset, County shall obtain a buyout agreement from either the Leased Computing Asset Supplier Vendor or Leasing/Financing Vendor which will contain identifying information for buyout device(s), such as a serial number, if applicable, and a purchase/buyout price, of which County shall pay either the Leased Computing Asset Supplier Vendor or Leasing/Financing Vendor directly.

W. “Lease Period” means the lease period stated on the Lease Schedule, typically a three-year term.



X. “Lease Schedule” means the agreement entered into by State to deliver certain identified Leased Computing Assets from a Leased Computing Asset Supplier Vendor and pay a lease fee to a Leasing/Financing Vendor. Also known as the Computer Lease.

Y. “Leased Computing Asset” means computing equipment including but not limited to desktops, laptops, tablets; computing accessories, software, and service level agreement leased by County.

Z. “Leased Computing Asset Vendor” means the contractor engaged by State to deliver, directly or through a subcontractor, Leased Computing Assets to County. The Service Level Agreement selected by the County will dictate after-delivery-service performed by the Leased Computing Asset Vendor, or its subcontractors.

AA. “Leasing/Finance Vendor” means the contractor engaged by State to implement and operationalize the financing component of the Leased Computing Asset transaction. BB. “Option 2 County” means This option is intended for a County that does not have any information technology department or staff. The State will be responsible for infrastructure installation and support of the leased equipment in its entirety; this may include the following: servers, routers, laptops, desktops, and other hardware; and connectivity to the Colorado State Network (CSN) using leased data communications circuit(s).

BB. “Option 3 County” means This option is intended for a County that employs an Information Technology (IT) staff on-site who will perform all DHS state access duties in compliance with OIT and CDHS standards and procedures. The State recognizes that the County has made a substantial investment in significant and valuable resources that will be used for the support of this infrastructure. As such, the State agrees to cooperate with the County towards reasonable and secure use of County-created applications and services.

Under Option 3, the County may elect to designate a single point of contact for the leased infrastructure in the County, or the County may elect to designate more than one individual. The name(s) and contact information of that individual(s) will be communicated to the State and Identity & Access Management in order to ensure seamless communication. An Option 3 County, as defined, has an existing County-owned Network as its infrastructure support solution. This option provides the County with a significant amount of responsibility for the support of the installed infrastructure.

The State will only be responsible for any leased equipment including routers, computers, and connectivity to the State-Wide Area Network using the leased data communications circuit(s). The County will be responsible for the County-owned network equipment, and for managing the County Help Desk to provide support to the Core Application end-users.

CC. “Party” means the State or County, and “Parties” means both the State and County.



DD. “PCI” means payment card information including any data related to credit card holders’ names, credit card numbers, or the other credit card information as may be protected by state or federal law.

EE. “PII” means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §24-72-501 and 24-73-101, C.R.S.

FF. “PHI” means any individually identifiable health information, transmitted or maintained in electronic or any form or medium, including but not limited to demographic information,, (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI includes, but is not limited to, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act.

GG. “Service Level Options” means the Delivery, Imaging, Installation and/or De-installation services options available through the lease process. Each Leased Computing Asset will also select a Service Level Option when selecting which. Service Level Options are either Service Level Option 1, Service Level Option 2, or Service Level Option 3.S. “Service Level Option 1” means delivery and de-installation.

HH. “Service Level Option 2” means Delivery, Imaging, De-installation. Transporting all equipment including peripheral to designated location by County. Does not include – unboxing and removal of empty boxes. All assets will be imaged using County provided image. The Leased Computing Asset Supplier Vendor will update Bios/firmware to current. De-installation of old equipment, sanitization/wipe of HDD, removing all equipment, peripherals from site..

II. “Service Level Option 3” means Delivery, Imaging, Installation, De-installation. Transporting all equipment including peripheral to designated location by County. All Leased Computing Assets will be unboxed/staged, and the trash will be removed by the Leased Computing Asset Supplier Vendor. All assets will be imaged using County provided image. The Leased Computing Asset Supplier Vendor will update Bios/firmware to current. The Leased Computing Asset Supplier Vendor will install new equipment per process: indues – data



migration, network connectivity, printer capability, and end user acceptance. De-installation of old equipment, sanitization/wipe of HDD, removing all equipment, peripherals from site..

JJ. “Services” means the services to be performed by State as set forth in this Agreement and shall include any services to be rendered by State in connection with the Goods.

KK. “State Confidential Information” means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII, PHI, PCI, Tax Information, CJI, Educational Records, Substance Use Disorder Information, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by either Party to the other Party of this Agreement which (i) is subject to disclosure pursuant to CORA; (ii) is already known to either Party without restrictions at the time of its disclosure to either Party; (iii) is or subsequently becomes publicly available without breach of any obligation owed by either Party; (iv) is disclosed to either Party, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.

LL. “State Fiscal Rules” means that fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.

MM. “State Fiscal Year” means a 12-month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.

NN. “State Records” means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.

OO. “Subcontractor” means third parties, if any, engaged by either Party or Leased Computing Asset Supplier Vendor or Leasing/Finance Vendor to aid in performance of the Work.

PP. “Tax Information” means federal and State of Colorado tax information including, without limitation, federal and State tax returns, return information, and such other tax-related information as may be protected by federal and State law and regulation. Tax Information includes, but is not limited to, all information defined as federal tax information in Internal Revenue Service Publication 1075.

QQ. “Work” means the Goods delivered and Services performed pursuant to this Agreement and Exhibits.

RR. “Work Product” means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents,



text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

Any other term used in this Agreement that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

4. STATEMENT OF WORK

Both Parties shall complete the Work as described in this Agreement and in accordance with the provisions of the Exhibits. The Parties shall have no liability to compensate Parties for the delivery of any goods or the performance of any services that are not specifically set forth in this Agreement.

5. PAYMENTS TO CONTRACTOR

A. Maximum Amount

Payments to either Party are limited to the amounts established in the Exhibits of this Agreement.

B. Payment Procedures

i. Invoices and Payment

a. The County shall pay State in the amounts and in accordance with the Exhibits.

b. State shall initiate payment requests by invoice to the County, in a form and manner approved by the State. Invoicing is a material component of Agreement performance and corresponding Deliverables. Invoices shall be due to the County within 45 days of work performed by the State, unless otherwise stated in the Exhibits hereto. Invoicing shall be done accurately and per any specifications set forth in the Exhibits hereto. Time is of the essence in this regard. If State fails to timely and/or properly invoice the County, the County may not be obligated to pay the bill resulting from said invoice. Failure to timely and/or properly invoice the County is a material breach of this Agreement which would be cause for the County to refuse payment and/or terminate the contract on these grounds in whole or in part, at the County’s discretion.

c. The County shall pay each invoice within 45 days following the County’s receipt of that invoice, so long as the amount invoiced correctly represents Work completed by State and previously accepted by the County during the term that the invoice



covers. If the County determines that the amount of any invoice is not correct, then State shall make all changes necessary to correct that invoice.

d. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Agreement.

ii. Interest

Amounts not paid by the County within 45 days of the County's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th day at the rate of 1% per month, as required by §24-30-202(24)(a), C.R.S., until paid in full; provided, however, that interest shall not accrue on unpaid amounts that the County disputes in writing. State shall invoice the County separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of day's interest to be paid and the interest rate.

iii. Payment Disputes

If State disputes any calculation, determination or amount of any payment, State shall notify the County in writing of its dispute within 30 days following the earlier to occur of State's receipt of the payment or notification of the determination or calculation of the payment by the County. The County will review the information presented by State and may make changes to its determination based on this review. The calculation, determination, or payment amount that results from the County's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the County has concluded its review, and the County shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iv. Available Funds-Contingency-Termination

The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to County or State established Allocation for County beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Agreement Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Agreement Funds, the State's obligation to pay County or to establish an Allocation for County shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Agreement Funds, and the State's liability for such payments shall be limited to the amount remaining of such Agreement Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of



termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in §2.E.

v. Option to Increase Maximum Amount

If the Signature and Cover Pages for this Agreement show that the State has the Option to Increase or Decrease Maximum Amount, then the State, at its discretion, shall have the option to increase or decrease the statewide quantity of Goods and Services based upon the rates established in this Agreement, and increase or decrease the maximum amount payable accordingly. In order to exercise this option, the State shall provide written notice to County. Delivery of Goods and performance of Services shall continue at the same rates and terms as described in this Agreement. The State may include and incorporate a revised budget, as long as the revised budget does not unilaterally change rates or terms specified in the Agreement.

6. REPORTING - NOTIFICATION

A. Litigation Reporting

If County is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect County's ability to perform its obligations under this Agreement, County shall, within 5 days after being served, notify the State of such action and deliver copies of such pleading or document to the State's principal representative identified on the Signature and Cover Pages as provided in §15.

B. Performance Outside the State of Colorado or the United States, §24-102-206 C.R.S.

To the extent not previously disclosed in accordance with §24-102-206, C.R.S., State shall provide written notice to the County, in accordance with §15 and in a form designated by the County, within 20 days following the earlier to occur of State's decision to perform Services outside of the State of Colorado or the United States, or its execution of an agreement with a Subcontractor to perform, Services outside the State of Colorado or the United States. Such notice shall specify the type of Services to be performed outside the State of Colorado or the United States and the reason why it is necessary or advantageous to perform such Services at such location or locations, and such notice shall be a public record. Knowing failure by State to provide notice to the County under this section shall constitute a breach of this Agreement. This section shall not apply if the Agreement Funds include any federal funds.

7. CONTRACTOR RECORDS

A. Maintenance



Both Parties shall maintain a file of all documents, records, communications, notes and other materials relating to the Work (the “Work Records”). Work Records shall include all documents, records, communications, notes and other materials maintained by both Parties that relate to any Work performed by Subcontractors required to ensure proper performance of that Work. Both Parties shall maintain Work Records until the last to occur of: (i) the date 3 years after the date this Agreement expires or is terminated, (ii) final payment under this Agreement is made, (iii) the resolution of any pending Agreement matters, or (iv) if an audit is occurring, or either Party has received notice that an audit is pending, the date such audit is completed and its findings have been resolved (the “Record Retention Period”).

B. Inspection

County shall permit the State, the federal government, and any duly authorized agent of a governmental entity, to audit, inspect, examine, excerpt, copy and transcribe County Records during the Record Retention Period. County shall make County Records available during normal business hours at County’s office or place of business, or at other mutually agreed upon times or locations, upon no fewer than 2 Business Days’ notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State, in its discretion, may monitor County’s performance of its obligations under this Agreement using procedures as determined by the State. The State shall monitor County’s performance in a manner that does not unduly interfere with County’s performance of the Work.

D. Final Audit Report

County shall promptly submit to the State a copy of any final audit report of an audit performed on County’s records that relates to or affects this Agreement or the Work, whether the audit is conducted by County or a third party.

8. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

County shall keep confidential and cause all its Subcontractors to keep confidential, all State Records, unless those state Records are publicly available or subject to disclosure under CORA. County shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Agreement, permitted by law, required by CORA, or approved in writing by the State.



B. Other Entity Access and Nondisclosure Agreements

County may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Agreement. County shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Agreement, and that the nondisclosure provisions are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. County shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions.

C. Use, Security, and Retention

County shall use, hold, and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. County shall provide the State with access, subject to County's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Agreement, County shall return State Records provided to County or destroy such State Records and certify to the State that it has done so, as directed by the State. If County is prevented by law or regulation from returning or destroying State Confidential Information, County warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If County becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless County can establish that none of County or any of its agents, employees, assigns, or Subcontractors are the cause or source of the Incident, County shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, County shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to: developing and implementing a remediation plan that is approved by the State, at no additional cost to the State. The State will seek County input regarding remediation steps. After considering County input, the State may, in its sole discretion and at County's sole expense, require County to engage the services of an independent, qualified, State-approved third party to conduct a security audit. County shall provide the State with the results of such audit and evidence of County's planned remediation in response to any negative findings.



E. Data Protection and Handling

County shall ensure that all State Records and Work Product in the possession of County or any Subcontractors are protected and handled in accordance with the requirements of this Agreement, including the requirements of any Exhibits hereto, at all times.

F. Safeguarding PII

If County or any of its Subcontractors will or may receive PII under this Agreement, County shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. County shall be a “Third-Party Service Provider” as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 et seq., C.R.S.

9. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

County shall not engage in any business or activities or maintain any relationships that conflict in any way with the full performance of the obligations of County under this Agreement. Such a conflict of interest would arise when a County or Subcontractor’s employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Agreement.

B. Apparent Conflicts of Interest

County acknowledges that, with respect to this Agreement, even the appearance of a conflict of interest shall be harmful to the State’s interests. Absent the State’s prior written approval, County shall refrain from any practices, activities or relationships that reasonably appear to conflict with the full performance of County’s obligations under this Agreement.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if County is uncertain whether a conflict or the appearance of a conflict has arisen, County shall submit to the State a disclosure statement setting forth the relevant details for the State’s consideration. Failure to promptly submit a disclosure statement or to follow the State’s direction regarding the actual or apparent conflict constitutes a breach of this Agreement.

D. County shall maintain a written conflict of interest policy. County shall provide the written conflict of interest policy to the State upon request.



10. INSURANCE

County shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance, as specified in this section, at all times during the term of this Agreement to the extent that such insurance policies are required as shown on the Signature and Cover Page for this Agreement. All insurance policies required by this Agreement shall be issued by insurance companies as approved by the State. These insurance requirements shall not be construed as caps or limitations on liability.

A. Workers' Compensation

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all County or Subcontractor employees acting within the course and scope of their employment.

B. General Liability

Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- i. \$1,000,000 each occurrence;
- ii. \$1,000,000 general aggregate;
- iii. \$1,000,000 products and completed operations aggregate; and
- iv. \$50,000 any 1 fire.

C. Automobile Liability

Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

D. Protected Information

Liability insurance covering all loss of State Confidential Information, such as PII, PHI, PCI, Tax Information, and CJI, and claims based on alleged violations of privacy rights through improper use or disclosure of protected information with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$2,000,000 general aggregate.



iii. Notwithstanding sections D(i) and (ii) above, if County has State Confidential Information for 10 or fewer individuals or revenues of \$250,000 or less, County shall maintain limits of not less than \$50,000.

iv. Notwithstanding sections D(i) and (ii) above, if County has State Confidential Information for 25 or fewer individuals or revenues of \$500,000 or less, County shall maintain limits of not less than \$100,000.

E. Professional Liability Insurance

Professional liability insurance covering any damages caused by an error, omission, or any negligent act with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$1,000,000 general aggregate.

F. Crime Insurance

Crime insurance including employee dishonesty coverage with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$1,000,000 general aggregate.

G. Cyber/Network Security and Privacy Liability

Liability insurance covering civil, regulatory, and statutory damages, contractual damages, data breach management exposure, and any loss of income or extra expense as a result of actual or alleged breach, violation or infringement of right to privacy, consumer data protection law, confidentiality, or other legal protection for personal information, as well as State Confidential Information with minimum limits as follows:

- i. \$1,000,000 each occurrence; and
- ii. \$2,000,000 general aggregate.

H. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of County and Subcontractors.

I. Primacy of Coverage



Coverage required of County and each Subcontractor shall be primary and noncontributory over any insurance or self-insurance program carried by County or the State.

J. Cancellation

The above insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30-days prior notice to County and County shall forward such notice to the State in accordance with §15 within 7 days of County's receipt of such notice.

K. Subrogation Waiver

All insurance policies secured or maintained by County or its Subcontractors in relation to this Agreement shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against County or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

L. Public Entities

If County is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S. (the "GIA"), County shall maintain, in lieu of the liability insurance requirements stated above, at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. If a Subcontractor is a public entity within the meaning of the GIA, County shall ensure that the Subcontractor always maintains, during the terms of this Agreement, in lieu of the liability insurance requirements stated above, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA.

M. Certificates

County shall provide to the State certificates evidencing County's insurance coverage required in this Agreement upon request by the State following the Effective Date. County shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement upon request by the State following the Effective Date, except that, if County's subcontract is not in effect as of the Effective Date, County shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement upon request by the State following County's execution of the subcontract. Upon request by the State County shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the State, County shall, within 7 Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this section.

11. BREACH OF CONTRACT



In the event of a Breach of Agreement, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the Breach of Agreement, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §12 for that Party. Notwithstanding any provision of this Agreement to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Agreement in whole or in part or institute any other remedy in the Agreement in order to protect the public interest of the State; or if County is debarred or suspended under §24-109-105, C.R.S., the State, in its discretion, need not provide notice or cure period and may terminate this Agreement in whole or in part or institute any other remedy in this Agreement as of the date that the debarment or suspension takes effect.

12. REMEDIES

A. State's Remedies

If County is in breach under any provision of this Agreement and fails to cure such breach, the State, following the notice and cure period set forth in §11, shall have all of the remedies listed in this section in addition to all other remedies set forth in this Agreement or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach

In the event of County's uncured breach, the State may terminate this entire Agreement or any part of this Agreement. County shall continue performance of this Agreement to the extent not terminated, if any.

a. Obligations and Rights

To the extent specified in any termination notice, County shall not incur further obligations or render further performance past the effective date of such notice and shall terminate outstanding orders and subcontracts with third parties. However, County shall complete and deliver to the State all Work not cancelled by the termination notice, and may incur obligations as necessary to do so within this Agreement's terms. At the request of the State, County shall assign to the State all of County's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, County shall take timely, reasonable and necessary action to protect and preserve property in the possession of County but in which the State has an interest. At the State's request, County shall return materials owned by the State in County's possession at the time of any termination. County shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments



Notwithstanding anything to the contrary, the State shall only pay County for overpayment received as of the date of termination. If, after termination by the State, the State agrees that County was not in breach or that County's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Agreement had been terminated in the public interest under §2.E.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, County shall remain liable to the State for any damages sustained by the State in connection with any breach by County, and the State may withhold payment to County for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from County is determined. The State may withhold any amount that may be due County as the State deems necessary to protect the State against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover.

ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance

Suspend County's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling County to an adjustment in price or cost or an adjustment in the performance schedule. County shall promptly cease performing Work and incurring costs in accordance with the State's directive, and the State shall not be liable for costs incurred by County after the suspension of performance.

b. Withhold Delivery of Leased Computing Asset(s)

Withhold delivery of Leased Computing Asset(s) to County until County corrects its payment to the State.

c. Deny Overpayment Reimbursement

Deny overpayment reimbursed to County, provided, that any denial of payment shall be equal to the value of the County overpayment to the State.

d. Intellectual Property

If any Work infringes, or if the State in its sole discretion determines that any Work is likely to infringe, a patent, copyright, trademark, trade secret or other intellectual property right, County shall, as approved by the State, (i) secure that right to use such Work for the State and County; (ii) replace the Work with non-infringing Work or modify the Work so that it becomes



non-infringing; or, (iii) remove any infringing Work and refund the amount paid for such Work to the State.

B. County's Remedies

If the State is in breach of any provision of this Agreement and does not cure such breach, County, following the notice and cure period in §11 and the dispute resolution process in §14, shall have all remedies available at law and equity.

13. STATE'S RIGHT OF REMOVAL

The State shall notify County, at any time, regardless of whether County is in breach, with a recommendation to immediately remove any of County's employees, agents, or subcontractors from the work whom the State, in its sole discretion, deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Agreement is deemed by the State to be contrary to the public interest or the State's best interest.

14. DISPUTE RESOLUTION

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Agreement which cannot be resolved by the designated Agreement representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by County for resolution.

B. Resolution of Controversies

If the initial resolution described in §14.A fails to resolve the dispute within 10 Business Days, County shall submit any alleged breach of this Agreement by the State to the Procurement Official of CDHS as described in §24-101-301(30), C.R.S. for resolution in accordance with the provisions of §§24-106-109 and 24-109-101.1 through 24-109-505, C.R.S., (the "Resolution Statutes"), except that if County wishes to challenge any decision rendered by the Procurement Official, County's challenge shall be an appeal to the Executive Director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before County pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

15. NOTICES AND REPRESENTATIVES

Each individual identified on the Signature and Cover Pages shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing, and shall be delivered (A) by hand with receipt required, (B) by



certified or registered mail to such Party’s principal representative at the address set forth on the Signature and Cover Pages for this Agreement or (C) as an email with read receipt requested to the principal representative at the email address, if any, set forth on the Signature and Cover Pages for this Agreement. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party’s principal representative at the address set forth below. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this section without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.

16. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

County assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product. Whether or not County is under contract with the State at the time, County shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses, and other intellectual property rights related to the Work Product. To the extent that Work Product would fall under the definition of “works made for hire” under 17 U.S.C.S. §101, the Parties intend the Work Product to be a work made for hire.

i. Copyrights

To the extent that the Work Product (or any portion of the Work Product) would not be considered works made for hire under applicable law, County hereby assigns to the State, the entire right, title, and interest in and to copyrights in all Work Product and all works based upon, derived from, or incorporating the Work Product; all copyright applications, registrations, extensions, or renewals relating to all Work Product and all works based upon, derived from, or incorporating the Work Product; and all moral rights or similar rights with respect to the Work Product throughout the world. To the extent that County cannot make any of the assignments required by this section, County hereby grants to the State a perpetual, irrevocable, royalty-free license to use, modify, copy, publish, display, perform, transfer, distribute, sell, and create derivative works of the Work Product and all works based upon, derived from, or incorporating the Work Product by all means and methods and in any format now known or invented in the future. The State may assign and license its rights under this license.

ii. Patents



In addition, County grants to the State (and to recipients of Work Product distributed by or on behalf of the State) a perpetual, worldwide, no-charge, royalty-free, irrevocable patent license to make, have made, use, distribute, sell, offer for sale, import, transfer, and otherwise utilize, operate, modify and propagate the contents of the Work Product. Such license applies only to those patent claims licensable by County that are necessarily infringed by the Work Product alone, or by the combination of the Work Product with anything else used by the State.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Agreement, any pre-existing State Records, State software, research, reports, studies, photographs, negatives or other documents, drawings, models, materials, data and information shall be the exclusive property of the State (collectively, “State Materials”). County shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of County’s obligations in this Agreement without the prior written consent of the State. Upon termination of this Agreement for any reason, County shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of County

County retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to County including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by County under the Agreement, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, “County Property”). County Property shall be licensed to the State as set forth in this Agreement or a State approved license agreement: (i) entered into as exhibits to this Agreement; (ii) obtained by the State from the applicable third-party vendor; or (iii) in the case of open source software, the license terms set forth in the applicable open source license agreement.

17. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to State under this Agreement is \$100,000 or greater, either on the Effective Date or at any time thereafter, this section shall apply. County agrees to be governed by and comply with the provisions of §§24-106-103, 24-102-206, 24-106-106, and 24-106-107, C.R.S. regarding the monitoring of vendor performance and the reporting of contract performance information in the State’s contract management system (“Contract Management System” or “CMS”). County’s performance shall be subject to evaluation and review in accordance with the terms and conditions of this Agreement, Colorado statutes governing CMS, and State Fiscal Rules and State Controller Policies.

18. GENERAL PROVISIONS



A. Assignment

County's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of County's rights and obligations approved by the State shall be subject to the provisions of this Agreement

B. Subcontracts

Unless other restrictions are required elsewhere in this Agreement, County shall not enter into any subcontract in connection with its obligations under this Agreement without providing notice to the State. The State may reject any such subcontract, and County shall terminate any subcontract that is rejected by the State and shall not allow any Subcontractor to perform any Work after that Subcontractor's subcontract has been rejected by the State. County shall submit to the State a copy of each such subcontract upon request by the State. All subcontracts entered into by County in connection with this Agreement shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Agreement.

C. Binding Effect

Except as otherwise provided in §18.A., all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized.

E. Captions and References

The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits, or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts

This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. Entire Understanding



This Agreement represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Agreement. Prior or contemporaneous additions, deletions, or other changes to this Agreement shall not have any force or effect whatsoever, unless embodied herein.

H. Digital Signatures

If any signatory signs this Agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant, and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Agreement by reference.

I. Modification

Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment to this Agreement, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Agreement, other than contract amendments, shall conform to the policies issued by the Colorado State Controller.

J. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Agreement to a statute, regulation, State Fiscal Rule, fiscal policy, or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Agreement.

K. Order of Precedence

In the event of a conflict or inconsistency between this Agreement and any Exhibits or attachments such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

- i. Federal Provisions (if any).
- ii. Colorado Special Provisions in §19 of the main body of this Agreement.
- iii. HIPAA Business Associate Agreement (if any).
- iv. Information Technology Provisions Exhibit (if any).
- v. The provisions of the other sections of the main body of this Agreement.
- vi. Any other Exhibit(s) shall take precedence in alphabetical order.



L. External Terms and Conditions

Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on County's or a Subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Agreement.

M. Severability

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with the intent of the Agreement.

N. Survival of Certain Agreement Terms

Any provision of this Agreement that imposes an obligation on a Party after termination or expiration of the Contract shall survive the termination or expiration of the Agreement and shall be enforceable by the other Party.

O. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), et seq. C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on County. County shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that County may wish to have in place in connection with this Agreement.

P. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in §18.A., this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to the Agreement, and do not create any rights for such third parties.

Q. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall



any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

R. CORA Disclosure

To the extent not prohibited by federal law, this Agreement and the performance measures and standards required under §24-106-107, C.R.S., if any, are subject to public release through the CORA.

S. Standard and Manner of Performance

County shall perform its obligations under this Agreement in accordance with the highest standards of care, skill, and diligence in County’s industry, trade, or profession.

T. Licenses, Permits, and Other Authorizations.

County shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or subcontract, all licenses, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

U. Indemnification

i. Applicability

This entire §18.U does not apply to County if County is a “public entity” within the meaning of the GIA.

ii. General Indemnification

County shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the “Indemnified Parties”), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys’ fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by County, or its employees, agents, Subcontractors, or assignees in connection with this Agreement.

iii. Confidential Information Indemnification

Disclosure or use of State Confidential Information by County in violation of §8 may be cause for legal action by third parties against County, the State, or their respective agents. County shall indemnify, save, and hold harmless the Indemnified Parties, against any and all claims, damages, liabilities, losses, costs, expenses (including attorneys’ fees and costs) incurred by the



State in relation to any act or omission by County, or its employees, agents, assigns, or Subcontractors in violation of §8.

iv. Intellectual Property Indemnification

County shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys' fees and costs) incurred by the Indemnified Parties in relation to any claim that any Work infringes a patent, copyright, trademark, trade secret, or any other intellectual property right.

V. Other

i. Compliance with State and Federal Law, Regulations, & Executive Orders

County shall comply with all State and, if Federal funding is involved, Federal law, regulations, executive orders, State and Federal Awarding Agency policies, procedures, directives, and reporting requirements at all times during the term of this Agreement.

ii. Accessibility

County shall comply with and adhere to Section 508 of the U.S. Rehabilitation Act of 1973, as amended, and §§24-85-101, et seq., C.R.S. County shall comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards and available at <https://www.w3.org/TR/WCAG21/>.

19. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all contracts except where noted in italics.

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This Agreement shall not be valid until it has been approved by the Colorado State Controller or designee. If this Agreement is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this Agreement shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY.



Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State’s risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. INDEPENDENT CONTRACTOR.

County shall perform its duties hereunder as an independent contractor and not as an employee. Neither County nor any agent or employee of County shall be deemed to be an agent or employee of the State. County shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. County and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for County or any of its agents or employees. County shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Agreement. County shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.

E. COMPLIANCE WITH LAW.

County shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. PROHIBITED TERMS.

Any term included in this Agreement that requires the State to indemnify or hold County harmless; requires the State to agree to binding arbitration; limits County’s liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this



provision in any way shall be void ab initio. Nothing in this Agreement shall be construed as a waiver of any provision of §24-106-109, C.R.S.

H. SOFTWARE PIRACY PROHIBITION.

State or other public funds payable under this Agreement shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. County hereby certifies and warrants that, during the term of this Agreement and any extensions, County has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that County is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Agreement, including, without limitation, immediate termination of this Agreement and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Agreement. County has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of County's services and County shall not employ any person having such known interests.

J. VENDOR OFFSET AND ERRONEOUS PAYMENTS. §§24-30-202(1) and 24-30-202.4, C.R.S.

[Not applicable to intergovernmental agreements] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (i) unpaid child support debts or child support arrearages; (ii) unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, et seq., C.R.S.; (iii) unpaid loans due to the Student Loan Division of the Department of Higher Education; (iv) amounts required to be paid to the Unemployment Compensation Fund; and (v) other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to County in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by County by deduction from subsequent payments under this Agreement, deduction from any payment due under any other contracts, grants or agreements between the State and County, or by any other appropriate method for collecting debts owed to the State.

K. PUBLIC CONTRACTS FOR SERVICES. §§8-17.5-101, et seq., C.R.S.



[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] County certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Agreement, through participation in the E-Verify Program or the State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., County shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into a contract with a Subcontractor that fails to certify to County that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. County (i) shall not use E-Verify Program or the program procedures of the Colorado Department of Labor and Employment (“Department Program”) to undertake pre-employment screening of job applicants while this Agreement is being performed, (ii) shall notify the Subcontractor and CDHS within 3 days if County has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Agreement, (iii) shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within 3 days of receiving the notice, and (iv) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and Employment. If County participates in the Department program, County shall deliver to CDHS a written, notarized affirmation, affirming that County has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If County fails to comply with any requirement of this provision or §§8-17.5-101 et seq., C.R.S., CDHS may terminate this Agreement for breach and, if so terminated, County shall be liable for damages.

L. PUBLIC CONTRACTS WITH NATURAL PERSONS. §§24-76.5-101, et seq., C.R.S.

County, if a natural person 18 years of age or older, hereby swears and affirms under penalty of perjury that County (i) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (ii) shall comply with the provisions of §§24-76.5-101 et seq., C.R.S., and (iii) has produced one form of identification required by §24-76.5-103, C.R.S. prior to the Effective Date of this Agreement.

20. DEPARTMENT OF HUMAN SERVICES PROVISIONS

A. Exclusion, Debarment and/or Suspension

County represents and warrants that County, its employees, agents, assigns, or Subcontractors, are not presently excluded from participation, debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded, or otherwise ineligible to participate in a



“federal health care program” as defined in 42 U.S.C. § 1320a-7b(f) or in any other government payment program by any federal or State of Colorado department or agency. If County, its employees, agents, assigns, or Subcontractors, are excluded from participation, or becomes otherwise ineligible to participate in any such program during the term of this Agreement, County shall notify the State in writing within three (3) days after such event. Upon the occurrence of such event, whether or not such notice is given to County, the State may immediately terminate this Agreement.

B. Emergency Planning

If County provides Work that is an extension of State work performed as part of the State of Colorado Emergency Operations Plan or for a publicly funded safety net program, as defined by C.R.S. § 24-33.5-701 et seq., County shall perform the Work in accordance with the State’s Emergency Operations Plan or continuity of operations plan in the event of an emergency. If requested, County shall provide a plan and reporting information to ensure compliance with the State’s Emergency Operations Plan and C.R.S. § 24-33.5-701 et seq.

C. Restrictions on Public Benefits

If applicable, County shall comply with C.R.S. §§ 24-76.5-101 – 103 exactly as the State is required to comply with C.R.S. §§ 24-76.5-101 – 103.

D. Discrimination

County shall not:

- i. discriminate against any person on the basis of race, color, national origin, age, sex, religion or handicap, including Acquired Immune Deficiency Syndrome (AIDS) or AIDS related conditions.
- ii. exclude from participation in, or deny benefits to any qualified individual with a disability, by reason of such disability.

Any person who thinks he/she has been discriminated against as related to the performance of this Agreement has the right to assert a claim, Colorado Civil Rights Division, C.R.S. §24-34-301, et seq.

E. Criminal Background Check

Pursuant to C.R.S. §27-90-111 and CDHS Policy VI-2.4, any independent contractor, and its agent(s), who is designated by the Executive Director or the Executive Director's designee to be a contracting employee under C.R.S. §27-90-111, who has direct contact with vulnerable persons in a state-operated facility, or who provides state-funded services that involve direct contact with vulnerable persons in the vulnerable person's home or residence, shall:



- i. submit to and successfully pass a criminal background check, and
- ii. report any arrests, charges, or summonses for any disqualifying offense as specified by C.R.S. §27-90-111 to the State.

Any County or its agent(s), who does not comply with C.R.S. §27-90-111 and CDHS Policy VI-2.4, may, at the sole discretion of the State, be suspended or terminated.

F. Fraud Policy

County shall comply with the current CDHS Fraud Policy.

G. C-Stat - Performance Based Program Analysis and Management Strategy (C-Stat Strategy)

Without any additional cost to the State, County shall collect and maintain Agreement performance data, as determined solely by the State. Upon request, County shall provide the Agreement performance data to the State. This provision does not allow the State to impose unilateral changes to performance requirements.

H. COVID-19 Pandemic

CDHS operates many facilities across the State and with regard to the COVID-19 Pandemic, County may be subject to local or state public health orders, Department policy, individual facility policy, or any other requirement that could impose additional requirements on the County. If so, County shall promptly comply upon notice.

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