

RESOLUTION NO. 14-15

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF CASTLE PINES, COLORADO
APPROVING A FIRST AMENDMENT TO THE CONSTRUCTION CONTRACT WITH
SCHMIDT CONSTRUCTION COMPANY FOR THE CITY'S 2014 PAVEMENT
REHABILITATION – STREET IMPROVEMENT PROGRAM**

WHEREAS, the City of Castle Pines (“City”) awarded a contract for the City’s 2013 Pavement Rehabilitation – Street Improvement Program to Schmidt Construction Company (the “Contractor”) following an advertised and public bidding process, and following a determination by City staff and the City’s engineering consultant that the Contractor was the lowest responsive and responsible bidder; and

WHEREAS, the City and the Contractor entered into a Construction Contract containing the terms and conditions under which the 2013 work would be completed by the Contractor; and

WHEREAS, the Construction Contract grants the City the option to renew or extend the term of the Construction Contract for up to two additional years provided that the City is satisfied with the Contractor’s performance; and

WHEREAS, the City and the Contractor desire to amend the Construction Contract by execution of that certain First Amendment to the Construction Contract (the “First Amendment”) which First Amendment: (1) extends the term of the Contract through 2014 to allow the Contractor to complete the City’s 2014 Pavement Rehabilitation – Street Improvement Program; (2) specifically details the 2014 work to be completed by the Contractor; and (3) establishes a not to exceed amount of \$1,051,485.00 for the 2014 work; and

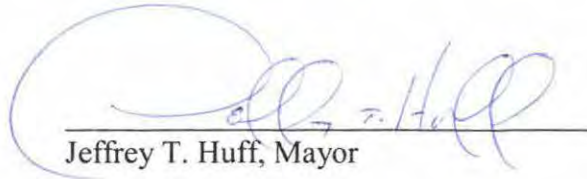
WHEREAS, a copy of the First Amendment is attached to this Resolution as **Exhibit A** and is incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO, THAT:

Section 1. The City Council hereby approves the First Amendment to the Construction Contract between the City and the Contractor in the form attached to this Resolution as **Exhibit A** and authorizes the Mayor or Mayor Pro Tem to execute the First Amendment on behalf of the City.

Section 2. **Effective Date.** This Resolution shall take effect upon its approval by the City Council.

INTRODUCED, READ AND ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES by a vote of 5 in favor, 0 against and 0 absent this 10th day of June, 2014.



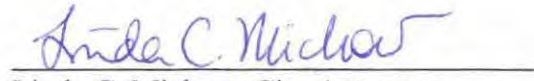
Jeffrey T. Huff, Mayor

ATTEST:

Approved as to form:



Diane Spomer, CMC, City Clerk



Linda C. Michow, City Attorney



City of Castle Pines Project No. 2014-PW-001

**FIRST AMENDMENT TO CONSTRUCTION CONTRACT
(2014 PAVEMENT REHABILITATION- STREET IMPROVEMENT PROGRAM)**

THIS FIRST AMENDMENT TO CONTRACT (the “First Amendment”) is made and entered into this 10th day of June, 2014, by and between the **CITY OF CASTLE PINES**, a municipal corporation of the State of Colorado, having an address of 7501 Village Square Drive, Suite 100, Castle Pines, Colorado 80108 (the “Owner”), and EDW C. LEVY CO., a Michigan corporation dba **SCHMIDT CONSTRUCTION COMPANY**, having a principal office address in the State of Colorado of 1101 Topeka Way, Castle Rock, Colorado 80109 (the “Contractor”).

WHEREAS, the Owner and the Contractor are parties to that certain Contract dated on or about July 1, 2013, for certain pavement rehabilitation activities within the City of Castle Pines (Project No. 2013-PW-001) (the “Contract”); and

WHEREAS, the contract documents relating to the Contract include those documents specifically listed and identified in Section 4.01 of the Contract including the General Conditions, Special Provisions (Exhibit C), Stormwater SOPs (Exhibits C-1 through C-4), Technical Specifications (Exhibit F) the Contract, the Project Maps and Street Listing (Exhibit G), and other documents specifically referenced and incorporated in the Contract and the Invitation for Bids consisting of 99 pages (collectively, the “Contract Documents”); and

WHEREAS, Paragraph 20 of the Special Provisions (the “Contract Extension Provision”) states that the Owner may, in its sole discretion, opt to renew or extend the Contract for up to two (2) additional years provided that the Owner deems the Contractor’s performance under the Contract satisfactory; and

WHEREAS, the Owner has determined the Contractor’s performance under the Contract (for work completed in 2013) to be satisfactory and desires to extend the Contract in order to allow Contractor to perform the following work:

Work generally consisting of reconstruction of mill & overlay of certain identified suburban residential roadways located within the City including: asphalt, miscellaneous concrete work, asphalt patching, installation of pavement underdrains, subgrade stabilization, testing services, removal of excess materials, and final project clean-up, as necessary, and as more specifically set forth and detailed in the Contractor's final unit pricing for 2014 dated May 23, 2014 (the "Proposal") a copy of which is attached hereto as **Exhibit A** and is incorporated herein by reference,

(the "2014 Work"); and

WHEREAS, certain provisions of the Contract Documents have been replaced with exhibits and documentation specifically pertaining to the 2014 Work as more particularly set forth and summarized in Paragraph 5 of this First Amendment set forth below; and

WHEREAS, the estimated quantities by street and the specific locations at which the 2014 Work is to be performed are shown in the following document:

- (1) Exhibit G: 2014 Asphalt Pavement Repair and Restoration – Estimated Quantities by Street
- (2) Exhibit H: Project Locations (Priorities 1 through 12, inclusive)

(collectively, the "2014 Project Maps, Street Listing and Quantities"); and

WHEREAS, the 2014 Project Maps, Street Listing and Quantities are attached to this First Amendment and are incorporated herein by reference; and

WHEREAS, the Contract Extension Provision further states that any renewal and/or extension of the Contract shall be made in writing and be approved by the Contractor and the Owner,

NOW, THEREFORE, the Owner and the Contractor, in consideration of the mutual covenants hereinafter set forth and for other good and valuable consideration the receipt and sufficiency of which is acknowledged, agree to amend the Contract as follows:

1. Term. This First Amendment shall be effective upon mutual execution of the Parties and shall terminate on December 31, 2014 or upon the completion of the 2014 Work, whichever first occurs, unless the Parties agree to a subsequent extension of the term in writing.
2. Verification of Insurance Coverage and Bonds. Within ten (10) calendar days from the date of mutual execution of this First Amendment, Contractor shall: (a) provide the Owner with proof that all policies of insurance required by the Contract Documents, including those specified in Article 11 of the General Conditions, remain

in full force and effect; and (b) furnish a performance, payment, maintenance and warranty bond for 100% of the amount of the Not to Exceed Amount set forth below, being the amount of **One Million Fifty One Thousand Four Hundred Eighty Five Dollars and 00/100 (\$1,051,485.00)**. The bond shall be in the form required by paragraph 13.5 of the General Conditions of the Contract (and Exhibit D of the Contract Documents).

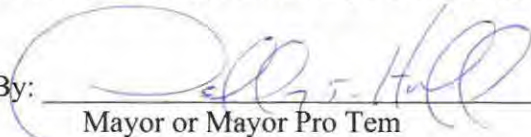
3. Notice to Proceed. Following the Owner's receipt, review and approval of the documents required by Paragraph 2 of this First Amendment, the Owner will issue a written notice to proceed (N.T.P.) to the Contractor. The Contractor shall commence the 2014 Work within thirty (30) calendar days of the date of the N.T.P. and shall complete the 2014 Work within ninety (90) calendar days from N.T.P., or within any authorized written extensions to the period of completion. Any reference to the "2013 Work" or the "Work" in the Contract Documents shall be amended to read "2014 Work" as defined in this First Amendment.
4. Total Compensation. The Contractor shall perform the 2014 Work in accordance with the unit pricing set forth in **Exhibit A** and as shown in the 2014 Project Maps, Street Listing and Quantities attached hereto as **Exhibits G and H**, respectively, and shall invoice the Owner for the same pursuant to the methodology set forth in the Contract Documents. Total compensation for the 2014 Work shall not exceed the sum of **One Million Fifty One Thousand Four Hundred Eighty Five Dollars and 00/100 (\$1,051,485.00)** (the "Not to Exceed Amount"), unless and until a change order duly authorized by the Owner has been executed in accordance with the Contract Documents.
5. Revised Exhibits and Additional Documentation. Certain provisions of the Contract Documents have been replaced, superseded or supplemented as more particularly set forth below:
 - a. Exhibit C (Special Provisions). ATTACHED. The Special Provisions attached hereto as Exhibit C replace and supersede the Special Provisions applicable to the 2013 Work. Exhibit C includes the City's existing Stormwater SOPs (Exhibits C-1 through C-4).
 - b. Exhibit F (Project (Technical) Specifications). ATTACHED. The Technical Specifications attached hereto as Exhibit F replace and supersede the Technical Specifications applicable to the 2013 Work.
 - c. 2014 Project Maps, Street Listing and Quantities. ATTACHED (Exhibits G and H). The 2014 Project Maps, Street Listing and Quantities replace and supersede Exhibit G of the Contract Documents pertaining to the 2013 Work.
 - d. Pavement Details (Merrick & Company) – 1 page. ATTACHED as Exhibit I.

- e. The following Geotechnical Engineering Studies and Pavement Thickness Design Reports prepared by Kumar & Associates, Inc.
 - i. City of Castle Pines – 2014 Annual Paving Program dated March 20, 2014 (Project No. 14-1-110). ATTACHED AS Exhibit J.
 - ii. City of Castle Pines – 2014 Annual Paving Program Additional Street Segments Bramblewood Drive and Serena Drive dated April 9, 2014 (Project No. 14-1-110A). ATTACHED AS Exhibit K.
 - iii. City of Castle Pines – 2014 Annual Paving Program Additional Street Segments Hidden Pointe Boulevard dated May 2, 2014 (Project No. 14-1-110B). ATTACHED AS Exhibit L.
- 6. No Further Amendments. Nothing contained in this First Amendment shall affect any other provisions of the Contract Documents except as specifically set forth herein. No language of the Proposal shall modify this First Amendment or the Contract Documents.
- 7. Capitalized Terms. Any capitalized term(s) not specifically defined in this First Amendment shall have the meaning set forth in the Contract Documents.
- 8. First Amendment Binding. The Owner and the Contractor agree that this First Amendment and the Contract shall be binding on and inure to the benefit of the parties and their permitted successors and assigns. This First Amendment may only be altered, amended or repealed by a duly executed written instrument.

THIS FIRST AMENDMENT is effective upon mutual execution of the Parties.

OWNER:


CITY OF CASTLE PINES, COLORADO

By:  _____
Mayor or Mayor Pro Tem

Reviewed by:

 _____
For: City Attorney's Office

ATTEST:

 _____
City Clerk

CONTRACTOR:

EDW C. LEVY CO., a Michigan corporation dba
SCHMIDT CONSTRUCTION COMPANY

By: *[Signature]*
Name: Shelby Leonard
Title: project manager

STATE OF COLORADO)
) ss.
COUNTY OF DOUGLAS)

The foregoing First Amendment to Construction Contract (2014 Pavement Rehabilitation) was acknowledged before me this 18th day of JUNE, 2014, by Shelby Leonard as Project Manager of EDW C. LEVY CO., a Michigan corporation dba **SCHMIDT CONSTRUCTION COMPANY**.

Witness my hand and official seal.
My Commission Expires 3/23/2015



My Commission Expires 3/23/15

[Signature]

Notary Public
(Required for all contracts pursuant to C.R.S.
§ 8-40-202(2)(b)(IV))