

RESOLUTION NO. 15
(Series of 2019)

A RESOLUTION APPROVING A CONTRACT WITH THE STATE OF COLORADO, ACTING BY AND THROUGH THE DEPARTMENT OF TRANSPORTATION, FOR MAINTENANCE OF THE GEOGETOWN GATEWAY VISITORS CENTER

WHEREAS, the Town of Georgetown is a territorial charter municipality acting through the Board of Selectmen; and

WHEREAS, pursuant to the Territorial Charter and the Colorado Revised Statutes, the Town is authorized to enter into contracts for municipal purposes; and

WHEREAS, the Town previously entered into a contract dated December 12, 2006 with the State of Colorado for maintenance by the Town of the Georgetown Gateway Visitors Center (the "Visitors Center"); and

WHEREAS, the 2006 contract having been fully performed, the Board of Selectmen wishes to continue to provide for maintenance of the Visitors Center and to that end has negotiated a new contract with the State of Colorado for that purpose, a copy of which is attached hereto as **Exhibit 1**.

NOW THEREFORE, BE IT RESOLVED by the Board of Selectmen of the Town of Town of Georgetown, Colorado, as follows:

Section 1. Contract Approved. The contract with the State of Colorado, acting by and through the Department of Transportation, is hereby approved in the form attached hereto as **Exhibit 1**. The Police Judge and Town Clerk are authorized and directed to execute the same.

Section 2. Effective Date. This Resolution shall be effective upon adoption and signature by the Police Judge and Town Clerk.

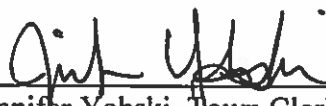
PASSED, ADOPTED AND APPROVED this 8th day of October, 2019, at a regular meeting of the Board of Selectmen of the Town of Georgetown, Colorado.

TOWN OF GEORGETOWN



Lynette Kelsey, Police Judge

ATTEST:



Jennifer Yobski, Town Clerk



EXHIBIT 1

**Contract for Maintenance Services
[attached]**

CONTRACT FOR SERVICES

This contract for Services is entered into between the Town of Georgetown, Colorado, a municipal corporation (hereinafter "Town"), and the Georgetown Trust for Conservation and Preservation Inc, a Colorado non-profit corporation, P.O. Box 1037, Georgetown, Colorado (hereinafter "Trust" or "Services Provider") on this 8th day of October, 2019.

WHEREAS, The Trust has been managing the maintaining the Gateway Rest Area/Visitor Center at 1491 Argentine St for the past 15 years on behalf of the Town of Georgetown, the Colorado Department of Transportation and the traveling public; and

WHEREAS, Town desires to continue to utilize the Trust to manage and maintain the rest area/visitor center; and

WHEREAS, CDOT has provided, and will in the future, subject to duly authorized appropriations, provide financial assistance to the town for the maintenance and operation of the rest area/visitor center, and has agreed to allow the Town to subcontract the maintenance and management work to the Trust; and

WHEREAS, the Town and Trust desire to memorialize their understandings and agreements regarding the maintenance and management of the rest area/visitor center in writing.

NOW, THEREFORE, in consideration of the recitals, terms and conditions as set forth herein, for good and valuable consideration, the receipt and adequacy of which are acknowledged by both the Town and the Trust, the parties agree as follows:

1. The Town does herein employ and subcontract with the Trust to faithfully and fully execute those tasks and services charged to the Town under that certain contract between the Town and CDOT known as the Welcome Center Maintenance Contract pertaining to the Georgetown Gateway rest area/visitor center serving I-70 at milepost 228 in Georgetown a copy of which is attached and incorporated herein as exhibit 1 (the "CDOT contract").
2. Trust will faithfully and full execute the Town's duties under the CDOT Contract.
3. Trust, inclusive of its employees and officers, will perform all work and services under this contract as an independent contractor and shall at no time be an employee of the town.
4. All services and work to be performed by the Trust shall be performed in a satisfactory manner consistent with the terms and conditions of the CDOT Contract.

5. In consideration of the work and services to be performed by the Trust hereunder, Town shall pass through and pay to the Trust those sums paid by CDOT to the Town under the provisions of the CDOT Contract. The amount(s), timing and method of payment to the Trust by the Town shall correspond to the payment(s) made by CDOT to the Town. The Trust shall not be entitled to or receive compensation in excess to the amount(s) paid by CDOT to Town under CDOT Contract, and all compensations to be paid to the Trust shall be dependent upon payments made by CDOT to the Town.
6. This Contract for Services shall at all times remain subordinate to and dependent upon the CDOT Contract, and Town may terminate or modify this agreement at its convenience if CDOT shall terminate or modify the CDOT Contract.
7. The Term of this Contract for Services shall commence and correspond and be equal to the term of the CDOT Contract (five (5) years) unless earlier terminated as provided for in this agreement.
8. The Trust will maintain adequate cost records for all work performed under this agreement in accordance with acceptable accounting practices to determine the quality and adequacy of the maintenance and management services provided. Such records shall be available for review by town and/or CDOT during normal working hours during the term of this agreement, and for three (3) years from the date of all payments made by the Town to the Trust hereunder.
9. The Trust agrees it shall comply will all applicable federal, state, and local laws respecting non-discrimination in employment and unfair or illegal employment practices. Town is specifically relying upon the assurances of the Trust in this regard in entering into this agreement.
10. The Trust shall indemnify and hold harmless Town, its officers and employees, against any and all claims, liabilities or damages, including attorney fees, that may arise, be asserted, or may result from any act or omission by the Trust, or its employees, agents, or subcontractors, pursuant to its performance under this agreement. Correspondingly, and to the extent allowed by the law, the Town shall hold harmless the Trust, inclusive of attorney fees, from any and all claims arising from the negligent acts or omission of the Town, and/or its employees and officers, in performing under this agreement. Notwithstanding the foregoing, nothing herein shall be construed or is intended to lessen or limit immunities and other protections provided to Town under the Colorado Government Immunity Act or any other law.

11. The Trust may not release, subcontract, or transfer its obligations and duties under this agreement without the express written consent of Town. Moreover, this agreement is intended to be, and shall be, the complete understanding and agreement of the parties on the matters addressed herein, and any other previous understandings or agreements are superseded and supplanted by this agreement.
12. The Town's representative and contact under this agreement shall be the Town Administrator, or such other person or officer as the Town may designate from time to time in writing to the Trust.
13. To the extent the performance of the obligations of the parties hereto may be accomplished within the intent of the agreement, the terms of this agreement shall be 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. Additionally, the waiver of any breach of a term hereof shall not be construed as a waiver of any other term, or the same term upon subsequent breach.
14. This Contact for Services shall only become effective upon the execution of same by the parties below and the adoption of a resolution approving the Contract by the Board of Selectmen for the Town for Georgetown.

IN WHITNESS WHEREOF the parties have executed this contract on the date(s) noted in Georgetown, Colorado.

TOWN OF GEORGETOWN

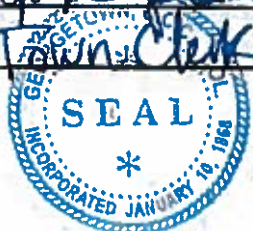
**GEORGETOWN TRUST FOR
CONSERVATION AND PRESERVATION, INC**

By: [Signature]
 Title: Police Judge
 Date: 10/9/2019

By: Paul T Boat
 Title: Executive Director
 Date: 10/14/2019

Attest: [Signature]
 Title: Town Clerk

Attest: [Signature]
 Title: Office Manager





(State SHWY Mtce)
TOWN OF GEORGETOWN

Rev 10/03
Region: 1 (lsc)

CONTRACT

THIS AGREEMENT is entered into by and between TOWN OF GEORGETOWN (hereinafter called the "Local Agency" or "Contractor"), 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: 2450, GL Account: 4511000010, and Cost Center: R19MS-010. (Contract Encumbrance Amount: \$75,000.00).
2. Required approval, clearance and coordination have been accomplished from and with appropriate agencies.
3. 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 Contractor 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 Contractor a reasonable negotiated fixed rate for such services.
5. The parties also intend that the Contractor shall remain responsible to perform any services and duties on state highways that are the responsibility of the Contractor under applicable law, at its own cost.
6. The State and the Contractor 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 in applicable ordinance or resolution duly passed and adopted by the Contractor, to enter into contract with the Contractor for the purpose of maintenance of traffic control devices on the state highway system as hereinafter set forth.
7. The Contractor 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, 2019, 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 this 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, upon receipt of the Local Agency's statements, as provided within.
- C. The Local Agency will provide Maintenance Services as described in Exhibit A, for a total maximum amount of \$75,000.00 per State fiscal year, and a maximum contract total shall not exceed the cumulative five-year total of \$375,000.00. The negotiated rate per mile 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 *annually* and the State will pay such bills within 45 days.
- D. 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.
- E. 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 operate and maintain *the facility* as listed on Exhibit A.
- B. The Local Agency shall operate and maintain the highway miles as listed on Exhibit A.
- C. 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 facilities with similar use, in that year, as determined by the State. The State's Regional Transportation Director, or their 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.
- D. The Local Agency shall perform the Maintenance Services in a satisfactory manner and in accordance with the terms of this contract. The State reserves the right to determine the proper quantity and quality of the Maintenance Services performed by the Local Agency, as well as the adequacy of such services, under this contract. The State may withhold payment, if necessary, until Local Agency performs the Maintenance Services to the State's satisfaction. The State will notify the Local Agency in writing of any deficiency in the Maintenance Services. The Local Agency shall commence corrective action within 24 hours of receiving actual or constructive notice of such deficiency: a) from the State; b) from its own observation; or c) by any other means. In the event the Local Agency, for any reason, does not or cannot correct the deficiency within 24 hours, the State reserves the right to correct the deficiency and to deduct the actual cost of such work from the subsequent payments to the Local Agency, or to bill the Local Agency for such work.

Section 6. 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 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 1, . 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 1 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: 1
Neil Ogden, P.E.
Project Manager
425 Corporate Circle, Unit B
Golden, CO 80401
720-497-6928

If to the Local Agency

Town of Georgetown
Lynette Kelsey
Georgetown Police Judge
404 6th Street, PO BOX 426
Georgetown, CO 80444
303-569-2555

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 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. Subcontractors

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 subcontractor. The State understands that the Local Agency may intend to perform some or all of the services required under this contract through a subcontractor. 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 §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 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. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

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

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

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

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

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

C. GOVERNMENTAL IMMUNITY.

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

D. INDEPENDENT CONTRACTOR

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 shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. 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. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.

E. COMPLIANCE WITH LAW.

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

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

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

G. PROHIBITED TERMS.

Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S. Any term included in this Contract that limits Contractor's liability that is not void under this section shall apply only in excess of any insurance to be maintained under this Contract, and no insurance policy shall be interpreted as being subject to any limitations of liability of this Contract.

H. SOFTWARE PIRACY PROHIBITION.

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.

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

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this 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.

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

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

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

[*Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services*] 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 State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., 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 (i) shall not use E-Verify Program or the program procedures of the Colorado Department of Labor and Employment ("Department Program") to undertake pre-employment screening of job applicants while this Contract is being performed, (ii) shall notify the Subcontractor and the contracting State agency or institution of higher education within 3 days if Contractor has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Contract, (iii) shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within 3 days of receiving the notice, and (iv) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and Employment. If 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 §§8-17.5-101, *et seq.*, C.R.S., 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.

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

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

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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>THE LOCAL AGENCY TOWN OF GEORGETOWN</p> <p>Name: <u>Lynette Kelsey</u> (print name)</p> <p>Title: <u>Police Judge</u> (print title)</p> <p><u>[Signature]</u> *Signature</p> <p>Date: <u>10/9/2019</u></p>	<p>STATE OF COLORADO Jared S. Polj Department of Transportation</p> <p>By: <u>[Signature]</u> Stephen Harelson, P.E., Chief Engineer (For) Shoshana M. Lew, Executive Director</p> <p>Date: <u>11 Oct 2019</u></p>
<p>2nd Local Agency Signature if needed</p> <p>Name: _____ (print name)</p> <p>Title: _____ (print title)</p> <p>_____ *Signature</p> <p>Date: _____</p>	<p>STATE OF COLORADO LEGAL REVIEW Philip J. Weiser, Attorney General</p> <p>By: <u>NIA</u> 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>STATE OF COLORADO STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p>By: <u>[Signature]</u> Colorado Department of Transportation</p> <p>Date: <u>10.23.19</u></p>
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Exhibit A Scope of Work

Georgetown Gateway Visitor's Center Maintenance Responsibilities

A. LOCATION OF WORK

The Georgetown Gateway Visitor's Center is located at exit number 228 on I-70 at 1491 Argentine Street in Georgetown, Clear Creek County, Colorado (the facility).

B. DESCRIPTION OF WORK

1. The town of Georgetown (Contractor) shall furnish all labor, equipment and materials required to effectively maintain the facility, including performance of necessary repairs.
2. Maintenance services are required for:
 - the grounds and parking lots
 - landscaped areas
 - dumpster area
 - restrooms
 - retail and interpretative areas
 - storage rooms
 - hallways
 - basement
 - office.

The facility is to be serviced on a once-daily basis during slow periods and on a twice-daily basis during busier seasons. The Contractor will conduct a daily inspection. The Contractor shall attempt to perform the maintenance services prior to 9:00 A.M. and after 4:00 P.M.

C. DETAILS OF THE WORK

Grounds and Parking Lots

1. All trash, paper, other litter and pet waste shall be removed daily from the grounds and parking areas including the area between the Visitor's Center property and the CDOT right-of-way.
2. All garbage receptacles shall be emptied and fitted with new liners as often as necessary to avoid overflow, but no less than once per day.
3. All refuse from trash receptacles and grounds will be hauled to the dumpster provided on site. The dumpster shall be emptied on a once-weekly basis, or more often as needed.
4. Sidewalks and walkways shall be cleaned and swept as necessary. Parking areas shall be hosed-off as needed to maintain a clean appearance. Motor vehicle fluid leaks shall be treated with an absorbent that is not harmful to the parking lot pavement.
5. The Contractor shall perform all snow removal from all steps, walkways and sidewalks as needed. Special attention is to be given to snow removal during the Gateway Visitor's Center hours of operation.

Landscaped Areas

1. The Contractor shall be responsible for irrigation and maintenance of all landscaped property, including:
 - upkeep of grasses
 - shrubs
 - trees
 - flowers
 - flowerbed.
2. Mowing, pruning, fertilization and manual weed control shall be performed on the Visitor's Center grounds as needed during the growing season.

Restrooms

1. The following items shall be cleaned thoroughly on a daily basis, and with additional cleaning as necessary:
 - Floors
 - toilet partitions
 - doors
 - toilets
 - urinals
 - hand dryers
 - washbasins
 - soap dispensers
 - mirrors
2. Trash receptacles shall be emptied and cleaned as often as necessary, but not less than once daily.
3. Liquid hand soap and paper goods dispensers shall be replenished as necessary. At least one-half roll of toilet paper and towels should be in evidences on each spindle at all times.
4. Walls and floors shall be cleaned as needed in high use areas to maintain a clean, smear-free appearance. The ceiling, light fixture and ventilation fans shall be dusted as needed.
5. The Contractor shall provide all soaps, paper goods, plastic trashcan liners and cleaning supplies.

Retail and Interpretive Areas/Hallway/Storage Areas/Basement/Office

1. All carpets and rugs in retail and interpretive areas and hallways are to be vacuumed daily. Tiled areas shall be swept and mopped daily.
2. Basement, office and storage rooms are to be swept and mopped as needed.
3. Doors, water fountains, counter tops, tables and display areas shall be thoroughly cleaned daily.
4. Windows will be washed as needed, but not less than once monthly.
5. Trash receptacles will be emptied and cleaned as needed.
6. The janitorial storage rooms shall be kept neat and orderly, and only used for storage of supplies and materials for maintenance of the facility. Flammable materials shall not be stored within the Visitor's Center building.

Repairs

1. Contractor shall maintain in good working condition the interior and exterior lighting fixtures of the Visitor's Center grounds. The Contractor shall provide and install all replacement light bulbs and/or tubes as necessary.
2. The Contractor shall be responsible for the routine oiling and replacement of belts on ventilation fans in the restrooms.
3. The Contractors shall maintain in good working condition the fixtures in the Visitor's Center, including:
 - all doors
 - toilet partitions
 - toilets
 - urinals
 - paper dispensers
 - mirrors
 - washbasins and traps
 - water fountains and traps
 - floor drains.

Safety Considerations

1. The Contractor shall furnish and place such temporary signs or notices, or temporarily close any portion of the facility during maintenance operations that the Contractor may deem necessary to adequately warn or protect the public from possible hazardous conditions. Special precautions should be used when power equipment is operated within the general vicinity of the public.
2. The Contractor shall comply with applicable laws and regulations governing safety, health and sanitation.

General Requirements

1. The Contractor shall provide safe storage of found articles. Unclaimed articles shall be kept on-site for six months and then donated or disposed of at the discretion of the Contractor.
2. Any modifications or improvement to the Visitor's Center facility shall comply with the requirements of the Americans with Disabilities Act (ADA).
3. The Contractor will promptly notify appropriate authorities of emergencies that occur at the facility. In the event of illness, injury, or incidents relative to the public health or safety, Contractor personnel shall call for professional help as requested or as appropriate.
4. The Contractor shall provide proof of liability insurance for property damage and bodily harm.
5. The Contractor employees must be neat and clean at all times.
6. Contractor employees are prohibited from having firearms or other weapons, alcohol, or any unauthorized or illegal drugs in their possession while on duty.
7. Contractor employees shall treat visitors in a friendly, courteous manner. Employees should keep well-informed of local road and weather conditions, detours, and tourist attractions.

EXHIBIT B – LOCAL AGENCY RESOLUTION

**LOCAL AGENCY
ORDINANCE
or
RESOLUTION**

EXHIBIT B – LOCAL AGENCY RESOLUTION

**LOCAL AGENCY
ORDINANCE
or
RESOLUTION**

RESOLUTION NO. 15
(Series of 2019)

**A RESOLUTION APPROVING A CONTRACT WITH THE STATE OF COLORADO,
ACTING BY AND THROUGH THE DEPARTMENT OF TRANSPORTATION, FOR
MAINTENANCE OF THE GEORGETOWN GATEWAY VISITORS CENTER**

WHEREAS, the Town of Georgetown is a territorial charter municipality acting through the Board of Selectmen; and

WHEREAS, pursuant to the Territorial Charter and the Colorado Revised Statutes, the Town is authorized to enter into contracts for municipal purposes; and

WHEREAS, the Town previously entered into a contract dated December 12, 2006 with the State of Colorado for maintenance by the Town of the Georgetown Gateway Visitors Center (the "Visitors Center"); and

WHEREAS, the 2006 contract having been fully performed, the Board of Selectmen wishes to continue to provide for maintenance of the Visitors Center and to that end has negotiated a new contract with the State of Colorado for that purpose, a copy of which is attached hereto as **Exhibit 1**.

NOW THEREFORE, BE IT RESOLVED by the Board of Selectmen of the Town of Town of Georgetown, Colorado, as follows:

Section 1. Contract Approved. The contract with the State of Colorado, acting by and through the Department of Transportation, is hereby approved in the form attached hereto as **Exhibit 1**. The Police Judge and Town Clerk are authorized and directed to execute the same.

Section 2. Effective Date. This Resolution shall be effective upon adoption and signature by the Police Judge and Town Clerk.


PASSED, ADOPTED AND APPROVED this 8th day of October, 2019, at a regular meeting of the Board of Selectmen of the Town of Georgetown, Colorado.

TOWN OF GEORGETOWN



Lynette Kelsey, Police Judge

ATTEST:



Jennifer Yobski, Town Clerk



EXHIBIT C – OPTION LETTER

SAMPLE OPTION LETTER

Date: _____ State Fiscal Year: _____ Option Letter No. _____

SUBJECT: [Amount of goods/Level of service change]

In accordance with Paragraph(s) _____ of contract routing number _____, [original Routing #], between the State of Colorado Department of Transportation and [Local Agency name] covering the period of [July 1, 20__ through June 30, 20__], the state hereby exercises the option for an additional one year's performance period at the cost/price specified in [Section, Paragraph or Exhibit], and a/an [increase/decrease] in the amount of goods/services at the same rate(s) as specified in [Section, Paragraph or Exhibit].

The amount of funds available and encumbered in this contract is [increased/decreased] by [\$ amount of change] to a new total funds available of [\$ _____] to satisfy services/goods ordered under the contract for the current fiscal year, [FY ____]. The first sentence in Paragraph _____ is hereby modified accordingly. The total contract value to include all previous amendments, option letters, encumbrance letters, etc... is [\$ _____].

APPROVALS:

State of Colorado:
Jared S. Polis, Governor

By: _____ Date: _____
[for Executive Director, Colorado Department of Transportation]

ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Contract 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 Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.

STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: _____

Department of Transportation

Date: _____

EXHIBIT D – ENCUMBRANCE LETTER

SAMPLE ENCUMBRANCE LETTER

Date:	State Fiscal Year:	Encumbrance Letter No.	Routing #
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- 1) **Encumber fiscal year funding in the contract.**
- 2) **PROVISIONS:** In accordance with Section(s) _____ of the original Contract routing number _____ between the State of Colorado, Department of Transportation, and [Contractor's Name], covering the term [Insert Orig start date] through [Insert Current ending date], the State hereby encumbers funds for the goods/services specified in the contract for fiscal year _____.

The amount of the current Fiscal Year encumbrance is [\$ amount of change] bringing the total actual encumbrance for the contract to [Insert New \$ Amt] as consideration for services/goods ordered under the contract for the current fiscal year _____.

Requisition #	CDOT Document #	Doc Line #	WBS or Fund Center #	Change Amount

The total contract actual encumbered value including all previous amendments, option letters, encumbrance letters, etc. is [Insert New \$ Amt].

- 3) **EFFECTIVE DATE.** The effective date of this Encumbrance Letter is upon approval of the State Controller or July 1, 20 _____, whichever is later.

STATE OF COLORADO Jared S. Polis, GOVERNOR Department of Transportation
By: _____ (For) Executive Director
Date: _____

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STATE CONTROLLER Robert Jaros, CPA, MBA, JD
By: _____ Department of Transportation
Date: _____

