

**RESOLUTION 2019-001**  
**OF THE COUNCIL OF THE CITY OF FORT COLLINS**  
**AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT**  
**BETWEEN THE CITY AND THE COLORADO DEPARTMENT OF TRANSPORTATION**  
**FOR THE MAINTENANCE OF TRAFFIC SIGNALS, SIGNS AND ROADWAY MARKINGS**  
**WITHIN THE FORT COLLINS GROWTH MANAGEMENT AREA**

WHEREAS, Section 43-2-135(1)(i) of the Colorado Revised Statutes requires the State of Colorado ("State") to install, operate, maintain and control, at State expense, all traffic control devices on the State's highway system within cities and incorporated towns; and

WHEREAS, the State, through the Colorado Department of Transportation ("CDOT"), has historically contracted with the City to maintain traffic control devices within the City and the Fort Collins Growth Management Area ("GMA"); and

WHEREAS, historically such intergovernmental agreements between the City and CDOT for the City to perform maintenance work on traffic control devices with CDOT rights-of-way have been for terms of five years and the previous agreement expired on June 30, 2017; and

WHEREAS, the City and CDOT approved a short-term agreement that covered the time period from July 1, 2017 through June 30, 2018 while CDOT processed an updated long-term agreement; and

WHEREAS, CDOT is proposing an updated long-term Intergovernmental Agreement which is attached as Exhibit "A" and incorporated by reference (the "IGA"), which provides for continued traffic control device maintenance by the City, with updated reimbursement rates and amounts; and

WHEREAS, the IGA is for a term of five years beginning retroactively from July 1, 2018 through June 30, 2023 and sets a cumulative five-year maximum reimbursement at \$ 1,179,600 and

WHEREAS, the City Council has determined that it is in the best interests of the City that the City continue to maintain traffic control devices on CDOT rights-of-way within the Fort Collins GMA, and that the Mayor be authorized to execute the IGA between the City and CDOT in support thereof.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the City Council hereby ratifies and accepts the terms of the IGA retroactively from July 1, 2018 to the time the IGA is signed and effective.

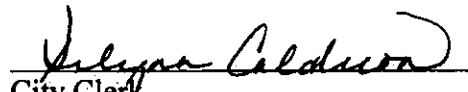
Section 3. That the Mayor is hereby authorized to enter into the IGA, in substantially the form attached hereto as Exhibit "A," together with such additional terms and conditions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City or to effectuate the purposes of this Resolution.

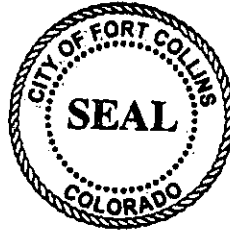
Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 2nd day of January, A.D. 2019.



Mayor

ATTEST:

  
City Clerk



(State Traffic Mtee)  
CITY OF FORT COLLINS

Rev 10/03  
Region: 4 (rbs)

### CONTRACT

**THIS AGREEMENT is entered into by and between the CITY OF FORT COLLINS (hereinafter called the "Local Agency"), and the STATE OF COLORADO acting by and through the Department of Transportation (hereinafter called the "State" or "CDOT").**

#### **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: 2300, GL Account: 4541000010, and Cost Center: R4530-010. (Contract Encumbrance Amount: \$235,920.00).
2. Required approval, clearance and coordination have been accomplished from and with appropriate agencies.
3. Section 43-2-102 and 103, C.R.S., require the State to maintain State highways (including where such highways extend through a city or an incorporated town), and Section 43-2-135(1)(i), C.R.S., as amended, requires the State to install, operate, maintain and control, at State expense, all traffic control devices on the State highway system within cities and incorporated towns.
4. The parties desire to enter this contract for the Local Agency to provide some or all of the certain Highway maintenance services on State highways that are the responsibility of the State under applicable law, and for the State to pay the Local Agency a reasonable negotiated fixed rate for such services.
5. The parties also intend that the Local Agency shall remain responsible to perform any services and duties on State highways that are the responsibility of the Local Agency under applicable law, at its own cost.
6. The State and the Local Agency have the authority, as provided in Sections 29-1-203, 43-1-106, 43-2-103, 43-2-104, and 43-2-144, C.R.S.; as amended, and if applicable, in an ordinance or resolution duly passed and adopted by the Local Agency, to enter into contract with the Local Agency for the purpose of maintenance of traffic control devices on the State highway system as hereinafter set forth.
7. The Local Agency has adequate facilities to perform the desired maintenance services on State highways within its jurisdiction.

#### **THE PARTIES NOW AGREE THAT:**

##### **Section 1. Scope of Work**

The Local Agency shall perform all maintenance services for the specified locations located within the Local Agency's jurisdiction and described in Exhibit A. Such services and highways are further detailed in Section 5.

##### **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 22 of this contract
2. This contract
3. Exhibit A (Scope of Work)
4. Exhibit C (Option Letter)
5. Exhibit D (Encumbrance Letter).

##### **Section 3. Term**

This contract shall be effective upon the date signed/approved by the State Controller, or designee, or on July 1, 2018, whichever is later. The term of this contract shall be for a term of **FIVE (5) years**. Provided, however, that the State's financial obligation for each subsequent, consecutive fiscal year of that term after the first fiscal year shall be subject to and contingent upon funds for each subsequent year being appropriated, budgeted, and otherwise made available therefor.

##### **Section 4. Project Funding and Payment 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 any such ordinance or resolution is attached hereto and incorporated herein as **Exhibit B**.

- B. Subject to the terms of this contract, for the satisfactory performance of the maintenance services on the Highways, as described in Section 5, the State shall pay the Local Agency on a lump sum basis, payable in monthly installments, upon receipt of the Local Agency's Statements, as provided herein.
- C. The State shall pay the Local Agency for the satisfactory operation and maintenance of traffic control devices under this agreement at the rates described in **Exhibit A**.
- D. The Local Agency will provide maintenance services as described in **Exhibit A**, for a total maximum amount of **\$235,920.00 per State fiscal year, and a maximum contract total shall not exceed the cumulative five-year total of \$1,179,600.00**. The negotiated rate per location shall remain fixed for the full five-year term of the contract, unless this rate is renegotiated in accord with the procedure set forth herein in Section 17. The total payments to the Local Agency during the term of this contract shall not exceed that maximum amount, unless this contract is amended. The Local Agency will bill the State monthly and the State will pay such bills within 45 days.
- E. The Statements submitted by the Local Agency for which payment is requested shall contain an adequate description of the type(s) and the quantity(ies) of the maintenance services performed, the date(s) of that performance, and on which specific sections of the highways such services were performed, in accord with standard Local Agency billing standards.
- F. If the Local Agency fails to satisfactorily perform the maintenance services or if the Statement submitted by the Local Agency does not adequately document the payment requested, after notice thereof from the State, the State may deduct and retain a proportionate amount from the monthly payment, based on the above rate, for that segment or portion.

**Section 5: State & Local Agency Commitments:**

- A. The Local Agency shall perform the maintenance services for the certain State highway system locations described herein. Such services and locations are detailed in **Exhibit A**.
- B. The Local Agency shall operate and maintain the specific traffic control devices, and at the particular locations, all as listed on **Exhibit A**, in a manner that is consistent with current public safety standards on State highways within its jurisdictional limits, and in conformance with applicable portions of the "Manual on Uniform Traffic Control Devices" and the "Colorado Supplement" thereto, which are referred to collectively as the "Manual" and which are incorporated herein by reference as terms and conditions of this agreement. The Local Agency shall provide all personnel, equipment, and other services necessary to satisfactorily perform such operation and maintenance.
- C. The Parties shall have the option to add or delete, at any time during the term of this agreement and subject to §17 of this agreement, one or more specific traffic control devices to the list shown in **Exhibit A** and therefore amend the maintenance services to be performed by the Local Agency under this agreement. The State may amend **Exhibit A** by written notice to the Local Agency using an Option Letter substantially equivalent to **Exhibit C**.
- D. The Local Agency may propose, in writing, other potential specific traffic control devices to be operated and maintained by the Local Agency during the term of this agreement, based on the same rates that had been initially agreed to by the Local Agency in **Exhibit A**. If the State determines in writing that operation and maintenance of those other devices by the Local Agency is appropriate, and is desirable to the State, and if the State agrees to add such devices to this agreement, then the State shall, by written Option Letter issued to the Local Agency in a form substantially equivalent to **Exhibit C**, add such devices to this contract.
- E. The Local Agency shall perform all maintenance services on an annual basis. The Local Agency's performance of such services shall comply with the same standards that are currently used by the State for the State's performance of such services, for similar type highways with similar use, in that year, as determined by the State. The State's Regional Transportation Director, or his representative, shall determine the then current applicable maintenance standards for the maintenance services. Any standards/directions provided by the State's representative to the Local Agency concerning the maintenance services shall be in writing. The Local Agency shall contact the State Region office and obtain those standards before the Local Agency performs such services. Performance Measures shall be accounted for within the duration of this contract. Performance Measures will be associated with signal/electrical maintenance, pavement marking maintenance and sign maintenance. Performance Measures shall be addressed once a year. The Local Agency shall develop an inspection schedule that ensures all items listed in **Exhibit A** are inspected yearly. The inspection schedule shall be approved by CDOT the Project Manager listed in this contract prior to initiating inspections. The Local Agency shall submit performance documentation to the CDOT Project Manager no later than April 10<sup>th</sup> of each calendar year covered

by this contract. Performance records shall be kept by the Local Agency for the term and a copy sent to the CDOT Project Manager.

### **Section 6. Record Keeping**

The Local Agency shall maintain a complete file of all records, documents, communications, and other written materials that 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, if applicable, FHWA to inspect the project and to inspect, review and audit the project records.

### **Section 7. Termination Provisions**

This contract may be terminated as follows:

- A. This contract may be terminated by either party, but only at the end of the State fiscal year (June 30), and only upon written notice thereof sent by registered, prepaid mail and received by the non-terminating party, not later than 30 calendar days before the end of that fiscal year. In that event, the State shall be responsible to pay the Local Agency only for that portion of the highway maintenance services actually and satisfactorily performed up to the effective date of that termination, and the Local Agency shall be responsible to provide such services up to that date, and the parties shall have no other obligations or liabilities resulting from that termination.

Notwithstanding subparagraph A above, this contract may also be terminated as follows:

- B. 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.
- C. 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.

- D. 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 8. 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 9. Representatives and Notice**

The State will provide liaison with the Local Agency through the State's Region Director, Region 4, 10601 West 10th Street. Said Region Director will also be responsible for coordinating the State's activities under this contract and will also issue a "Notice to Proceed" to the Local Agency for commencement of the work. All communications relating to the day-to-day activities for the work shall be exchanged between representatives of the State's Transportation Region 4 and the Local Agency. All communication, notices, and correspondence shall be addressed to the individuals identified below. Either party may from time to time designate in writing new or substitute representatives.

#### **If to State**

CDOT Region: 4  
Larry Haas  
Project Manager  
10601 West 10th Street  
Greeley, CO 80634  
970-350-2143

#### **If to the Local Agency**

City of Fort Collins  
Joseph P. Olson, P.E.  
Traffic Engineer  
PO Box 580  
Fort Collins, CO 80522-0580  
970-221-6770

### **Section 10. 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 11. 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 12. 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 13. 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 14. 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 15. 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 by the parties and approved pursuant to the State Fiscal Rules.

### Section 16. 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 17. 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.

#### A. Amendment

Either party may suggest renegotiation of the terms of this contract, provided that the contract shall not be subject to renegotiation more often than annually, and that neither party shall be required to renegotiate. If the parties agree to change the provisions of this contract, the renegotiated terms shall not be effective until this contract is amended/modified accordingly in writing. Provided, however, that the rates will be modified in accordance with applicable cost accounting principles and standards (including sections 24-107-101, et seq., C.R.S. and implementing regulations), and be based on an increase/decrease in the "allowable costs" of performing the Work. Any such proposed renegotiation shall not be effective unless agreed to in writing by both parties in an amendment to this contract that is properly executed and approved by the State Controller or delegee. Any such rate change will go into effect on the first day of the first month following the amendment execution date.

#### B. Option Letter

- a. The State may increase/decrease the quantity of goods/services described in **Exhibit A** at the same unit prices (rates) originally established in the contract. The State may exercise the option by written notice to the Local Agency in a form substantially equivalent to **Exhibit C**.
- b. As a result of increasing/decreasing the locations, the State may also unilaterally increase/decrease the maximum amount payable under this contract based upon the unit prices (rates) originally established in the contract and the schedule of services required, as set by the terms of this contract. The State may exercise the option by providing a fully executed option to the Local Agency, in a form substantially equivalent to **Exhibit C**, immediately upon signature of the State Controller or an authorized delegate. The Option Letter shall not be deemed valid until signed by the State Controller or an authorized delegate. Any such rate change will go into effect on the first day of the first month following the option letter execution date.

#### C. State Encumbrance Letter

The State may encumber the funds up to the maximum amount allowed during a given fiscal year by unilateral execution of an encumbrance letter in a form substantially equivalent to **Exhibit D**. The State shall provide a fully executed encumbrance letter to the Local Agency after execution. Delivery/performance of the goods/services shall continue at the same rate and under the same terms as established in the contract.

### Section 18. 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 19. Does not supersede other agreements

This contract is not intended to supersede or affect in any way any other agreement (if any) that is currently in effect between the State and the Local Agency for other "maintenance services" on State Highway rights-of-way within the

jurisdiction of the Local Agency. Also, the Local Agency shall also continue to perform, at its own expense, all such activities/duties (if any) on such State Highway rights-of-ways that the Local Agency is required by applicable law to perform.

#### **Section 20. SubLocal Agencies**

The Local Agency may subcontract for any part of the performance required under this contract, subject to the Local Agency first obtaining approval from the State for any particular subLocal Agency. The State understands that the Local Agency may intend to perform some or all of the services required under this contract through a subLocal Agency. The Local Agency agrees not to assign rights or delegate duties under this contract [or subcontract any part of the performance required under the contract] without the express, written consent of the State, which shall not be unreasonably withheld. Except as herein otherwise provided, this agreement shall inure to the benefit of and be binding only upon the parties hereto and their respective successors and assigns.

#### **Section 21. Statewide Contract Management System**

If the maximum amount payable to Local Agency under this contract is \$100,000 or greater, either on the Effective Date or at any time thereafter, this § 21. **Statewide Contract Management System** applies.

Local Agency 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 Local Agency performance on state contracts and inclusion of contract performance information in a Statewide contract management system.

Local Agency'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 the Local Agency's performance shall be part of the normal contract administration process and Local Agency'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 Local Agency'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 Local Agency'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. Local Agency 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 Local Agency 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 Local Agency and prohibit Local Agency from bidding on future contracts. Local Agency 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 Local Agency, by the Executive Director, upon showing of good cause.

#### **Section 22. Special Provisions**

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

- A. 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.
- B. 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.
- C. 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.
- D. INDEPENDENT LOCAL AGENCY.** The Local Agency shall perform its duties hereunder as an independent the Local Agency and not as an employee. Neither the Local Agency nor any agent or employee of the Local Agency shall be deemed to be an agent or employee of the State. the Local Agency 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 the Local Agency or any of its agents or employees. Unemployment insurance benefits will be available to the Local Agency and its employees and agents only if



such coverage is made available by the Local Agency or a third party. the Local Agency shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. the Local Agency shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. the Local Agency 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.

- E. COMPLIANCE WITH LAW.** The Local Agency shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.
- F. CHOICE OF LAW.** 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.
- G. 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.
- H. 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. the Local Agency hereby certifies and warrants that, during the term of this contract and any extensions, the Local Agency has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that the Local Agency 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.
- I. 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. The Local Agency has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of the Local Agency's services and the Local Agency shall not employ any person having such known interests.
- J. 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.
- K. 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]** The Local Agency 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), the Local Agency shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subthe Local Agency that fails to certify to the Local Agency that the subthe Local Agency shall not knowingly employ or contract with an illegal alien to perform work under this contract. the Local Agency (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 subthe Local Agency and the contracting State agency within three days if the Local Agency has actual knowledge that a subthe Local Agency

*is employing or contracting with an illegal alien for work under this contract, (c) shall terminate the subcontract if a subthe Local Agency 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 the Local Agency participates in the Department program, the Local Agency shall deliver to the contracting State agency, Institution of Higher Education or political subdivision a written, notarized affirmation, affirming that the Local Agency has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If the Local Agency 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, the Local Agency shall be liable for damages.*

- L. PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS §24-76.5-101.** the Local Agency, 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.

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**Revised 1-1-09**

**Section 23. SIGNATURE PAGE**

**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 align="center"><b>THE LOCAL AGENCY CITY OF FORT COLLINS</b></p> <p>Name: _____ (print name)</p> <p>Title: _____ (print title)</p> <p>_____</p> <p align="center">*Signature</p> <p>Date: _____</p>	<p align="center"><b>STATE OF COLORADO John W. Hickenlooper Department of Transportation</b></p> <p>By _____</p> <p align="center">Joshua Laipply, P.E., Chief Engineer (For) Michael P. Lewis, Executive Director</p> <p>Date: _____</p>
<p><b>2nd Local Agency Signature if needed</b></p> <p>Name: _____ (print name)</p> <p>Title: _____ (print title)</p> <p>_____</p> <p align="center">*Signature</p> <p>Date: _____</p>	<p align="center"><b>STATE OF COLORADO LEGAL REVIEW Cynthia H. Coffman, Attorney General</b></p> <p>By _____</p> <p align="center">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.**

**STATE OF COLORADO  
STATE CONTROLLER  
Robert Jaros, CPA, MBA, JD**

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

Colorado Department of Transportation

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

# Exhibit A – Scope of Work

## State Highway Traffic Signal Listing

- The City shall maintain the traffic signals and associated stop bars and crosswalks at the locations listed below.
  - Any reconstruction, modification, or improvement initiated by the City or performed as a result of a City project shall be included in the maintenance provided by the City.
  - Any reconstruction, modification, or improvement initiated by the State or performed as a result of a State project shall be paid for separately by the State.
  - The City shall perform inspections of all approaches at each location and submit documentation to CDOT by April 10<sup>th</sup> for each year of this contract. Inspection shall include, but not be limited to:
    - Each signal lens is operating and visible
    - Signal Timing is operating as programmed
    - Controller and Cabinet are clean and in good repair
    - Communication to signal is connected and operating
    - Back up power is tested for proper operation
    - Vehicle detection is operating properly
    - All luminaries attached to the signal are operating
  - Any defects found at these intersections shall be remedied immediately. Defects and remediation shall be documented and kept on file at the City and copied to CDOT. Any defects not remedied within one month of discovery shall incur a price reduction to the monthly compensation of \$325.00 per defective signal until all defects of the signal are remedied.
  - Yearly signal inspections shall include: the cursory visual inspection of signal caissons, bolts, bolt tightening, steel, welds, and attachment hardware and signal conflict monitor testing. Any deficiencies found in bolt tightening and attachment hardware shall be corrected immediately. Any deficiencies in the structure shall be documented and brought to the attention of the project manager.
1. US 287 (College) at Boardwalk
  2. US 287 (College) at Bockman
  3. US 287 (College) at Cherry
  4. US 287 (College) at Columbia
  5. US 287 (College) at Conifer/Hickory
  6. US 287 (College) at County Road 32
  7. US 287 (College) at Drake
  8. US 287 (College) at Elizabeth
  9. US 287 (College) at Fairway
  10. US 287 (College) at Foothills Parkway

11. US 287 (College) at Fossil Creek
12. US 287 (College) at Harmony
13. US 287 (College) at Harvard
14. US 287 (College) at Horsetooth
15. US 287 (College) at Kensington
16. US 287 (College) at LaPorte
17. US 287 (College) at Laurel
18. US 287 (College) at Magnolia
19. US 287 (College) at Maple/Jefferson
20. US 287 (College) at Monroe
21. US 287 (College) at Mountain
22. US 287 (College) at Mulberry
23. US 287 (College) at Oak
24. US 287 (College) at Olive
25. US 287 (College) at Pitkin
26. US 287 (College) at Prospect
27. US 287 (College) at Rutgers
28. US 287 (College) at Skyway
29. US 287 (College) at Spring Park
30. US 287 (College) at State Highway 1
31. US 287 (College) at Stuart
32. US 287 (College) at Swallow
33. US 287 (College) at Trilby
34. US 287 (College) at Troutman
35. US 287 (College) at Vine
36. US 287 (College) at Willox
37. State Highway 14 (Mulberry) at Greenfields Court
38. State Highway 14 (Jefferson) at Linden
39. State Highway 14 (Mulberry) at Lemay
40. State Highway 14 (Mulberry) at Link Lane
41. State Highway 14 (Riverside) at Lincoln/Mountain
42. State Highway 14 (Mulberry) at Riverside
43. US 287 at Shields
44. State Highway 14 (Mulberry) at Summit View
45. State Highway 14 (Mulberry) at Timberline
46. SH 1 at Country Club Road
47. SH 392 (Carpenter) & Lemay
48. SH 392 (Carpenter) & Timberline

The monthly compensation provided to the City of Fort Collins for services described above shall be \$325.00 per signal per month.

**Rate: \$325.00 per month/per signal x 48 = \$15,600.00 x 12 months = \$187,200.00 per year.**

**State Highway Signs and Markings**

- The City shall maintain signs and markings at the locations listed below.
- The City shall maintain all roadway markings.
- The City shall maintain all regulatory and warning signs that can be mounted on perforated steel posts, all "Safe Hit" type delineator posts, and all guide signs installed and owned by the City.
- The State shall maintain all regulatory and warning signs too large to be mounted on perforated steel posts, all guide signs not installed and owned by the City, and all other signs not maintained by the city.
- Intersection right-of-way control signs at City roadways intersecting State highways shall be maintained by the agency maintaining the intersected State highway.
- Intersection right-of-way control signs at State highway exit ramps intersecting City roadways shall be maintained by the City.
- Either agency making changes to signs or markings at the locations listed below shall provide notification of the changes to the other agency. Notification of changes to regulatory signing shall be made in writing.
- The City shall perform a minimum of 100 randomly picked pavement marking inspections and 100 randomly picked sign inspections and submit documentation to CDOT by April 10th. Pavement marking inspection shall include, but not limited to:
  - Retroreflector readings
  - Physical appearance
  - Percent of marking in place
- Pavement markings shall adhere to the following table for White and yellow markings. Any retroreflector readings below a Rating of 3 shall be replaced prior to October 30th.

<b>Rating</b>	<b>Retro-reflectivity</b>
4	>200
3	150-199
2	100 -149
1	50-99
0	49 or less

- Sign Inspections shall include, but not limited to:
  - Retroreflective readings
  - Physical condition of the sign
  - Condition of post (damaged, plumb)
  - Fastening hardware checked for tightness

- Reflectometer readings shall be in compliance with the Federal Register.

**MINIMUM MAINTAINED RETROREFLECTIVITY LEVELS**

Sign color	Criteria	Sheeting type (ASTM D4958-01a)					
		I	II	III	VI	VII	IX
White on Red	See Note 1	35/7					
Black on Orange or Yellow	See Note 2	50					
	See Note 3	75					
Black on White		50					
White on Green	Overhead	*N7	*N15	*N25	250/25		
	Shoulder	*N7	120/15				

**Notes:**

Levels in calls represent legend retroreflectivity / background retroreflectivity (for positive contrast signs). Units are cd/m<sup>2</sup> measured at an observation angle of 0.2° and an entrance angle of -4.0°.

- 1 Minimum Contrast Ratio ≥ 3:1 (white retroreflectivity ÷ red retroreflectivity).
  - 2 For text signs measuring 48 inches or more and all bold symbol signs.
  - 3 For text signs measuring less than 48 inches and all fine symbol signs.
- \* Sheeting type should not be used.

**MINIMUM MAINTAINED RETROREFLECTIVITY LEVELS—Continued**

<b>Bold Symbol Signs</b>	<ul style="list-style-type: none"> <li>• W1-1—Turn.</li> <li>• W1-2—Curve.</li> <li>• W1-3—Reverse Turn.</li> <li>• W1-4—Reverse Curve.</li> <li>• W1-5—Winding Road.</li> <li>• W1-6—Large Single Arrow.</li> <li>• W1-7—Large Double Arrow.</li> <li>• W1-8—Chevron.</li> <li>• W1-9—Turn &amp; Advisory Speed.</li> <li>• W1-10—Horizontal Alignment &amp; Intersection.</li> <li>• W2-1—Cross Road.</li> <li>• W2-2, W2-3—Side Road.</li> <li>• W2-4—T Intersection.</li> <li>• W2-5—Y Intersection.</li> <li>• W2-6—Circular Intersection.</li> <li>• W3-1a—Stop Ahead.</li> <li>• W3-2a—Yield Ahead.</li> <li>• W3-3—Signal Ahead.</li> <li>• W4-3—Added Lane.</li> <li>• W6-1—Divided Highway Begins.</li> <li>• W6-2—Divided Highway Ends.</li> <li>• W6-3—Two-Way Traffic.</li> <li>• W10-1, -2, -3, -4—Highway-Railroad Intersection Advance Warning.</li> <li>• W11-2—Pedestrian Crossing.</li> <li>• W11-3—Deer Crossing.</li> <li>• W11-4—Cattle Crossing.</li> <li>• W11-5—Farm Equipment.</li> <li>• W11-6a, -6b, -7p—Pointing Arrow Plaques.</li> <li>• W11-8—Fire Station.</li> <li>• W11-10—Truck Crossing.</li> <li>• W12-1—Double Arrow.</li> </ul>
<b>Fine Symbol Signs</b> <b>Special Case Signs</b> (for requirements in addition to yellow color addressed in above table).	<p>All symbol signs not listed in the bold category are considered fine symbol signs.</p> <ul style="list-style-type: none"> <li>• W3-1a—Stop Ahead.</li> <li>• Red retroreflectivity ≥ 7.</li> <li>• W3-2a—Yield Ahead.</li> <li>• Red retroreflectivity ≥ 7, White retroreflectivity ≥ 35.</li> <li>• W3-3—Signal Ahead.</li> <li>• Red retroreflectivity ≥ 7, Green retroreflectivity ≥ 7.</li> <li>• W14-3—No Passing Zone, W4-4p—Cross Traffic Does Not Stop, or W13-2, -3, -1, -5—Flump &amp; Curve Speed Advisory Plaques.</li> <li>• Use largest sign dimension to find proper category in above table.</li> </ul>

- Any signs not meeting the requirements listed above shall be listed as defective and shall be replaced within one month of discovery with associated documentation to CDOT. Any defective signs not remedied shall incur a price reduction to the next month's compensation.
  - Class I Signs - \$100.00 per sign deduction
  - Class II Signs - \$200.00 per sign deduction
  - Class III Signs - \$500.00 per sign deduction

<u>State Highway</u>	<u>Street Name</u>	<u>From</u>	<u>To</u>	<u>Length (Miles)</u>
US 287	College	Grape St.	Carpenter Road	9.2
SH 14	Jefferson/ Riverside	US287 (College)	Mulberry Street	2.4
			<b><u>Total Miles</u></b>	<b>11.6</b>

The monthly compensation provided to the City of Fort Collins for services described above shall be \$350.00 per mile per month for signs and markings.

**Rate: \$350.00 per month/per mile x 11.6 = \$4,060.00 x 12 months = \$48,720.00 per year.**

**Total Rate for both Traffic Control Devices and Signs & Markings**

11.6 Miles of signs and markings at \$350.00 per mile = \$4,060.00 x 12	\$ 48,720.00
48 Signals at \$325/month/year	\$ 187,200.00
<b>Total Maximum Annual Cost</b>	<b>\$ 235,920.00</b>
<b>Maximum monthly billing (\$235,920.00/12)</b>	<b>\$ 19,660.00</b>
<b>Maximum 5 Year IGA Amount (\$235,920.00 x 5)</b>	<b>\$1,179,600.00</b>