

**CONTRACT**

THIS CONTRACT, executed this \_\_\_ day of \_\_\_\_\_ 20\_\_\_, by and between the State of Colorado for the use and benefit of the Colorado Department of Transportation hereinafter referred to as the State and CITY OF COLORADO SPRINGS, hereinafter referred to as the "Contractor" or the "Local Agency."

**RECITALS**

1. Authority exists in the law and funds have been budgeted, appropriated and otherwise made available and a sufficient uncommitted balance thereof remains available for payment of project and Local Agency costs in Fund Number 400, Function: <<>, GL Acct: <<>, WBS Element: <<> or Cost Center: <<>, (Contract Encumbrance Amount: \$180,000.00.)
2. Required approval, clearance and coordination have been accomplished from and with appropriate agencies.
3. Pursuant to 43-2-104.5 C.R.S. as amended, the State may contract with Local Agencies to provide maintenance and construction of highways that are part of the state (or local agency) highway system.
4. Local Agency anticipates a project for the Local Agency will design and construct the bus shelter replacement and repairs at various locations within the City, and by the date of execution of this contract, the Local Agency and/or the State has completed and submitted a preliminary version of CDOT form #463 describing the general nature of the Work. The Local Agency understands that before the Work begins, the Local Agency must receive an official written "Notice to Proceed" prior to commencing any part of the Work. The Local Agency further understands, before the Work begins, the form #463 may be revised as a result of design changes made by CDOT, in coordination with the Local Agency, in its internal review process. The Local Agency desires to perform the Work described in form #463, as it may be revised.
5. The Local Agency has requested that State funds be made available for project 19275, FASTER - Bus Stop Shelter Replacement referred to as the "Project" or the "Work." Such Work will be performed in Colorado Springs, Colorado, specifically described in Exhibit A.
6. The State has funds available and desires to provide 100% of the funding for the work.
7. The Local Agency desires to comply with all state and other applicable requirements, including the State's general administration of the project through this contract, in order to obtain state funds for the project.
8. The Local Agency has estimated the total cost of the work and is prepared to accept the state funding for the work, as evidenced by an appropriate ordinance or resolution duly passed and adopted by the authorized representatives of the Local Agency, which expressly authorizes the Local Agency to enter into this contract and to complete the work under the project. A copy of this ordinance or resolution is attached hereto and incorporated herein as Exhibit B.
9. This contract is executed under the authority of §§ 29-1-203, 43-1-110; 43-1-116, 43-2-101(4)(c) and 43-2-144, C.R.S. and Exhibit B.
10. The Local Agency is adequately staffed and suitably equipped to undertake and satisfactorily complete some or all of the Work.
11. The Local Agency can more advantageously perform the Work.

**THE PARTIES NOW AGREE THAT:**

**Section 1. Scope of Work**

The Project or the Work under this contract shall consist of the Local Agency will design and construct the bus shelter replacements and repairs at various locations, in Colorado Springs, Colorado, as more specifically described in Exhibit A.

**Section 2. Order of Precedence**

In the event of conflicts or inconsistencies between this contract and its exhibits, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

1. Special Provisions contained in section 28 of this contract

2. This contract
3. Exhibit A (Scope of Work)
4. Exhibit C (Option Letter)
5. Exhibit D (DBE Requirements)
6. Other Exhibits in descending order of their attachment.

**Section 3. Term**

This contract shall be effective upon approval of the State Controller or designee. This Agreement shall terminate after five (5) years of state controllers signature in section 29, unless sooner terminated or completed as demonstrated by final payment and final audit.

**Section 4. Project Funding Provisions**

- A. The Local Agency has estimated the total cost of the work and is prepared to accept the state funding for the work, as evidenced by an appropriate ordinance or resolution duly passed and adopted by the authorized representatives of the Local Agency, which expressly authorizes the Local Agency to enter into this contract and to complete the work under the project. A copy of this ordinance or resolution is attached hereto and incorporated herein as Exhibit B.
- B. The Local Agency has estimated the total cost of the work to be \$225,000.00, which is to be funded as follows:

State funds:	<b>\$ 180,000.00</b>
Local Match:	<b>\$ 45,000.00*</b>
Total Estimated Cost of the Work	<b>\$225,000.00</b>

\* The local agency is required to match the State grant at 20%, however the matching funds will not be budgeted by CDOT nor encumbered under this agreement.

- C. The maximum amount payable to the Local Agency under this contract shall be \$180,000.00, unless such amount is increased by an appropriate written modification to this contract executed before any increased cost is incurred. It is understood and agreed by the parties hereto that the total cost of the work stated hereinbefore is the best estimate available, based on the design data as approved at the time of execution of this contract, and that such cost is subject to revisions (in accord with the procedure in the previous sentence) agreeable to the parties prior to bid and award.
- D. The parties hereto agree that this contract is contingent upon all funds designated for the project herein being made available from state sources, as applicable. Should these sources fail to provide necessary funds as agreed upon herein, the contract may be terminated by either party, provided that any party terminating its interest and obligations herein shall not be relieved of any obligations which existed prior to the effective date of such termination or which may occur as a result of such termination.

**Section 5. Project Payment Provisions**

- A. The State will reimburse the Local Agency for incurred costs relative to the project following the State's review and approval of such charges, subject to the terms and conditions of this Contract. Provided however, that charges incurred by the Local Agency prior to the date this contract is executed by the State Controller will not be charged by the Local Agency to the project, and will not be reimbursed by the State.
- B. The State will reimburse the Local Agency's reasonable, allocable, allowable costs of Performance of the Work, not exceeding the maximum total amount described in Section 4. The applicable principles described in 49 C.F.R. 18 Subpart C and 49 C.F.R. 18.22 shall govern the allowability and allocability of costs under this contract. The Local Agency shall comply with all such principles. To be eligible for reimbursement, costs by the Local Agency shall be:
  1. In accordance with the provisions of Section 4 and with the terms and conditions of this contract;
  2. Necessary for the accomplishment of the Work;
  3. Reasonable in the amount for the goods and services provided;
  4. Actual net cost to the Local Agency (i.e. the price paid minus any refunds, rebates, or other items of value received by the Local Agency that have the effect of reducing the cost actually incurred);
  5. Incurred for Work performed after the effective date of this contract;
  6. Satisfactorily documented.
- C. The Local Agency shall establish and maintain a proper accounting system in accordance with generally accepted accounting standards (a separate set of accounts, or as a separate and integral part of its current

accounting scheme) to assure that project funds are expended and costs accounted for in a manner consistent with this contract and project objectives.

1. All allowable costs charged to the project, including any approved services contributed by the Local Agency or others, shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in detail the nature of the charges.
  2. Any check or order drawn up by the Local Agency, including any item which is or will be chargeable against the project account shall be drawn up only in accordance with a properly signed voucher then on file in the office of the Local Agency, which will detail the purpose for which said check or order is drawn. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents shall be clearly identified, readily accessible, and to the extent feasible, kept separate and apart from all other such documents.
- D. If the Local Agency is to be billed for CDOT incurred costs, the billing procedure shall be as follows:
1. Upon receipt of each bill from the State, the Local Agency will remit to the State the amount billed no later than 60 days after receipt of each bill. Should the Local Agency fail to pay moneys due the State within 60 days of demand or within such other period as may be agreed between the parties hereto, the Local Agency agrees that, at the request of the State, the State Treasurer may withhold an equal amount from future apportionment due the Local Agency from the Highway Users Tax Fund and to pay such funds directly to the State. Interim funds, until the State is reimbursed, shall be payable from the State Highway Supplementary Fund (400).
  2. If the Local Agency fails to make timely payment to the State as required by this section (within 60 days after the date of each bill), the Local Agency shall pay interest to the State at a rate of one percent per month on the amount of the payment which was not made in a timely manner, until the billing is paid in full. The interest shall accrue for the period from the required payment date to the date on which payment is made.
- E. The Local Agency will prepare and submit to the State, no more than monthly, charges for costs incurred relative to the project. The Local Agency's invoices shall include a description of the amounts of services performed, the dates of performance and the amounts and description of reimbursable expenses. The invoices will be prepared in accordance with the State's standard policies, procedures and standardized billing format to be supplied by the State.
- F. To be eligible for payment, billings must be received within 60 days after the period for which payment is being requested and final billings on this contract must be received by the State within 60 days after the end of the contract term.
1. Payments pursuant to this contract shall be made as earned, in whole or in part, from available funds, encumbered for the purchase of the described services. The liability of the State, at any time, for such payments shall be limited to the amount remaining of such encumbered funds.
  2. In the event this contract is terminated, final payment to the Local Agency may be withheld at the discretion of the State until completion of final audit.
  3. Incorrect payments to the Local Agency due to omission, error, fraud or defalcation shall be recovered from the Local Agency by deduction from subsequent payment under this contract or other contracts between the State and Local Agency, or by the State as a debt due to the State.
  4. Any costs incurred by the Local Agency that are not allowable under 49 C.F.R. 18 shall be reimbursed by the Local Agency, or offset against current obligations due by the State to the Local Agency, at the State's election.

#### **Section 6. State and Local Agency Commitments**

The Local Agency Contract Administration Checklist in **Exhibit E** describes the Work to be performed and assigns responsibility of that Work to either the Local Agency or the State. The "Responsible Party" referred to in this contract means the Responsible Party as identified in the Local Agency Contract Administration Checklist in **Exhibit E**.

##### **A. Design [if applicable]**

1. If the Work includes preliminary design or final design (the "Construction Plans"), or design work sheets, or special provisions and estimates (collectively referred to as the "Plans"), the responsible party shall comply with the following requirements, as applicable:
  - a. perform or provide the Plans, to the extent required by the nature of the Work.

- b. prepare final design (Construction Plans) in accord with the requirements of the latest edition of the American Association of State Highway Transportation Officials (AASHTO) manual or other standard, such as the Uniform Building Code, as approved by CDOT.
  - c. prepare special provisions and estimates in accord with the State's Roadway and Bridge Design Manuals and Standard Specifications for Road and Bridge Construction or Local Agency specifications if approved by CDOT.
  - d. include details of any required detours in the Plans, in order to prevent any interference of the construction work and to protect the traveling public.
  - e. stamp the Plans produced by a Colorado Registered Professional Engineer.
  - f. provide final assembly of Plans and contract documents.
  - g. be responsible for the Plans being accurate and complete.
  - h. make no further changes in the Plans following the award of the construction contract except by agreement in writing between the parties. The Plans shall be considered final when approved and accepted by the parties hereto, and when final they shall be deemed incorporated herein.
2. If the Local Agency is the responsible party:
- a. The local agency shall comply with the requirements of the Americans With Disabilities Act (ADA), and applicable federal regulations and standards as contained in the document "ADA Accessibility Requirements in CDOT Transportation Projects".
  - b. It shall afford the State ample opportunity to review the Plans and make any changes in the Plans that are directed by the State to comply with FHWA requirements.
  - c. It may enter into a contract with a consultant to do all or any portion of the Plans and/or of construction administration. Provided, however, that if federal-aid funds are involved in the cost of such work to be done by a consultant, that consultant contract (and the performance/provision of the Plans under the contract) must comply with all applicable requirements of 23 CFR Part 172 and with any procedures implementing those requirements as provided by the State, including those in Exhibit F attached hereto. If the Local Agency does enter into a contract with a consultant for the Work:
    - (1) it shall submit a certification that procurement of any design consultant contract complied with the requirements of 23 CFR 172.5(1) prior to entering into contract. The State shall either approve or deny such procurement. If denied, the Local Agency may not enter into the contract.
    - (2) it shall ensure that all changes in the consultant contract have prior approval by the State and FHWA. Such changes in the contract shall be by written supplement agreement. As soon as the contract with the consultant has been awarded by the Local Agency, one copy of the executed contract shall be submitted to the State. Any amendments to such contract shall also be submitted.
    - (3) it shall require that all consultant billings under that contract shall comply with the State's standardized billing format. Examples of the billing formats are available from the CDOT Agreements Office.
    - (4) it (or its consultant) shall use the CDOT procedures described in Exhibit F to administer that design consultant subcontract, to comply with 23 CFR 172.5(b).
    - (5) it may expedite any CDOT approval of its procurement process and/or consultant contract by submitting a letter to CDOT from the certifying Local Agency's attorney/authorized representative certifying compliance with Exhibit F and 23 CFR 172.5(b).
    - (6) it shall ensure that its consultant contract complies with the requirements of 49 CFR 18.36(i) and contains the following language verbatim:
      - (a) "The design work under this contract shall be compatible with the requirements of the contract between the Local Agency and the State (which is incorporated herein by this reference) for the design/construction of the project. The State is an intended third party beneficiary of this contract for that purpose."
      - (b) "Upon advertisement of the project work for construction, the consultant shall make available services as requested by the State to assist the State in the evaluation of construction and the resolution of construction problems that may arise during the construction of the project."
      - (c) "The consultant shall review the construction contractor's shop drawings for conformance with the contract documents and compliance with the provisions of the State's publication, Standard Specifications for Road and Bridge Construction, in connection with this work."
      - (d) The State, in its discretion, will review construction plans, special provisions and estimates and will cause the Local Agency to make changes therein that the State determines are necessary to assure compliance with State and FHWA requirements.

B. Construction [if applicable]

1. If the Work includes construction, the responsible party shall perform the construction in accordance with the approved design plans and/or administer the construction all in accord with the Local Agency Contract Administration Checklist. Such administration shall include project inspection and testing; approving sources of materials; performing required plant and shop inspections; documentation of contract payments, testing and inspection activities; preparing and approving pay estimates; preparing, approving and securing the funding for contract modification orders and minor contract revisions; processing contractor claims; construction supervision; and meeting the Quality Control requirements of the FHWA/CDOT Stewardship Agreement, as described in the Local Agency Contract Administration Checklist.
2. The State shall have the authority to suspend the Work, wholly or in part, by giving written notice thereof to the Local Agency, due to the failure of the Local Agency or its contractor to correct project conditions which are unsafe for workers or for such periods as the State may deem necessary due to unsuitable weather, or for conditions considered unsuitable for the prosecution of the Work, or for any other condition or reason deemed by the State to be in the public interest.
3. If the Local Agency is the responsible party:
  - a. it shall appoint a qualified professional engineer, licensed in the State of Colorado, as the Local Agency Project Engineer (LAPE), to perform that administration. The LAPE shall administer the project in accordance with this contract, the requirements of the construction contract and applicable State procedures.
  - b. if bids are to be let for the construction of the project, it shall advertise the call for bids upon approval by the State and award the construction contract(s) to the low responsible bidder(s) upon approval by the State.
    - (1) The Local Agency has the option to accept or reject the proposal of the apparent low bidder for work on which competitive bids have been received. The Local Agency must declare the acceptance or rejection within 3 working days after said bids are publicly opened.
    - (2) By indicating its concurrence in such award, the Local Agency, acting by or through its duly authorized representatives, agrees to provide additional funds, subject to their availability and appropriation for that purpose, if required to complete the Work under this project if no additional federal-aid funds will be made available for the project. This paragraph also applies to projects advertised and awarded by the State.
  - c. If all or part of the construction work is to be accomplished by Local Agency personnel (i.e. by force account), rather than by a competitive bidding process, the Local Agency will ensure that all such force account work is accomplished in accordance with the pertinent State specifications and requirements with 23 CFR 635, Subpart B, Force Account Construction.
    - (1) Such work will normally be based upon estimated quantities and firm unit prices agreed to between the Local Agency, the State and FHWA in advance of the Work, as provided for in 23 CFR 635.204(c). Such agreed unit prices shall constitute a commitment as to the value of the Work to be performed.
    - (2) An alternative to the above is that the Local Agency may agree to participate in the Work based on actual costs of labor, equipment rental, materials supplies and supervision necessary to complete the Work. Where actual costs are used, eligibility of cost items shall be evaluated for compliance with 48 CFR Part 31.
    - (3) Rental rates for publicly owned equipment will be determined in accordance with the State's Standard Specifications for Road and Bridge Construction § 109.04.
    - (4) All force account work shall have prior approval of the State and/or FHWA and shall not be initiated until the State has issued a written notice to proceed.

C. State's obligations

1. The State will perform a final project inspection prior to project acceptance as a Quality Control/Assurance activity. When all Work has been satisfactorily completed, the State will sign a final acceptance form.
2. Notwithstanding any consents or approvals given by the State for the Plans, the State will not be liable or responsible in any manner for the structural design, details or construction of any major structures that are designed by or are the responsibility of the Local Agency as identified in the Local Agency Contract Administration Checklist, Exhibit E, within the Work of this contract.

**Section 7. ROW Acquisition and Relocation**

If the Project includes right of way, prior to this project being advertised for bids, the Responsible Party will certify in writing to the State that all right of way has been acquired in accordance with the applicable state and federal regulations, or that no additional right of way is required.

Any acquisition/relocation activities must comply with: all applicable federal and state statutes and regulations, including but not limited to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (P.L. 91-646) and the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs as amended (49 CFR Part 24); CDOT's Right of Way Manual; and CDOT's Policy and Procedural Directives.

Allocation of Responsibilities are as follows:

- Federal participation in right of way acquisition (3111 charges), relocation (3109 charges) activities, if any, and right of way incidentals (expenses incidental to acquisition/relocation of right of way - 3114 charges);
- Federal participation in right of way acquisition (3111 charges), relocation (3109 charges) but no participation in incidental expenses (3114 charges); or
- No federal participation in right of way acquisition (3111 charges) and relocation activities (3109 expenses).

Regardless of the option selected above, the State retains oversight responsibilities. The Local Agency's and the State's responsibilities for each option is specifically set forth in CDOT's Right of Way Manual. The manual is located at [http://www.dot.state.co.us/ROW\\_Manual/](http://www.dot.state.co.us/ROW_Manual/).

If right of way is purchased for a state highway, including areas of influence of the state highway, the local agency shall immediately convey title to such right of way to CDOT after the local agency obtains title.

#### **Section 8. Utilities**

If necessary, the Responsible Party will be responsible for obtaining the proper clearance or approval from any utility company, which may become involved in this Project. Prior to this Project being advertised for bids, the Responsible Party will certify in writing to the State that all such clearances have been obtained.

#### **Section 9. Railroads**

In the event the Project involves modification of a railroad company's facilities whereby the Work is to be accomplished by railroad company forces, the Responsible Party shall make timely application to the Public Utilities Commission requesting its order providing for the installation of the proposed improvements and not proceed with that part of the Work without compliance. The Responsible Party shall also establish contact with the railroad company involved for the purpose of complying with applicable provisions of 23 CFR 646, subpart B, concerning federal-aid projects involving railroad facilities, including:

- A. Executing an agreement setting out what work is to be accomplished and the location(s) thereof, and that the costs of the improvement shall be eligible for federal participation.
- B. Obtaining the railroad's detailed estimate of the cost of the Work.
- C. Establishing future maintenance responsibilities for the proposed installation.
- D. Proscribing future use or dispositions of the proposed improvements in the event of abandonment or elimination of a grade crossing.
- E. Establishing future repair and/or replacement responsibilities in the event of accidental destruction or damage to the installation.

#### **Section 10. Environmental Obligations**

The Local Agency shall perform all Work in accordance with the requirements of the current federal and state environmental regulations including the National Environmental Policy Act of 1969 (NEPA) as applicable.

#### **Section 11. Maintenance Obligations**

The Local Agency will maintain and operate the improvements constructed under this contract at its own cost and expense during their useful life, in a manner satisfactory to the State and FHWA. The Local Agency will make proper provisions for such maintenance obligations each year. Such maintenance and operations shall be conducted in accordance with all applicable statutes, ordinances and regulations which define the Local Agency's obligations to maintain such improvements. The State and FHWA will make periodic inspections of the project to verify that such improvements are being adequately maintained.

#### **Section 12. Record Keeping**

The Local Agency shall maintain a complete file of all records, documents, communications, and other written materials, which pertain to the costs incurred under this contract. The Local Agency shall maintain such records for

a period of three (3) years after the date of termination of this contract or final payment hereunder, whichever is later, or for such further period as may be necessary to resolve any matters which may be pending. The Local Agency shall make such materials available for inspection at all reasonable times and shall permit duly authorized agents and employees of the State and FHWA to inspect the project and to inspect, review and audit the project records.

### Section 13. Termination Provisions

This contract may be terminated as follows:

- A. Termination for Convenience. The State may terminate this contract at any time the State determines that the purposes of the distribution of moneys under the contract would no longer be served by completion of the project. The State shall effect such termination by giving written notice of termination to the Local Agency and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination.
- B. Termination for Cause. If, through any cause, the Local Agency shall fail to fulfill, in a timely and proper manner, its obligations under this contract, or if the Local Agency shall violate any of the covenants, agreements, or stipulations of this contract, the State shall thereupon have the right to terminate this contract for cause by giving written notice to the Local Agency of its intent to terminate and at least ten (10) days opportunity to cure the default or show cause why termination is otherwise not appropriate. In the event of termination, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports or other material prepared by the Local Agency under this contract shall, at the option of the State, become its property, and the Local Agency shall be entitled to receive just and equitable compensation for any services and supplies delivered and accepted. The Local Agency shall be obligated to return any payments advanced under the provisions of this contract.
- Notwithstanding the above, the Local Agency shall not be relieved of liability to the State for any damages sustained by the State by virtue of any breach of the contract by the Local Agency, and the State may withhold payment to the Local Agency for the purposes of mitigating its damages until such time as the exact amount of damages due to the State from the Local Agency is determined.
- If after such termination it is determined, for any reason, that the Local Agency was not in default or that the Local Agency's action/inaction was excusable, such termination shall be treated as a termination for convenience, and the rights and obligations of the parties shall be the same as if the contract had been terminated for convenience, as described herein.
- C. Termination Due to Loss of Funding. The parties hereto expressly recognize that the Local Agency is to be paid, reimbursed, or otherwise compensated with federal and/or State funds which are available to the State for the purposes of contracting for the Project provided for herein, and therefore, the Local Agency expressly understands and agrees that all its rights, demands and claims to compensation arising under this contract are contingent upon availability of such funds to the State. In the event that such funds or any part thereof are not available to the State, the State may immediately terminate or amend this contract.

### Section 14. Legal Authority

The Local Agency warrants that it possesses the legal authority to enter into this contract and that it has taken all actions required by its procedures, by-laws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this contract and to bind the Local Agency to its terms. The person(s) executing this contract on behalf of the Local Agency warrants that such person(s) has full authorization to execute this contract.

### Section 15. Representatives and Notice

Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such Party's principal representative at the address set forth below. In addition to but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

**If to State**  
CDOT Region: 2  
Yun Han  
Project Manager

**If to the Local Agency**  
City of Colorado Springs  
Brittany Goode  
Project Manager

1480 Quail Lake Loop  
Colorado Springs, CO 80906  
(719) 227-3242

Colorado Springs, CO  
(719) 385-7471

**Section 16. Successors**

Except as herein otherwise provided, this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

**Section 17. Third Party Beneficiaries**

It is expressly understood and agreed that the enforcement of the terms and conditions of this contract and all rights of action relating to such enforcement, shall be strictly reserved to the State and the Local Agency. Nothing contained in this contract shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the State and the Local Agency that any such person or entity, other than the State or the Local Agency receiving services or benefits under this contract shall be deemed an incidental beneficiary only.

**Section 18. Governmental Immunity**

Notwithstanding any other provision of this contract to the contrary, no term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, § 24-10-101, et seq., C.R.S., as now or hereafter amended. The parties understand and agree that liability for claims for injuries to persons or property arising out of negligence of the State of Colorado, its departments, institutions, agencies, boards, officials and employees is controlled and limited by the provisions of § 24-10-101, et seq., C.R.S., as now or hereafter amended and the risk management statutes, §§ 24-30-1501, et seq., C.R.S., as now or hereafter amended.

**Section 19. Severability**

To the extent that this contract may be executed and performance of the obligations of the parties may be accomplished within the intent of the contract, the terms of this contract are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof.

**Section 20. Waiver**

The waiver of any breach of a term, provision, or requirement of this contract shall not be construed or deemed as a waiver of any subsequent breach of such term, provision, or requirement, or of any other term, provision or requirement.

**Section 21. Entire Understanding**

This contract is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein by writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a writing executed and approved pursuant to the State Fiscal Rules.

**Section 22. Survival of Contract Terms**

Notwithstanding anything herein to the contrary, the parties understand and agree that all terms and conditions of this contract and the exhibits and attachments hereto which may require continued performance, compliance or effect beyond the termination date of the contract shall survive such termination date and shall be enforceable by the State as provided herein in the event of such failure to perform or comply by the Local Agency.

**Section 23. Modification and Amendment**

This contract is subject to such modifications as may be required by changes in federal or State law, or their implementing regulations. Any such required modification shall automatically be incorporated into and be part of this contract on the effective date of such change as if fully set forth herein. Except as provided above, no modification of this contract shall be effective unless agreed to in writing by both parties in an amendment to this contract that is properly executed and approved in accordance with applicable law.

**Section 24. Option Letters**



Option Letters may be used to extend Agreement term, change the level of service within the current term due to unexpected overmatch, add a phase without increasing contract dollars, or increase or decrease the amount of funding. **These options are limited to the specific scenarios listed below.** The Option Letter shall not be deemed valid until signed by the State Controller or an authorized delegate.

Following are the applications for the individual options under the Option Letter form:

**Option 1 - Option to extend or renew** (this option applies to Highway and Signal maintenance contracts only). In the event the State desires to continue the Services and a replacement contract has not been fully approved by the termination date of this contract, the State, upon written notice to Contractor, may unilaterally extend this contract for a period of up to one (1) year. The contract shall be extended under the same terms and conditions as the original contract, including, but not limited to prices, rates and service delivery requirements. This extension shall terminate at the end of the one (1) year period or when the replacement contract is signed by the Colorado State Controller or an authorized delegate.

The State may exercise this option by providing a fully executed option to the contractor, within thirty (30) days prior to the end of the current contract term, in a form substantially equivalent to **Exhibit D**. If the State exercises this option, the extended contract will be considered to include this option provision. The total duration of this contract, including the exercise of any options under this clause, shall not exceed five (5) years.

**Option 2 - Level of service change within current term due to unexpected overmatch in an overbid situation only.** In the event the State has contracted all project funding and the Local Agency's construction bid is higher than expected, this option allows for additional Local Overmatch dollars to be provided by the Local Agency to be added to the contract. This option is only applicable for Local Overmatch on an overbid situation and shall not be intended for any other Local Overmatch funding.

The State may unilaterally increase the total dollars of this contract as stipulated by the executed Option Letter (**Exhibit C**), which will bring the maximum amount payable under this contract to the amount indicated in Exhibit C-1 attached to the executed Option Letter (future changes to **Exhibit C** shall be labeled as C-2, C-3, etc, as applicable). Performance of the services shall continue under the same terms as established in the contract. The State will use the Financial Statement submitted by the Local Agency for "Concurrence to Advertise" as evidence of the Local Agency's intent to award and it will also provide the additional amount required to exercise this option. If the State exercises this option, the contract will be considered to include this option provision.

**Option 3 - Option to add overlapping phase without increasing contract dollars.** The State may require the contractor to begin a phase that may include Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous (this does not apply to Acquisition/Relocation or Railroads) as detailed in **Exhibit A** and at the same terms and conditions stated in the original contract with the contract dollars remaining the same. The State may exercise this option by providing a fully executed option to the contractor within thirty (30) days before the initial targeted start date of the phase, in a form substantially equivalent to **Exhibit C**. If the State exercises this option, the contract will be considered to include this option provision.

**Option 4 - To update funding (increases and/or decreases) with a new Exhibit C.** This option can be used to increase and/or decrease the overall contract dollars (state, federal, local match, local agency overmatch) to date in the Original Contract with an updated Exhibit C-1 (subsequent exhibits to Exhibit C-1 shall be labeled C-2, C-3, etc).

The State may have a need to update changes to state, federal, local match and local agency overmatch funds as outlined in Exhibit C- 1, which will be attached to the option form. The State may exercise this option by providing a fully executed option to the contractor within thirty (30) days after the State has received notice of funding changes, in a form substantially equivalent to **Exhibit C**. If the State exercises this option, the contract will be considered to include this option provision.

#### **Section 25. Disadvantaged Business Enterprise (DBE)**

The Local Agency will comply with all requirements of **Exhibit E** and the Local Agency Contract Administration Checklist regarding DBE requirements for the Work, except that if the Local Agency desires to use its own DBE program to implement and administer the DBE provisions of 49 CFR Part 26 under this contract, it must submit a copy of its program's requirements to the State for review and approval before the execution of this contract. If the Local Agency uses its program for this contract, the Local Agency shall be solely responsible to defend that DBE program and its use of that program against all legal and other challenges or complaints, at its sole cost and expense.

Such responsibility includes, without limitation, determinations concerning DBE eligibility requirements and certification, adequate legal and factual bases for DBE goals and good faith efforts. State approval (if provided) of the Local Agency's DBE program does not waive or modify the sole responsibility of the Local Agency for its use as described above.

#### **Section 26. Disputes**

Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement will be decided by the Chief Engineer of the Department of Transportation. The decision of the Chief Engineer will be final and conclusive unless, within 30 calendar days after the date of receipt of a copy of such written decision, the Local Agency mails or otherwise furnishes to the State a written appeal addressed to the Executive Director of the Department of Transportation. In connection with any appeal proceeding under this clause, the Local Agency shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Local Agency shall proceed diligently with the performance of the contract in accordance with the Chief Engineer's decision. The decision of the Executive Director or his duly authorized representative for the determination of such appeals will be final and conclusive and serve as final agency action. This dispute clause does not preclude consideration of questions of law in connection with decisions provided for herein. Nothing in this contract, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

#### **Section 27. Statewide Contract Management System**

If the maximum amount payable to Contractor under this Contract is \$100,000 or greater, either on the Effective Date or at anytime thereafter, this **§Statewide Contract Management System** applies. Contractor agrees to be governed, and to abide, by the provisions of CRS §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 concerning the monitoring of vendor performance on state contracts and inclusion of contract performance information in a statewide contract management system.

Contractor's performance shall be subject to Evaluation and Review in accordance with the terms and conditions of this Contract, State law, including CRS §24-103.5-101, and State Fiscal Rules, Policies and Guidance. Evaluation and Review of Contractor's performance shall be part of the normal contract administration process and Contractor's performance will be systematically recorded in the statewide Contract Management System. Areas of Evaluation and Review shall include, but shall not be limited to quality, cost and timeliness. Collection of information relevant to the performance of Contractor's obligations under this Contract shall be determined by the specific requirements of such obligations and shall include factors tailored to match the requirements of Contractor's obligations. Such performance information shall be entered into the statewide Contract Management System at intervals established herein and a final Evaluation, Review and Rating shall be rendered within 30 days of the end of the Contract term. Contractor shall be notified following each performance Evaluation and Review, and shall address or correct any identified problem in a timely manner and maintain work progress.

Should the final performance Evaluation and Review determine that Contractor demonstrated a gross failure to meet the performance measures established hereunder, the Executive Director of the Colorado Department of Personnel and Administration (Executive Director), upon request by the Department of Transportation, and showing of good cause, may debar Contractor and prohibit Contractor from bidding on future contracts. Contractor may contest the final Evaluation, Review and Rating by: (a) filing rebuttal statements, which may result in either removal or correction of the evaluation (CRS §24-105-102(6)), or (b) under CRS §24-105-102(6), exercising the debarment protest and appeal rights provided in CRS §§24-109-106, 107, 201 or 202, which may result in the reversal of the debarment and reinstatement of Contractor, by the Executive Director, upon showing of good cause.

**Section 28. Special Provisions.**

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

1. **CONTROLLER'S APPROVAL.** CRS §24-30-202(1). This contract shall not be valid until it has been approved by the Colorado State Controller or designee.
2. **FUND AVAILABILITY.** CRS §24-30-202(5.5). Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.
3. **GOVERNMENTAL IMMUNITY.** No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.
4. **INDEPENDENT CONTRACTOR.** Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor 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 Contractor or any of its agents or employees. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.
5. **COMPLIANCE WITH LAW.** Contractor 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.
6. **CHOICE OF LAW.** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this contract, to the extent capable of execution.
7. **BINDING ARBITRATION PROHIBITED.** The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.
8. **SOFTWARE PIRACY PROHIBITION.** Governor's Executive Order D 002 00. State or other public funds payable under this contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this contract, including, without limitation, immediate termination of this contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.
9. **EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST.** CRS §§24-18-201 and 24-50-507. 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 contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.
10. **VENDOR OFFSET.** CRS §§24-30-202 (1) and 24-30-202.4. *[Not Applicable to intergovernmental agreements]* Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.
11. **PUBLIC CONTRACTS FOR SERVICES.** CRS §8-17.5-101. *[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] Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this contract, through participation in the E-Verify Program or the Department program established pursuant to CRS §8-17.5-102(5)(c). Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor (a) shall not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed, (b) shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this contract, (c) shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and (d) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this contract for breach and, if so terminated, Contractor shall be liable for damages.*

**12. PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS §24-76.5-101.** Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 et seq., and (c) has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this contract.

Revised 1-1-09

Section 29. SIGNATURE PAGE

Agreement Routing Number: 14 HA2 68029

**THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT**

**\* Persons signing for The Local Agency hereby swear and affirm that they are authorized to act on The Local Agency's behalf and acknowledge that the State is relying on their representations to that effect.**

<p><b>THE LOCAL AGENCY CITY OF COLORADO SPRINGS</b></p> <p>By: _____</p> <p>Title: _____</p> <p>_____</p> <p>*Signature</p> <p>Date: _____</p>	<p><b>STATE OF COLORADO</b> John W. Hickenlooper, GOVERNOR Colorado Department of Transportation Donald E. Hunt, Executive Director</p> <p>_____</p> <p>By: Scott McDaniel, Acting Chief Engineer</p> <p>Date: _____</p>
	<p><b>LEGAL REVIEW</b> John W. Suthers, Attorney General</p> <p>By: _____</p> <p>Signature - Assistant Attorney General</p> <p>Date: _____</p>

**ALL AGREEMENTS REQUIRE APPROVAL BY THE STATE CONTROLLER**

CRS §24-30-202 requires the State Controller to approve all State Agreements. This Agreement is not valid until signed and dated below by the State Controller or delegate. The Local Agency is not authorized to begin performance until such time. If The Local Agency begins performing prior thereto, the State of Colorado is not obligated to pay The Local Agency for such performance or for any goods and/or services provided hereunder.

<p><b>STATE CONTROLLER</b> Robert Jaros, CPA, MBA, JD</p> <p>By: _____</p> <p>Colorado Department of Transportation</p> <p>Date: _____</p>
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### EXHIBIT A SCOPE OF WORK

<b>COLORADO DEPARTMENT OF TRANSPORTATION DESIGN DATA</b>		Orig. Date: 07/10/2013		Project Code # (S&B): 19725		STIP# SST7035	
		Rev Date:		Project # STL M240-151			
Page 1 to 3		Revision # 0		PE Project Code:			
Status: <input checked="" type="checkbox"/> Preliminary <input type="checkbox"/> Final <input type="checkbox"/> Revised		Region # 02		Project Description: MMT-FASTER BUS STOP SHELTER REPLACEMENT			
Submitted By PM: HANY		Approved by Program Engineer		County 041			
Date:				Municipality: Colorado Springs			
Revised by:				System Code: Z-Not on any Federal-Aid Highway			
Date:				Oversight By: Other			
				Planned Length 0.100			
Geographic Location: MULTIPLE ROUTES IN THE COLORADO SPRINGS URBANIZED AREA							
Type of Terrain: Rolling							
Description of Proposed Construction/Improvement(Attach map showing site location) BUS STOP SHELTER REPLACEMENT AND REPAIR							
<b>1 Project Characteristics (Proposed)</b>				<b>Median (Type):</b> <input type="checkbox"/> Depressed <input type="checkbox"/> Painted <input type="checkbox"/> Raised <input type="checkbox"/> None			
<input type="checkbox"/> Lighting		<input type="checkbox"/> Handicap Ramps		<input type="checkbox"/> Traffic Control Signals		<input type="checkbox"/> Striping	
<input type="checkbox"/> Curb and Gutter		<input type="checkbox"/> Curb Only		<input type="checkbox"/> Left-Turn Slots		<input type="checkbox"/> Continuous Width=	
<input type="checkbox"/> Sidewalk Width=		<input type="checkbox"/> Bikeway Width=		<input type="checkbox"/> Right-Turn Slots		<input type="checkbox"/> Continuous Width=	
<input type="checkbox"/> Parking Lane Width=		<input type="checkbox"/> Detours		<input type="checkbox"/> Signing		<input type="checkbox"/> Construction <input type="checkbox"/> Permanent	
<input type="checkbox"/> Landscaping requirements (description)				<input checked="" type="checkbox"/> Other (description) Bus Stop Shelters and repair			
<b>2 Right of Way</b>				<b>3 Utilities (List names of known utility companies)</b>			
ROW &/or Perm. Easement Required	Yes/No	Est. #		n/a			
Relocation Required	No	_____					
Temporary Easement Required	No	_____					
Changes in Access	No	_____					
Changes to Connecting Roads	No	_____					
<b>4 Railroad Crossings</b>							
# of Crossings:							
Recommendations :							
<b>5 Environmental</b>							
Type:	None	Approved On	/ /	Project Code # Cleared Under:	Project # Cleared Under:		
Comments:							
<b>6 Coordination</b>							
<input type="checkbox"/> Withdrawn Lands (Power Sites, Reservoirs, Etc.) Cleared through BLM or Forest Service Office				Irrigation Ditch Name:			
<input type="checkbox"/> New Traffic Ordinance Required <input type="checkbox"/> Modify Schedule of Existing Ordinance				Municipality: Colorado Springs			
Other:							
<b>7 Construction Method</b>		Advertised By:	No Ad Reason:	Entity / Agency Contact Name:	Phone #:		
		Local		Brittany Goode	719-385-7471		
<b>8 Safety Considerations</b>		Project Under: Other		Criteria		Guardrail meets current standards: No	
<input type="checkbox"/> Variance in Minimum Design Standards Required				<input type="checkbox"/> Safety project not all standards addressed			
<input type="checkbox"/> Justification Attached		<input type="checkbox"/> Request to be Submitted		Comments:			
<input type="checkbox"/> Bridge(see item 12)		<input type="checkbox"/> See Remarks					
<input type="checkbox"/> Stage Construction (explain in remarks)							
3R projects							
Safety Evaluation Complete (date):							

Page 2 of 3		Project Code #(S4F)		Project #		Revise date:	
19725		STL M240-151					
Use Columns A, B, C, D and/or E to identify facility described below							
A =		B =		C =		D =	
E =							
<b>9 Traffic</b>							
Current Year	ADT						
	DHV						
Future Year	DHV % Trucks						
	ADT						
	DHV						
Facility Location		<input type="checkbox"/> Industrial	<input type="checkbox"/> Commercial	<input type="checkbox"/> Industrial	<input type="checkbox"/> Commercial	<input type="checkbox"/> Industrial	<input type="checkbox"/> Commercial
		<input type="checkbox"/> Residential	<input type="checkbox"/> Other	<input type="checkbox"/> Residential	<input type="checkbox"/> Other	<input type="checkbox"/> Residential	<input type="checkbox"/> Other
<b>10 Roadway Class</b>							
Route							
Relft	0 000						
Endright	0 000						
Functional Classification	N						
Facility type	0						
Rural Code	3						
<b>Design Standards</b>		Standard	Existing	Proposed	Ultimate	Standard	Ultimate
<b>Design Variance Required</b> (substandard items are identified with an * in 1 <sup>st</sup> column & clarify as design variance with CDOT Form #464)		Standard	Existing	Proposed	Ultimate	Standard	Ultimate
Width of Travel Lanes							
Shoulder width I/inside							
Shoulder width R/outside							
Design Speed							
Cross Slope							
Max. superelevation rate							
Min. Radius							
Min. Horizontal SSD							
Min. Vertical SSD							
Max Grade							
<b>Design Decision Letter Required</b> (substandard items are identified with an * in 1 <sup>st</sup> column & clarify with decision letter)							
Typical Section Type							
# of Travel Lanes							
Side Slope Dist. (F)							
Median Width							
Posted Speed							

Page 3 of 3	Project Code #(SA#) 19725	Project # STL M240-151	Revise Date						
<b>12 Major Structures</b> S= to stay, R= to be removed, P= proposed new structure									
Structure ID#	Length	Reference Point	Feature Intersected	Standard Width	Structure Roadway	Structural Capacity	Horizontal Clearance	Vertical Clearance	Year Built
Proposed Treatment of Bridges to Remain in Place(address bridge rail, capacity, and allowable surfacing thickness).									
<b>13 Remarks</b>									
Scope of Work									
<p>This project will fund the replacement and capitalization of 20 percent of the bus shelters that are beyond repair. This project will also allow for shelters to be repaired. Funding will provide for repair and replacement of existing bus shelters and fund additional shelters for current and future routes. Facilities provided at transit stops help make transit more comfortable and convenient to customers, thereby encouraging usage.</p>									



**EXHIBIT B**  
**LOCAL AGENCY**  
**ORDINANCE**  
**or**  
**RESOLUTION**

**EXHIBIT D – OPTION LETTER**

**SAMPLE IGA OPTION LETTER**

(This option has been created by the Office of the State Controller for CDOT use only)

NOTE: This option is limited to the specific contract scenarios listed below

AND may be used in place of exercising a formal amendment.

<b>Date:</b>	<b>State Fiscal Year:</b>	<b>Option Letter No.</b>	<b>Option Letter CMS Routing #</b>
			<b>Option Letter SAP #</b>
<b>Original Contract CMS #</b>		<b>Original Contract SAP #</b>	

Vendor name: \_\_\_\_\_

**SUBJECT:**

Option to unilaterally authorize the Local Agency to begin a phase which may include Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous ONLY (*does not apply to Acquisition/Relocation or Railroads*) and to update encumbrance amounts(a new Exhibit C must be attached with the option letter and shall be labeled C-1, future changes for this option shall be labeled as follows: C-2, C-3, C-4, etc.).

Option to unilaterally transfer funds from one phase to another phase (a new Exhibit C must be attached with the option letter and shall be labeled C-1, future changes for this option shall be labeled as follows: C-2, C-3, C-4, etc.).

Option to unilaterally do both A and B (a new Exhibit C must be attached with the option letter and shall be labeled C-1, future changes for this option shall be labeled as follows: C-2, C-3, C-4, etc.).

**REQUIRED PROVISIONS:**

**Option A** (*Insert the following language for use with the Option A*):

In accordance with the terms of the original Agreement (*insert CMS routing # of the original Agreement*) between the State of Colorado, Department of Transportation and (*insert the Local Agency's name here*), the State hereby exercises the option to authorize the Local Agency to begin a phase that will include (*describe which phase will be added and include all that apply – Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous*) and to encumber previously budgeted funds for the phase based upon changes in funding availability and authorization. The encumbrance for (*Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous*)is (*insert dollars here*). A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**. (*The following is a NOTE only, please delete when using this option. Future changes for this option for Exhibit C shall be labled as follows: C-2, C-3, C-4, etc.*).

**Option B** (*Insert the following language for use with Option B*):

In accordance with the terms of the original Agreement (*insert CMS # of the original Agreement*) between the State of Colorado, Department of Transportation and (*insert the Local Agency's name here*), the State hereby exercises the option to transfer funds from (*describe phase from which funds will be moved*) to (*describe phase to which funds will be moved*) based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**. (*The following is a NOTE only so please delete when using this option: future changes for this option for Exhibit C shall be labeled as follows: C-2, C-3, C-4, etc.; and no more than 24.99% of any phase may be moved using this option letter. A transfer greater than 24.99% must be made using an formal amendment*)..

**Option C** (Insert the following language for use with Option C):

In accordance with the terms of the original Agreement (insert CMS routing # of original Agreement) between the State of Colorado, Department of Transportation and (insert the Local Agency's name here), the State hereby exercises the option to 1) release the Local Agency to begin a phase that will include (describe which phase will be added and include all that apply – Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous); 2) to encumber funds for the phase based upon changes in funding availability and authorization; and 3) to transfer funds from (describe phase from which funds will be moved) to (describe phase to which funds will be moved) based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**. (The following is a NOTE only so please delete when using this option: future changes for this option for **Exhibit C** shall be labeled as follows: **C-2, C-3, C-4, etc.**; and no more than 24.99% of any phase may be moved using this option letter. A transfer greater than 24.99% must be made using a formal amendment).

(The following language must be included on ALL options):

The total encumbrance as a result of this option and all previous options and/or amendments is now (insert total encumbrance amount), as referenced in **Exhibit (C-1, C-2, etc., as appropriate)**. The total budgeted funds to satisfy services/goods ordered under the Agreement remains the same: (indicate total budgeted funds) as referenced in **Exhibit (C-1, C-2, etc., as appropriate)** of the original Agreement.

The effective date of this option letter is upon approval of the State Controller or delegate.

**APPROVALS:**

**State of Colorado:**

John W. Hickenlooper, Governor

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Executive Director, Colorado Department of Transportation

**ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER**

**CRS §24-30-202 requires the State Controller to approve all State Contracts. This Agreement is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If the Local Agency begins performing prior thereto, the State of Colorado is not obligated to pay the Local Agency for such performance or for any goods and/or services provided hereunder.**

**State Controller  
Robert Jaros, CPA, MBA, JD**

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

Date: \_\_\_\_\_

Form Updated: December 19, 2012

**EXHIBIT D**  
**LOCAL AGENCY**  
**CONTRACT ADMINISTRATION**  
**CHECKLIST**

**CDOT Form 1243**

**COLORADO DEPARTMENT OF TRANSPORTATION  
LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST**

Project No. STL M240-151	STIP No. SST7035 116	Project Code 19725	Region 2
Project Location			Date 7-09-2013
Multiple routes in the Colorado Springs Urbanized Area			
Project Description Colorado Springs Transit-Bus Stop Shelter Replacements and Repair			
Local Agency City of Colorado Springs - Mountain Metropolitan Transit	Local Agency Project Manager Brittany Goode		
CDOT Resident Engineer Mark Andrew	CDOT Project Manager Yun Han		

**INSTRUCTIONS:**  
 This checklist shall be utilized to establish the contract administration responsibilities of the individual parties to this agreement. The checklist becomes an attachment to the Local Agency agreement. Section numbers correspond to the applicable chapters of the CDOT Local Agency Manual.

The checklist shall be prepared by placing an "X" under the responsible party, opposite each of the tasks. The "X" denotes the party responsible for initiating and executing the task. Only one responsible party should be selected. When neither CDOT nor the Local Agency is responsible for a task, not applicable (NA) shall be noted. In addition, a "#" will denote that CDOT must concur or approve.

Tasks that will be performed by Headquarters staff will be indicated. The Regions, in accordance with established policies and procedures, will determine who will perform all other tasks that are the responsibility of CDOT.

The checklist shall be prepared by the CDOT Resident Engineer or the CDOT Project Manager, in cooperation with the Local Agency Project Manager, and submitted to the Region Program Engineer. If contract administration responsibilities change, the CDOT Resident Engineer, in cooperation with the Local Agency Project Manager, will prepare and distribute a revised checklist.

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
<b>TIP / STIP AND LONG-RANGE PLANS</b>			
2.1	Review Project to ensure it is consistent with STIP and amendments thereto		X
<b>FEDERAL FUNDING OBLIGATION AND AUTHORIZATION</b>			
4.1	Authorize funding by phases (CDOT Form 418 - Federal-aid Program Data Requires FHWA concurrence/involvement)	N/A	N/A
<b>PROJECT DEVELOPMENT</b>			
5.1	Prepare Design Data - CDOT Form 463	N/A	N/A
5.2	Prepare Local Agency/CDOT Inter-Governmental Agreement (see also Chapter 3)		X
5.3	Conduct Consultant Selection/Execute Consultant Agreement	N/A	N/A
5.4	Conduct Design Scoping Review Meeting	N/A	N/A
5.5	Conduct Public Involvement	N/A	N/A
5.6	Conduct Field Inspection Review (FIR)	N/A	N/A
5.7	Conduct Environmental Processes (may require FHWA concurrence/involvement)	N/A	N/A
5.8	Acquire Right-of-Way (may require FHWA concurrence/involvement)	N/A	N/A
5.9	Obtain Utility and Railroad Agreements	N/A	N/A
5.10	Conduct Final Office Review (FOR)	N/A	N/A
5.11	Justify Force Account Work by the Local Agency	N/A	N/A
5.12	Justify Proprietary, Sole Source, or Local Agency Furnished Items	N/A	N/A
5.13	Document Design Exceptions - CDOT Form 464	N/A	N/A
5.14	Prepare Plans, Specifications and Construction Cost Estimates	N/A	N/A
5.15	Ensure Authorization of Funds for Construction	N/A	N/A

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
<b>PROJECT DEVELOPMENT CIVIL RIGHTS AND LABOR COMPLIANCE</b>			
6.1	Set Underutilized Disadvantaged Business Enterprise (UBDE) Goals for Consultant and Construction Contracts (CDOT Region EEO/Civil Rights Specialist)	N/A	N/A
6.2	Determine Applicability of Davis-Bacon Act This project <input checked="" type="checkbox"/> is <del>is</del> not exempt from Davis-Bacon requirements as determined by the functional classification of the project location (Projects located on local roads and rural minor collectors may be exempt.)  <i>M. J. Coates</i> _____ 7/31/13 CDOT Resident Engineer (Signature on File) Date	X	
6.3	Set On-the-Job Training Goals. Goal is zero if total construction is less than \$1 million (CDOT Region EEO/Civil Rights Specialist)	N/A	N/A
6.4	Title VI Assurances	N/A	N/A
	Ensure the correct Federal Wage Decision, all required Disadvantaged Business Enterprise/On-the-Job Training special provisions and FHWA Form 1273 are included in the Contract (CDOT Resident Engineer)	N/A	N/A
<b>ADVERTISE, BID AND AWARD</b>			
7.1	Obtain Approval for Advertisement Period of Less Than Three Weeks	N/A	N/A
7.2	Advertise for Bids	X	
7.3	Distribute "Advertisement Set" of Plans and Specifications	X	
7.4	Review Worksite and Plan Details with Prospective Bidders While Project is Under Advertisement	X	
7.5	Open Bids	X	
7.6	Process Bids for Compliance		
	Check CDOT Form 715 - Certificate of Proposed Underutilized DBE Participation when the low bidder meets UDBE goals	N/A	N/A
	Evaluate CDOT Form 718 - Underutilized DBE Good Faith Effort Documentation and determine if the Contractor has made a good faith effort when the low bidder does not meet DBE goals	N/A	N/A
	Submit required documentation for CDOT award concurrence	N/A	N/A
7.7	Concurrence from CDOT to Award	N/A	N/A
7.8	Approve Rejection of Low Bidder	X	
7.9	Award Contract	X	
7.10	Provide "Award" and "Record" Sets of Plans and Specifications	X	
<b>CONSTRUCTION MANAGEMENT</b>			
8.1	Issue Notice to Proceed to the Contractor	X	
8.2	Project Safety	X	
8.3	Conduct Conferences:		
	Pre-Construction Conference (Appendix B)	X	
	Pre-survey		
	• Construction staking	N/A	N/A
	• Monumentation	N/A	N/A
	Partnering (Optional)	N/A	N/A
	Structural Concrete Pre-Pour (Agenda is in CDOT Construction Manual)	N/A	N/A
	Concrete Pavement Pre-Paving (Agenda is in CDOT Construction Manual)	N/A	N/A
	HMA Pre-Paving (Agenda is in CDOT Construction Manual)	N/A	N/A
8.4	Develop and distribute Public Notice of Planned Construction to media and local residents	N/A	N/A
8.5	Supervise Construction		
	A Professional Engineer (PE) registered in Colorado, who will be "in responsible charge of construction supervision." <i>Brianny Goode</i> _____ (719) 385-7471 Local Agency Professional Engineer or Phone number CDOT Resident Engineer	X	

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
	Provide competent, experienced staff who will ensure the Contract work is constructed in accordance with the plans and specifications	X	
	Construction inspection and documentation	X	
8.6	Approve Shop Drawings	X	
8.7	Perform Traffic Control Inspections	X	
8.8	Perform Construction Surveying	X	
8.9	Monument Right-of-Way	N/A	N/A
8.10	Prepare and Approve Interim and Final Contractor Pay Estimates	X	
	Provide the name and phone number of the person authorized for this task.		
	<u>Brittany Goode</u> (719) 385-7471 Local Agency Representative Phone number		
8.11	Prepare and Approve Interim and Final Utility and Railroad Billings	N/A	N/A
8.12	Prepare Local Agency Reimbursement Requests	X	
8.13	Prepare and Authorize Change Orders	X	
8.14	Approve All Change Orders	X	
8.15	Monitor Project Financial Status	X	
8.16	Prepare and Submit Monthly Progress Reports	X	
8.17	Resolve Contractor Claims and Disputes	X	
8.18	Conduct Routine and Random Project Reviews		
	Provide the name and phone number of the person responsible for this task		X
	<u>Mark Andrew Yun Han</u> 227-3205/227-3242 CDOT Resident Engineer Phone number		
<b>MATERIALS</b>			
9.1	Conduct Materials Pre-Construction Meeting	N/A	N/A
9.2	Complete CDOT Form 250 - Materials Documentation Record		
	• Generate form, which includes determining the minimum number of required tests and applicable material submittals for all materials placed on the project	N/A	N/A
	• Update the form as work progresses	N/A	N/A
	• Complete and distribute form after work is completed	N/A	N/A
9.3	Perform Project Acceptance Samples and Tests	X	
9.4	Perform Laboratory Verification Tests	X	
9.5	Accept Manufactured Products	X	
	Inspection of structural components:		
	• Fabrication of structural steel and pre-stressed concrete structural components	X	
	• Bridge modular expansion devices (0" to 6" or greater)	N/A	N/A
	• Fabrication of bearing devices	N/A	N/A
9.6	Approve Sources of Materials	X	
9.7	Independent Assurance Testing (IAT), Local Agency Procedures <input checked="" type="checkbox"/> CDOT Procedures <input type="checkbox"/>		
	• Generate IAT schedule	X	
	• Schedule and provide notification	X	
	• Conduct IAT	X	
9.8	Approve mix designs		
	• Concrete	X	
	• Hot mix asphalt	X	
9.9	Check Final Materials Documentation	X	
9.10	Complete and Distribute Final Materials Documentation	X	

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Previous editions are obsolete and may not be used

<b>CONSTRUCTION CIVIL RIGHTS AND LABOR COMPLIANCE</b>			
10.1	Fulfill Project Bulletin Board and Pre-Construction Packet Requirements	X	
10.2	Process CDOT Form 205 - Sublet Permit Application <b>Review and sign completed CDOT Form 205 for each subcontractor, and submit to EEO/Civil Rights Specialist</b>	N/A	N/A
10.3	Conduct Equal Employment Opportunity and Labor Compliance Verification Employee Interviews Complete CDOT Form 280	X	
10.4	Monitor Disadvantaged Business Enterprise Participation to Ensure Compliance with the "Commercially Useful Function" Requirements	X	
10.5	Conduct Interviews When Project Utilizes On-the-Job Trainees Complete CDOT Form 200 - OJT Training Questionnaire	N/A	N/A
10.6	Check Certified Payrolls (Contact the Region EEO/Civil Rights Specialist for training requirements.)	X	
10.7	Submit FHWA Form 1391 - Highway Construction Contractor's Annual EEO Report	N/A	N/A
<b>FINALS</b>			
11.1	Conduct Final Project Inspection. Complete and submit CDOT Form 1212 - Final Acceptance Report (Resident Engineer with mandatory Local Agency participation )	N/A	N/A
11.2	Write Final Project Acceptance Letter	X	
11.3	Advertise for Final Settlement	X	
11.4	Prepare and Distribute Final As-Constructed Plans	X	
11.5	Prepare EEO Certification	X	
11.6	Check Final Quantities, Plans, and Pay Estimate; Check Project Documentation; and submit Final Certifications	X	
11.7	Check Material Documentation and Accept Final Material Certification (See Chapter 9)	X	
11.8	Obtain CDOT Form 17 from the Contractor and Submit to the Resident Engineer	N/A	N/A
11.9	Obtain FHWA Form 47 - Statement of Materials and Labor Used ... from the Contractor	N/A	N/A
11.10	Complete and Submit CDOT Form 1212 - Final Acceptance Report (by CDOT)	N/A	N/A
11.11	Process Final Payment	X	
11.12	Complete and Submit CDOT Form 950 - Project Closure	N/A	N/A
11.13	Retain Project Records for Six Years from Date of Project Closure	X	
11.14	Retain Final Version of Local Agency Contract Administration Checklist	X	

cc: CDOT Resident Engineer/Project Manager  
 CDOT Region Program Engineer  
 CDOT Region EEO/Civil Rights Specialist  
 CDOT Region Materials Engineer  
 CDOT Contracts and Market Analysis Branch  
 Local Agency Project Manager