

# Intergovernmental Agreement for GovPrime

This Agreement (the “GovPrime Agreement”) is made by and between the Board of County Commissioners of the County of Arapahoe (“Arapahoe County”) and the Board of County Commissioners of Adams County (the “Subscribing County”), jointly “the Parties,” as of the \_\_\_\_ day of \_\_\_\_\_, 2018.

**WHEREAS**, pursuant to Colorado Constitution, Article XIV, Section 18 and C.R.S. § 29-1-203, Arapahoe County and the Subscribing County have the legal authority to cooperate or contract with each other to provide any function, service, or facility lawfully authorized to each, and any such contract may provide for the sharing of costs, or other matters, for the purposes stated hereinafter; and

**WHEREAS**, Arapahoe County has developed GovPrime to more effectively provide services to its clients; and

**WHEREAS**, it is to the advantage of both Parties and to the health, safety and welfare of the citizens of the respective Parties, for Arapahoe County to provide the GovPrime computing platform and other software applications to Subscribing County, enabling each Party to improve its public services; and

**WHEREAS**, due to the complexity of sharing the GovPrime computing infrastructure (i.e., the platform), an agreement is warranted to cover the intellectual property, governance of the platform, data sharing, security, system and software support, and cost sharing of the platform and applications; and

**WHEREAS**, this GovPrime Agreement shall be considered an intergovernmental cooperation agreement pursuant to C.R.S. § 29-1-203 for the purpose of sharing the listed software applications which shall be available for use by each Party on a cost-sharing basis according to the terms and conditions in this GovPrime Agreement; and

**WHEREAS**, this GovPrime Agreement is entered into pursuant to, inter alia, C.R.S. §§ 29-1-201, et seq., and Colorado Constitution, Article XIV, Section 18.

**NOW, THEREFORE**, for and in consideration of the premises and other good and valuable consideration, the Parties agree as follows:

1. *Purpose of Agreement.* This GovPrime Agreement defines the relationship between Arapahoe County, the provider of the GovPrime computing platform and other software applications, and the Subscribing County.
  - 1.1. The GovPrime platform is a cloud-based computing platform providing Software-as-a-Service (“SaaS”). The GovPrime platform supports various software applications, including, for example, HSConnects.
  - 1.2. The goal of providing the applications within the GovPrime platform is to make software applications available to the Subscribing County for its daily operations at a modest cost by leveraging common applications and the SaaS platform itself.

- 1.3. Arapahoe County may Provision (as defined below) application software on the GovPrime platform for use by the Subscribing County. A Services Agreement, attached to this GovPrime Agreement, will govern the use of any specific software applications Provisioned on the GovPrime platform for the Subscribing County.

## 2. *Definitions.*

- 2.1. *Active Directory Services* means the program that authenticates and authorizes users and computers, including assigning and enforcing security policies (e.g., roles, accesses) for computers, servers and services.
- 2.2. *Billing Start Date.* Billing and invoicing for use of the application software will commence on the Go Live date for the Subscribing County. As set forth in the Statement of Work for Implementation, there may be other costs incurred during the implementation phase.
- 2.3. *Designated Partner* refers to the third party provider of cloud services.
- 2.4. *Data Breach* means the unauthorized access by a non-authorized person(s) that results in the use, disclosure or theft of a Subscribing County's data in the subscribed software application.
- 2.5. *Go Live* is the point in time starting when the Subscribing County receives access to the production environment for active use of the subject application on the GovPrime platform.
- 2.6. *Provision/Provisioning* refers to the preparing of the hosted environment for use by the Subscribing County.
- 2.7. *Services* refers to the GovPrime platform and any software application supported on the GovPrime platform that the Subscribing County elects to use and for which it executes a Services Agreement.
- 2.8. *Software-as-a-Service ("SaaS")* is the capability of providing applications running on a cloud infrastructure to the Subscribing County. The applications are accessible from various client devices through a thin client interface such as a Web browser or a program interface. The Subscribing County does not manage or control the underlying cloud infrastructure, including network, servers, operating systems, storage or even individual application capabilities, except for limited user-specific application configuration settings.
- 2.9. *Subscription* is the grant of the right by Arapahoe County to a Subscribing County to use platform or application software. Such a grant does not include the transfer of ownership of the intellectual property unless a separate agreement between the two counties expressly provides for that transfer.
- 2.10. *Users* refers to the Subscribing County's named users that have a user account which has access to the system of products that are hosted on the GovPrime platform.
  - 2.10.1. *User Accounts* are to be used by a single person, not by a system or automation, and may not be shared between multiple people. A User Account only has to have access to the system to be counted toward the number of Users, regardless of whether they have logged into the system.

### 3. *GovPrime Service.*

- 3.1. GovPrime is a service provided by Arapahoe County to the Subscribing County for the sole purpose of creating a cloud-based platform for serving software applications to the Subscribing County.
- 3.2. The Subscribing County will execute a Services Agreement and a Statement of Work for Implementation Agreement for at least one Provisioned application prior to being granted access to the GovPrime Service. These documents will be developed individually with each Subscribing County. The Statement of Work for Implementation Agreement will govern services during setup and implementation of the selected application service, and the Services Agreement will govern upon Go Live of the selected application service.
- 3.3. As the GovPrime SaaS platform is cloud-based, Arapahoe County will engage with a Designated Partner. The Designated Partner will host the GovPrime platform.
- 3.4. Arapahoe County will confirm that any Designated Partner follows required compliances to maintain the confidentiality and security of the data stored or accessed through the Services. These will include, but are not limited to, Health Insurance Portability and Accountability Act (HIPAA), Personal Identifying Information (PII) and FedRamp compliance protocols. (See Attachment 1 for a list of the compliances provided by the selected cloud provider.) Notwithstanding the foregoing, Arapahoe County will not be liable for any breaches of these protocols caused by the third-party provider.

### 4. *Scope of Services and Software-as-a-Service.*

- 4.1. The GovPrime Service and any applications that run on the GovPrime platform are provided to the Subscribing County by this GovPrime Agreement and accompanying Services Agreement.
- 4.2. Arapahoe County developed the platform and the applications to improve the efficiency of its internal operations. By providing the platform and applications to the Subscribing County, it should be understood that Arapahoe County is not a commercial software vendor. Rather, Arapahoe County, having created the platform and applications and made the investment to develop these specific software packages, is offering them for use by the Subscribing County.
- 4.3. As with nearly all software packages, flaws may become evident during use. Arapahoe County, as a user of the software, is interested in knowing about and providing remedies to these flaws. Any errors and/or flaws should be reported as specified in the Support section of the Services Agreement.
- 4.4. Arapahoe County will implement the GovPrime platform in the cloud, Provisioning a Subscribing County as necessary. Any implementation of the application software will be covered by the Statement of Work for Implementation Agreement.
- 4.5. Arapahoe County shall be the owner of the GovPrime platform and any applications that it Provisions on that platform for the Subscribing County. By virtue of this GovPrime Agreement,

Arapahoe County is licensing the use of the GovPrime platform and any Provisioned applications to the Subscribing County and its Users.

5. *Subscribing County Obligations.*

- 5.1. All access by Users will be the responsibility of the Subscribing County through the use of Active Directory Federated Services.

6. *Term.*

- 6.1. The Term of this GovPrime Agreement shall be in effect for five (5) years, commencing upon the execution of this GovPrime Agreement. At the end of the Term, the Agreement will automatically renew for another five (5) years ("Renewal Term"), unless either Party provides notification of termination at least sixty (60) days prior to the end of the current term, pursuant to paragraph 14.

7. *Termination.*

- 7.1. Arapahoe County and the Subscribing County shall each have the right to terminate this GovPrime Agreement at any time and for any reason, with or without cause, by giving written notice to the other party of such termination and specifying the effective date thereof, which notice shall be given at least the number of days set forth in paragraph 14 below prior to the effective date of such termination.
- 7.2. If all accompanying Service Agreements between the Parties are terminated, then this GovPrime Agreement is correspondingly also terminated at that same time.
- 7.3. Source Code. In the event (1) Arapahoe County terminates the GovPrime Service and any applications that run on the GovPrime platform and ceases to support the GovPrime Service and any applications that run on GovPrime, and (2) Subscribing County wishes to continue use of the GovPrime platform and applications run on the GovPrime platform, Arapahoe County will provide the Subscribing County with the most current version of the source code and explanatory document(s) for the GovPrime Service and any applications using the platform. The Subscribing County shall use the source codes and explanatory document(s) solely for the purpose of continuing to use the GovPrime Service and any applications using the platform.

8. *Compensation.*

- 8.1. Except as indicated otherwise, the compensation rate to be paid by the Subscribing County for using the GovPrime SaaS platform and of using any Provisioned software applications will be specified in each individual Services Agreement and Statement of Work for Implementation Agreement.
- 8.2. In order to cover its costs, Arapahoe County reserves the right to adjust the compensation to be paid by the Subscribing County for use of the Services, to be effective January 1 of the following year. Arapahoe County shall provide the Subscribing County projected pricing of each Provisioned software application for the upcoming fiscal year (January 1 – December 31) by June 1 of the year preceding the change in compensation, so that the Subscribing County can appropriately budget for the upcoming fiscal year.

- 8.3. If there is a change to the compensation level in the upcoming year, the Parties agree that the new compensation rate will automatically go into effect January 1 of the following year, unless a timely notice of termination is provided.
- 8.4. This GovPrime Agreement is automatically terminated on January 1st of the first fiscal year for which funds are not appropriated by the Subscribing County. The Subscribing County shall give Arapahoe County written notice of such non-appropriation.
- 8.5. If the Subscribing County fails to submit timely payment pursuant to this GovPrime Agreement and the Services Agreement(s), Arapahoe County may take any remedial action, including suspending the Subscribing County's access to and use of the GovPrime platform and software applications, and may pursue legal action in court to secure payment.

*9. Protection of Licensed Technology and Proprietary Rights.*

- 9.1. Arapahoe County is the sole owner of the GovPrime platform and any software applications which run on that platform. The ownership of the software, the ability to modify it and the granting of access to the GovPrime platform will be at all times the responsibility of Arapahoe County or its Designated Partner.
- 9.2. The Subscribing County and User are not permitted to use the application software for any purpose other than that specified in the Services Agreement.
- 9.3. The Subscribing County shall not have the right to download the platform or application code from the GovPrime platform for use on any other platform and the Subscribing County and User shall not allow any other person or agency to use the software without the written consent of Arapahoe County.

*10. Confidential Information, Security and Access.*

- 10.1. The GovPrime platform and any applications Provisioned on it are expected to contain confidential data. In order to maintain the confidentiality of this data the following applies:
  - 10.1.1. The GovPrime platform will be hosted in a cloud provider that at a minimum adheres to HIPAA, PII and FedRamp compliance protocols. Other compliance protocols may also be followed.
  - 10.1.2. Arapahoe County will follow commercially reasonable and appropriate administrative, technical and organizational security measures to protect all data at rest and in transit to and from the platform and to safeguard against unauthorized access, disclosure or theft of the Subscribing County's data. This includes any application that is hosted on GovPrime and referenced in this GovPrime Agreement and its subsequent amendments. Subscribing County data will be encrypted when in transit based on the browser used by the Subscribing County. Arapahoe County will designate appropriate browser(s) to be used with the platform so that the Subscribing County can utilize all of the functionality. Within the GovPrime platform and any applications, Subscribing County data will be encrypted at rest, wherever technically possible. Where data is specifically identified as a specific data classification, such as PII or HIPAA, Arapahoe County will establish compensating controls to meet generally accepted or mandated practices.

- 10.1.3. Users must acknowledge the confidential nature of some or all of the data in the GovPrime system and in any of the Provisioned software applications. In accordance with best practices, Subscribing County and its Users are expected to adhere strictly to the HIPAA, PII and FedRamp and other compliance protocols, depending on the data in the system. Subscribing Counties are expected to be familiar with all confidential data handling compliance protocols per federal, state and local laws, and are expected to adhere to generally accepted best practices with data handling. If the Subscribing County is found to be using or accessing data inappropriately, it may lose access to the GovPrime platform and any Provisioned software applications.
- 10.1.4. The Subscribing County is responsible for setting access rights and permissions for each of its Users through Active Directory Services and configuration settings in GovPrime.
- 10.2. Arapahoe County shall not be responsible for the misuse of data by the Subscribing County or any of the costs associated with the Subscribing County not following the prescribed compliance protocols.
- 10.3. Responsibilities in the Event of a Data Breach (See also Section 11.1, Disclaimer of Warranties)
  - 10.3.1. Arapahoe County shall immediately notify the Subscribing County if it reasonably believes there has been a security incident and/or Data Breach affecting Subscribing County's data. Arapahoe County may also need to communicate with outside parties regarding a security incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as mutually agreed upon.
  - 10.3.2. In the case of a Data Breach originating from the Subscribing County, Arapahoe County will provide assistance to the Subscribing County for identification and resolution. However, the Subscribing County will have sole responsibility for any remediation actions necessary as a result of the Data Breach. The parties agree that any associated costs for identifying and resolving such a breach that are incurred by Arapahoe County will be charged to the Subscribing County in conformance with the terms of the Services Agreement, Section 4 (Support).
  - 10.3.3. Arapahoe County shall promptly notify Subscribing County within 24 hours or sooner by telephone and email, unless shorter time is required by applicable law, if it confirms that there is, or reasonably believes that there has been, a Data Breach. Arapahoe County shall (1) cooperate with the Subscribing County as reasonably requested by the Subscribing County to investigate and resolve the Data Breach; (2) promptly implement necessary remedial measures as covered by Arapahoe County's Cyber Liability insurance policy; and (3) document responsive actions taken related to the Data Breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.

## *11. Disclaimer of Warranties and Limitation of Liability.*

### *11.1. Disclaimer of warranties.*

- 11.1.1. THE SERVICES DESCRIBED IN THIS GOVPRIME AGREEMENT AND IN ANY ATTACHED SERVICES AGREEMENT AND STATEMENT OF WORK FOR IMPLEMENTATION AGREEMENT

ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. ARAPAHOE COUNTY EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

11.1.2. ARAPAHOE COUNTY MAKES NO WARRANTY THAT THE SERVICES WILL MEET THE SUBSCRIBING COUNTY'S REQUIREMENTS; THAT THE SERVICES WILL BE UNINTERRUPTED, TIMELY OR ERROR-FREE; NOR DOES IT WARRANT THAT THE RESULTS THAT MAY BE OBTAINED BY THE SERVICES WILL BE ACCURATE OR RELIABLE.

11.1.3. The Subscribing County assumes all risk and responsibility for any damage to its computer systems or loss of data that results from the use of the Services.

11.1.4. Any material or data downloaded or otherwise obtained through the use of the Services is accessed at the Subscribing County's discretion and risk. The Subscribing County assumes all risk and responsibility for any damage to its computer systems or loss of data that results from the downloading of any material through the use of the Services.

11.2. Limitation of liability.

11.2.1. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY, OR ANY OTHER PERSON, FOR ANY CONSEQUENTIAL, INCIDENTAL, DIRECT, INDIRECT, SPECIAL, AND/OR PUNITIVE DAMAGES OR ANY OTHER DAMAGES ARISING OUT OF THE GOVPRIME AGREEMENT, A SERVICES AGREEMENT, A STATEMENT OF WORK FOR IMPLEMENTATION AGREEMENT, OR IN ANY WAY RELATING TO THE SERVICES.

11.2.2. Subscribing County agrees to waive any rights it maintains against Arapahoe County and its officials, agents and employees and to release Arapahoe County and its officials, agents and employees from any and all liability, claims, demands or actions or causes of action whatsoever that it now has or may hereinafter have arising out of, resulting from, or relating to the Services provided pursuant to the GovPrime Agreement, a Services Agreement, and/or a Statement of Work for Implementation Agreement, including arising out of any Data Breach or inaccessibility of the Services.

11.2.3. Subscribing County shall be solely responsible for all costs, fines and fees associated with any misuse by the employees of the Subscribing County of the Services provided herein.

11.3. Dispute resolution. All disputes relating to the execution, interpretation, performance, or non-performance of this Agreement involving or affecting the Parties may first be submitted to Arapahoe County's Director of Information Technology and the Subscribing County's Director of Information Technology and Innovation for possible resolution. Arapahoe County's Director of Information Technology and the Subscribing County's Director of Information Technology and Innovation may promptly meet and confer in an effort to resolve such dispute. If they cannot resolve the dispute in five (5) business days, the dispute may be submitted to the signatories of this Agreement or their successors in office. The signatories of this Agreement may meet promptly and confer in an effort to resolve such dispute.

12. *Insurance.* Arapahoe County shall maintain Cyber Liability Insurance in the amount of \$1,000,000 per occurrence or claim, \$1,000,000 aggregate. Coverage shall be sufficiently broad in an effort to respond

to the duties and obligations as undertaken by Arapahoe County in this Agreement and shall include, but not be limited to, claims involving infringement of copyright, trademark, trade dress, invasion of privacy, information theft, restoration, recreation or recollection of electronic data due to a covered event, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses.

13. *Suspension of GovPrime Services.* Arapahoe County, through its Director of Information Technology, may immediately suspend GovPrime services for any of the following reasons: (i) requests by law enforcement or other governmental agencies; (ii) engagement by Subscribing County in fraudulent or illegal activities relating to the GovPrime services provided herein; (iii) breach of the terms and conditions of the GovPrime Agreement, a Services Agreement, or a Statement of Work for Implementation Agreement; or (iv) security issues. The right to suspend GovPrime services is in addition to the right to terminate or cancel the GovPrime Agreement, a Services Agreement, or a Statement of Work for Implementation Agreement according to the provisions in Section 7. Arapahoe County shall not incur any penalty, expense or liability if GovPrime services are suspended under this Section.

14. *Notices.*

- 14.1. Notices given under the GovPrime Agreement, a Services Agreement, or a Statement of Work for Implementation Agreement shall be in writing and shall be personally delivered, sent by express delivery service, certified mail, or first class U.S. mail postage prepaid, and addressed to the person listed below. Notice will be deemed given on the date when one of the following first occur: (i) the date of actual receipt; (ii) the next business day when notice is sent express delivery service or personal delivery; or (iii) three days after mailing first class or certified U.S. mail.

- 14.2. For Notices sent to Arapahoe County, it shall be addressed and sent to:

Arapahoe County Department of Information Technology, Director  
5334 S. Prince Street  
Littleton, Colorado 80120

and (send to both)

Arapahoe County Attorney's Office  
5334 S. Prince Street  
Littleton, Colorado 80120

- 14.3. For Notices sent to Subscribing County, it shall be addressed and sent to:

Director of Information Technology & Innovation  
4430 South Adams County Parkway  
Suite C3000  
Brighton, Colorado 80601

And

Adams County Attorney's Office



4430 South Adams County Parkway, Suite C500B  
Brighton, CO 80601

15. *Notification of Legal Requests.* Arapahoe County shall contact the Subscribing County upon receipt of any open records requests, electronic discovery, litigation holds, discovery searches and expert testimonies related to the Subscribing County's data under this contract or which in any way might reasonably require access to the data of the Subscribing County. Arapahoe County shall not respond to subpoenas, service of process and other legal requests related to the Subscribing County without first notifying the Subscribing County, unless prohibited by law from providing such notice. It shall be the responsibility of the Subscribing County to satisfy all record requests.
16. *Non-Appropriation.* The GovPrime Agreement, a Services Agreement, or a Statement of Work for Implementation Agreement shall not be construed to create a multiple fiscal-year direct or indirect debt or other financial obligation of the Parties within the meaning of Article X, Section 20 of the Colorado Constitution. Pursuant to C.R.S. § 29-1-110, as amended, the financial obligations of the Parties as set forth herein after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available by the Parties' respective governing bodies.
17. *Governmental Immunity.* All activities performed under the GovPrime Agreement, a Services Agreement, or a Statement of Work for Implementation Agreement are hereby declared to be governmental functions. The Parties to these Agreements and their personnel complying with or reasonably attempting to comply with the Agreements or any ordinance, order, rule or regulation enacted or promulgated pursuant to the provisions of the Agreements shall be deemed to be operating within the scope of their duties and responsibilities and in furtherance of said governmental functions.
18. *No Waiver Under CGIA.* Nothing in the GovPrime Agreement, a Services Agreement, or a Statement of Work for Implementation Agreement shall be construed as a waiver by any Party of the protections afforded pursuant to the Colorado Governmental Immunity Act, Sections 24-10-101 *et seq.*, C.R.S. ("CGIA") as same may be amended from time to time. Specifically, no Party to these Agreements waives the monetary limitations or any other rights, immunities or protections afforded by the CGIA or otherwise available at law.
19. *Third Parties.* The GovPrime Agreement, a Services Agreement, and a Statement of Work for Implementation Agreement do not and shall not be deemed to confer upon any third party any right to claim damages to bring suit or other proceedings against the Parties to these Agreements.
20. *Severability.* In the event that any of the provisions of the GovPrime Agreement, a Services Agreement, or a Statement of Work for Implementation Agreement shall be held to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions shall nevertheless continue to be valid and enforceable as though the invalid or unenforceable parts had not been included therein.
21. *Force Majeure.* Any delays in, or failure of performance by, any Party of its obligations under the GovPrime Agreement, a Services Agreement, or a Statement of Work for Implementation Agreement shall be excused if such delays or failure are a result of acts of God, fires, floods, strikes, labor disputes,

accidents, regulations or orders of civil or military authorities, shortages of labor or materials or other causes, similar or dissimilar, that are beyond the control of such Party.

22. *Modification.* Except as stated herein, the GovPrime Agreement, a Services Agreement, and a Statement of Work for Implementation Agreement may be modified or amended only by a duly authorized written instrument executed by the Parties hereto.
23. *Waiver of Breach.* A Party's waiver of another Party's breach of any term or provision of the GovPrime Agreement, Services Agreement, or Statement of Work for Implementation Agreement will not operate or be construed as a waiver of any subsequent breach by any Party.
24. *Authority.* The Parties have taken all actions and secured all approvals necessary to authorize and complete the GovPrime Agreement, a Services Agreement, and a Statement of Work for Implementation Agreement. The persons signing these Agreements on behalf of each Party have legal authority to sign these Agreements and bind the Parties to the terms and conditions contained herein.
25. *Compliance with the Law.* Each Party shall comply with all federal, state, and local ordinances, regulations, administrative rules, and requirements applicable to its activities performed under the GovPrime Agreement, a Services Agreement, and a Statement of Work for Implementation Agreement.
26. *No Assignment.* Neither Party shall assign the GovPrime Agreement, a Services Agreement, or a Statement of Work for Implementation Agreement. Either Party may terminate these Agreements if the other assigns these Agreements without the prior written consent of the other.
27. *Counterparts.* The GovPrime Agreement, a Services Agreement, and a Statement of Work for Implementation Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall be deemed the same instrument. Facsimile or photographic signatures of either Party to these Agreements or subsequent modifications thereto, shall be effective for all purposes.
28. *Survival.* The rights and obligations of the Parties shall survive the term of the GovPrime Agreement, a Services Agreement, and a Statement of Work for Implementation Agreement to the extent that any performance is required under these Agreements after the expiration or termination of these Agreements.
29. *Entire Agreement.* The GovPrime Agreement, a Services Agreement, and a Statement of Work for Implementation Agreement constitutes the entire agreement and understanding between the Parties and supersedes any prior agreement or understanding relating to the subject matter of these Agreements.
30. *Governing Law/Forum/Interpretation.* The GovPrime Agreement, a Services Agreement, and a Statement of Work for Implementation Agreement have been executed by the parties hereto on the day and year indicated on each document and shall be governed by the laws of the State of Colorado. Venue for any civil action relating to these Agreements shall be in Arapahoe County or Adams County. If there is any conflict between the language of any of these Agreements and the exhibit or attachment to these Agreements, the language of the respective Agreement shall govern.
31. *Amendments and Attachments.* The intent of the GovPrime Agreement is to setup the basics of an agreement between the Parties, for one to many services. There should be an expectation of attachments and amendments that describe particular services. Where this document and an

attachment or amendment for a particular service differ, the difference is for that individual service and should not be considered for all services to which a party is subscribed.

IN WITNESS WHEREOF, each party, by signature below of its authorized representative, hereby acknowledges that it has read this GovPrime Agreement, understands it and agrees to be bound by its terms and conditions.

COUNTY OF ARAPAHOE, STATE OF COLORADO,

By and Through Its BOARD OF COUNTY COMMISSIONERS

By: \_\_\_\_\_  
Jeff Baker, Chair

Attest:

By: \_\_\_\_\_  
Clerk to the Board

COUNTY OF ADAMS, STATE OF COLORADO,

By and Through Its BOARD OF COUNTY COMMISSIONERS

By: \_\_\_\_\_  
Mary Hodge, Chair

Attest:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Adams County Attorney's Office

## **Attachment 1: List of Compliances supported in the Microsoft Azure Cloud**

- FERPA
- PCI DSS Level 1, version 3.1
- DoD Provisional Authorizations at Impact Levels 5, 4 and 2
- FedRAMP
- FIPS 140-2
- NIST 800-171
- Section 508
- HIPAA/HITECH
- HITRUST
- MARS-E

## HSCnects Services Agreement

This Agreement (the “Services Agreement”) is made by and between the Board of County Commissioners of the County of Arapahoe (“Arapahoe County”) and the Board of County Commissioners of Adams County (the “Subscribing County”), jointly “the Parties,” as of the \_\_\_\_ day of \_\_\_\_\_, 2018.

1. *Purpose of Agreement and Incorporation of Other Agreements.* This Services Agreement defines the relationship between Arapahoe County, the provider of the HSCnects software applications, and the Subscribing County following completion of the Statement of Work for Implementation Agreement and upon Go Live of HSCnects for the Subscribing County. This is an addendum to the GovPrime Intergovernmental Agreement (the “GovPrime Agreement”) and the Statement of Work for Implementation Agreement between Arapahoe County and the Subscribing County to define HSCnects services provided. The GovPrime Agreement and Statement of Work for Implementation Agreement are hereby incorporated by reference as if fully set forth herein.
2. *Definitions.* Defined terms in the GovPrime Agreement apply to this Services Agreement.
  - 2.1. *Tier 3 Support* is support for issues that are due to software defects or environmental issues related to the functionality of the HSCnects at the SaaS level. Tier 3 Support does not cover issues with the Subscribing County’s environment, as those issues are not within Arapahoe County’s control. Tier 3 Support also does not support issues that are a result of configuration changes in the software made by the Subscribing County that create undesirable results, unless the issue is due to a defect in the software or environment.
    - 2.1.1. It is assumed that Tier 1 support will be provided by the Subscribing County’s Human Services Department and that Tier 2 support will be provided by the Subscribing County’s Information Technology Department.
3. *Services.* Arapahoe County agrees to provide to Subscribing County access to all core functionality to HSCnects as a SaaS.
  - 3.1. *Subscription Service.* HSCnects is a SaaS and this Services Agreement grants access to the services on a named user basis. This Services Agreement does not grant ownership rights to the Subscribing County. The GovPrime Agreement grants a license to the Subscribing County.
  - 3.2. *Additional Functionality.* Over time, Arapahoe County anticipates building additional solutions that may increase functionality of HSCnects. Because the Subscribing County may not be interested in these additional functions, Arapahoe County may opt to exclude these added functions from the HSCnects SaaS offering in order to prevent the Subscribing County from

paying additional fees for unwanted functionality. Therefore, this Services Agreement only concerns the licensing and use of the core functionality of HSConnects.

- 3.3. *Shared Environment.* HSConnects is built on multitenant architecture. Therefore, the Subscribing County will be using the same SaaS installation as other subscribing counties.
4. *Support.* Arapahoe County agrees to provide Tier 3 support to the Subscribing County. Arapahoe County reserves the right to have a third party provide support where appropriate.
  - 4.1. *Support Levels.* All support requests will be handled as described in the below matrix. Arapahoe County will make its best effort to meet the stated expectations below. As this is a shared environment, all resolutions to incidents need to consider the impact of the resolution on all Users, including those at other Subscribing Counties.
  - 4.2. *Normal Support Hours.* Arapahoe County support hours are 7:00 am to 5:00 pm Monday through Friday (MT), with the exclusion of County holidays. These hours are subject to change.
  - 4.3. *County holidays.* Arapahoe County holidays are: New Year's Day, Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Day after Thanksgiving, Christmas Eve and Christmas Day. These holidays are subject to change.

<b>Critical Severity</b>	Available: 24 hours/day, 7 days/week
Description	All or a substantial portion of the system is not functioning. All or most of the Users are experiencing these issues. There is not a workaround, expect to use a complete manual process.
Initial Response	Arapahoe County has a staffed service desk during Normal Support Hours. After hours, there is an on call staff member available to field all issues. Arapahoe County will make its best effort to respond within 10 minutes during Normal Support Hours and 30 minutes after hours.
Resolutions Response	Arapahoe County will work continuously to fix the issues that are causing the critical incident. If the incident impact changes to a different level, Arapahoe County will change the severity classification and will work toward that classification's resolution response. Periodic updates will be provided to the Subscribing County on a mutually agreeable schedule, to be determined at the time the Incident is reported.
Chargeable Service	Support costs are part of the overall cost and, in almost all cases, cost for support is included in the subscription.  Because service support is an expense shared by all Subscribing Counties, Arapahoe County will consider if the need for support work

	<p>was caused by the actions of one Subscribing County, and if the responsible Subscribing County should be solely responsible for the costs. Charging back a single Subscribing County would only happen under unique and cost intensive situations. Support costs will be charged at the loaded employee pay rate (total employee cost) for each Arapahoe County employee who participated and spent time on the solution, following the first cumulative hour of Arapahoe County support work.</p>
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<b>High Severity</b>	Normal Support Hours
Description	<p>Major functionality is severely impaired for all Users or a subset of Users. Business functions can continue in a diminished fashion. There are workarounds to complete the impacted business functions, or those impacted business functions are not part of the core business process, and as such, do not highly impact the Subscribing Counties' ability to complete their work.</p>
Initial Response	<p>Arapahoe County has a staffed service desk during normal County business hours. After hours, there is an on call staff member available to field all issues. Arapahoe County will make its best effort to respond within 2 hours during Normal Support Hours and 4 hours after hours.</p>
Resolutions Response	<p>Arapahoe County will work continuously to fix the issues that are causing the high severity incident. If the incident impact changes to a different level, Arapahoe County will change the severity classification and will work toward that classification's resolution response. Periodic updates will be provided to the Subscribing County on a mutually agreeable schedule, to be determined at the time the Incident is reported.</p>
Chargeable Service	<p>Support costs are part of the overall cost, and as such, in almost all cases cost for support is included in the subscription.</p> <p>Because service support is an expense shared by all Subscribing Counties, Arapahoe County will consider if the need for support work was caused by the actions of one Subscribing County, and if the responsible Subscribing County should be solely responsible for the costs. Charging back a single Subscribing County would only happen under unique and cost intensive situations. Support costs will be charged at the loaded employee pay rate (total employee cost) for each Arapahoe County employee who participated and spent time on the solution, following the first cumulative hour of Arapahoe County support work.</p>

<b>Medium Severity</b>	Normal Support Hours
Description	Partial or non-critical loss of functionality. Business impact is considered marginal or an annoyance.
Initial Response	Arapahoe County has a staffed service desk during normal County business hours. Arapahoe County will make its best effort to respond within 6 business hours during Normal Support Hours. There is no afterhours support for medium severity incidents.
Resolutions Response	<p>Arapahoe County will work during business hours to fix the issues that are causing the medium severity incident. Arapahoe County will make its best effort to identify the root cause of medium severity incidents within four business days. Arapahoe County will determine the most expedient timing for releasing the fix to production.</p> <p>If the incident impact changes to a different level, Arapahoe County will change the severity classification and will work toward that classification's resolution response.</p>
Chargeable Service	<p>Support costs are part of the overall cost, and as such, in almost all cases cost for support is included in the subscription.</p> <p>Because service support is an expense shared by all Subscribing Counties, Arapahoe County will consider if the need for support work was caused by the actions of one Subscribing County, and if the responsible Subscribing County should be solely responsible for the costs. Charging back a single Subscribing County would only happen under unique and cost intensive situations. Support costs will be charged at the loaded employee pay rate (total employee cost) for each Arapahoe County employee who participated and spent time on the solution, following the first cumulative hour of Arapahoe County support work.</p>



<b>Low Severity</b>	Normal Support Hours
Description	Negligible impact to functionality. Business impact is considered inconsequential.
Initial Response	Arapahoe County has a staffed service desk during Normal Support Hours. Arapahoe County will make its best effort to respond within 8 business hours. There is no afterhours support for low severity incidents.
Resolutions Response	<p>Arapahoe County will work during business hours to fix the issues that are causing the low severity incident. Arapahoe County will make its best effort to identify the root cause of low severity incidents within seven or more business days. Arapahoe County will determine the most expedient timing for releasing the fix to production.</p> <p>If the incident impact changes to a different level, Arapahoe County will change the severity classifications and will work toward that classification's resolution response.</p>
Chargeable Service	<p>Support costs are part of the overall cost, and as such, in almost all cases cost for support is included in the subscription.</p> <p>Because service support is an expense shared by all Subscribing Counties, Arapahoe County will consider if the need for support work was caused by the actions of one Subscribing County, and if the responsible Subscribing County should be solely responsible for the costs. Charging back a single Subscribing County would only happen under unique and cost intensive situations. Support costs will be charged at the loaded employee pay rate (total employee cost) for each Arapahoe County employee who participated and spent time on the solution, following the first cumulative hour of Arapahoe County support work.</p>

## 5. Pricing.

- 5.1. Pricing is to be defined on a User subscription basis. See GovPrime Agreement for definition of User and User Accounts.
- 5.2. Arapahoe County will audit the HSConnects software application at least once a month to determine the number of Users who have been granted access to HSConnects during any specific month.
- 5.3. The Subscribing County will be billed at the rate of \$17.50 per User per month and invoiced on a quarterly basis. (This results in a rate of \$52.50 per quarter or \$210 per year per User.)
- 5.4. Arapahoe County will invoice the Subscribing County on a calendar quarterly basis (January 1, April 1, July 1, and October 1) for the prior quarter's usage of HSConnects. The Subscribing

County shall have thirty (30) days from receipt of any payment request to make payment to Arapahoe County.

- 5.5. Pursuant to C.R.S. § 29-1-110, as amended, the financial obligations of the Subscribing County as set forth herein after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise available. This Services Agreement is automatically terminated on January 1st of the first fiscal year for which funds are not appropriated. The Subscribing County shall give Arapahoe County written notice of such non-appropriation and termination in accordance with the provisions of the GovPrime Agreement.
6. *Term of the Agreement.* This Services Agreement shall commence upon Go Live of the HSConnects application for the Subscribing County and shall be in effect for 12 months.
7. *Extension or Modification.* This Service Agreement shall automatically renew for successive periods of 12 months (each a "Renewal Term"), unless either party notifies the other party that it does not desire to renew this Services Agreement in writing, at least sixty (60) days before the end of the initial term or any Renewal Term. However, this Service Agreement may only be automatically renewed up to nine (9) times following expiration of the initial term, resulting in no more than a ten (10) year term. Any amendments or modifications shall be in writing signed by both parties.
8. *Termination.* Either Party may terminate this Services Agreement at any time and for any reason, with or without cause, and without penalty therefor with sixty (60) calendar days' prior written notice to the other party. Subscribing County shall pay Arapahoe County for Services satisfactorily performed up to the date of termination.
9. *Data Sources and Functionality.* Currently, HSConnects contains data from the following State systems: CBMS, TRAILS and ACSES. Arapahoe County may choose to add additional data sources as they become available, depending on the value gained by adding additional data sources.
  - 9.1. Arapahoe County will consider adding additional data sources upon the request of the Subscribing County. Arapahoe County will look at effort, cost, and value to all subscribers when evaluating additional data source requests. Arapahoe County may require the subscriber to pay an additional fee for adding additional data sources.
  - 9.2. If the Subscribing County has liability concerns regarding having its data added to HSConnects from State or third party data sources, the Subscribing County may request that its data be excluded from data imports. Arapahoe County will attempt to honor such requests unless it is determined that excluding the Subscribing County's data from data imports impacts the ability of other Subscribing Counties to complete their required duties and whether the other Subscribing Counties would normally have access to this data through common State or third party data sources. Ultimate decision making authority regarding this matter resides with Arapahoe County.
  - 9.3. The Parties agree that in the event that the Subscribing County transitions to a software solution other than HSConnects, the Subscribing County may release any necessary and detailed information solely for the purpose of facilitating the conversion of its data to the new system and that Arapahoe County will reasonably cooperate with the Subscribing County with the transition.

## 10. Data.

- 10.1. *Ownership.* All data and documents entered by a Subscribing County into the HSConnects application shall be considered to be owned by that Subscribing County. Arapahoe County agrees to store the Subscribing County's data in HSConnects. Data and documents imported into HSConnects from the State of Colorado or other third party data sources, and not from the Subscribing County directly, will not be considered to be owned by the Subscribing County. Resolution of any dispute regarding data ownerships between the Subscribing County and the State of Colorado or the federal government shall be the responsibility of the Subscribing County.
- 10.2. *Data Sharing.* Because there is tremendous value to all parties in sharing data related to executing the administration of Human Services for the State of Colorado, there is an expectation that all Subscribing Counties participate in data sharing. Arapahoe County will work with Subscribing Counties to define what items should be shared between the Subscribing Counties, and what items should be shared with the State of Colorado. The other Subscribing Counties, Subscribing County and Arapahoe County will be tasked to create a framework for sharing data among the Subscribing Counties that supports each county's execution of local Human Services activities, but protects the Subscribing County and its employees and clients' privacy and security. The other Subscribing Counties, Subscribing County and Arapahoe County may also define data to share with the State of Colorado, when sharing predefined data with the State helps the Subscribing Counties meet State requirements or the Subscribing County's business process. Ultimate decision making authority regarding this matter resides with Arapahoe County.
- 10.3. *Termination.* Following termination of this Services Agreement, and to the extent still available, the Subscribing County agrees to return to Arapahoe County all data and materials that it downloaded from or through HSConnects that are owned by Arapahoe County and/or another Subscribing County, as defined in Section 10.1. Subscribing County shall be able to retrieve all of the data and materials owned by Subscribing County upon termination in the format which Subscribing County entered its data and materials. Any costs incurred by Arapahoe County retrieving the data and materials will be reimbursed by the Subscribing County.
- 10.4. *Data Retention.* Various state and federal programs require the retention of data that may be uploaded into HSConnects for various durations. HSConnects will have a mechanism to purge data and files based on state, federal and/or community established retention guidelines. Arapahoe County will notify the Subscribing County at least sixty (60) days prior to the purge of any data or materials from HSConnects. If the Subscribing County needs access to its data and materials beyond the scheduled purge date, it is the Subscribing County's responsibility to secure a copy of all needed files. This may be accomplished by downloading a copy to the Subscribing County's system. In the future, there will be a process to mark files "do not purge until", but until that functionality is in place it will be up to the Subscribing County to maintain copies of data and materials that it needs post purge date.
- 10.5. *Backup and Recovery.* HSConnects will be built with functionality to allow Users to recover deleted files on a single file basis. Arapahoe County also has plans to build the functionality for versioning. Arapahoe County will provide basic training on the capabilities of file recovery and versioning, but it is the responsibility of the Subscribing County to understand the

limitation of these tools. Arapahoe County will leverage from the Designated Partner redundant storage to help prevent data loss from hardware or environment failures. Arapahoe County will also keep a backup copy of files and data for disaster recovery purposes with a recovery point of no longer than 24 hours old. Disaster recovery copies will be used in the case of major system data loss.

11. *Infrastructure Requirements.* As requirements change from time to time, Arapahoe County will make available, upon request, a reference sheet of hardware requirements for using HSConnects.
12. *Release Management.* Arapahoe County uses an Agile Methodology of development at this time. As prescribed in Agile Methodology, Arapahoe County will perform frequent software releases of the HSConnects application. Arapahoe County will perform any release that impacts the services during a maintenance window to be defined and communicated to the Subscribing County at least 72 hours in advance, unless emergency maintenance is required. Arapahoe County reserves the right to perform off cycle releases after hours or during business hours if system functionality needs to be restored. In the situation where maintenance is required outside of a maintenance window, Arapahoe County will give the Subscribing County as much notice as reasonably possible.

IN WITNESS WHEREOF, each party, by signature below of its authorized representative, hereby acknowledges that it has read this Services Agreement, understands it and agrees to be bound by its terms and conditions.

COUNTY OF ARAPAHOE, STATE OF COLORADO,

By and Through Its BOARD OF COUNTY COMMISSIONERS

By: \_\_\_\_\_  
Jeff Baker, Chair

Attest:

By: \_\_\_\_\_  
Clerk to the Board

COUNTY OF ADAMS STATE OF COLORADO,

By and Through Its BOARD OF COUNTY COMMISSIONERS

By: \_\_\_\_\_  
Mary Hodge, Chair

Attest:

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

APPROVED AS TO FORM:

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Adams County Attorney's Office