

RESOLUTION NO. 25-19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO, APPROVING A CONSTRUCTION CONTRACT WITH EDW. C. LEVY CO., DOING BUSINESS AS SCHMIDT CONSTRUCTION COMPANY, FOR PROJECT NO. 2025-PW-008, 2025 PAVEMENT REHABILITATION – STREET IMPROVEMENT PROGRAM

WHEREAS, the City of Castle Pines, Colorado (“City”) is authorized to enter into contracts for the performance of general municipal governance and services; and

WHEREAS, the City entered into a construction contract with EDW. C. LEVY CO., d/b/a Schmidt Construction Company (“Contractor”) for the 2023 Pavement Rehabilitation Street Improvement Program (the “2023 Agreement”); and

WHEREAS, the City opted to renew the 2023 Agreement for calendar year 2024; and

WHEREAS, based on the Contractor’s performance in 2023 and 2024, the City wishes to enter into a construction contract with Contractor (“Construction Contract”) for Contractor to perform work associated with the 2025 Pavement Rehabilitation—Street Improvement Program (the “Work”) for a not-to-exceed amount of Two Million Four Thousand One Hundred Ninety-Eight Dollars and Fifty Cents (\$2,004,198.50) for Contractor’s completion of the Work; and

WHEREAS, the City Council desires to approve the Construction Contract and further desires to delegate authority to the City Manager to execute the Construction Contract once in final form.

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


Section 1. The City Council hereby: (a) approves the Construction Contract with Contractor in substantially the form attached hereto and incorporated herein as **Exhibit 1**; (b) authorizes the City Attorney, in consultation with the City Manager, to make such changes to the Construction Contract as may be necessary to correct any non-material errors that do not increase the obligations of the City; and (c) authorizes the City Manager to execute the Construction Contract in the City’s standard form.

Section 2. If any section, paragraph, clause, or provision of this Resolution is held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining sections, paragraphs, clauses, or provisions of this Resolution.

Section 3. 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 2 ABSENT THIS 13TH DAY OF MAY, 2025.




Tracy Engerman (May 21, 2025 20:42 MDT)

Tracy Engerman, Mayor

ATTEST:

APPROVED AS TO FORM:



Tobi Duffey, MMC, City Clerk



Linda Michow (May 14, 2025 16:06 MDT)

Linda C. Michow, City Attorney

EXHIBIT 1
**CONSTRUCTION CONTRACT WITH EDW. C. LEVY CO., D/B/A SCHMIDT
CONSTRUCTION COMPANY FOR PROJECT NO. 2025-PW-008, 2025 PAVEMENT
REHABILITATION – STREET IMPROVEMENT PROGRAM**



City of Castle Pines Project No.: 2025-PW-008

**CONSTRUCTION CONTRACT
FOR THE FOLLOWING PROJECT:
2025 Pavement Rehabilitation—Street Improvement Program**

This Construction Contract (“Contract”), effective this ____ day of ____, 2025, is made and entered into by and between EDW. C. LEVY CO., doing business as Schmidt Construction Company (hereinafter, “Contractor”), a Michigan corporation having a principal office address of 8800 Dix Ave., Detroit, MI 48209 and the **CITY OF CASTLE PINES** (hereinafter, “City” or “Owner”), a municipal corporation of the State of Colorado, having an address of 7437 Village Square Dr., Suite 200, Castle Pines, Colorado 80108 (collectively, the City and Contractor are referred to herein as the “Parties”).

RECITALS

WHEREAS, the City previously entered into that certain Construction Agreement with Contractor dated April 3, 2023 for 2023 Pavement Rehabilitation (Project No. 2023-PW-002) (the “2023 Contract”); and

WHEREAS, pursuant to IFB No. 2023-PW-002, Exhibit C, Special Provisions, Section 20, the City in its sole discretion may opt to renew or extend the 2023 Agreement for additional work for up to two (2) additional years beyond the initial term under the same or substantially similar terms and conditions; and

WHEREAS, the City exercised its right to renew in 2024 by entering into that certain Construction Agreement with Contractor dated June 3, 2024; and

WHEREAS, the City desires to exercise its right to renew for an additional one (1) year term and to update the Contractor’s Bid Form for work to be performed in calendar year 2025 in this Contract.

In consideration of the mutual covenants hereinafter set forth, the Parties agree as follows:

PART 1 – WORK; TIME

1.01 The Contractor agrees to furnish all of the technical, administrative, professional, and other labor, all supplies and materials, equipment, printing, vehicles, local travel, office space and facilities, testing and analyses, calculations, and any other facilities or resources necessary to perform in a workmanlike manner all Work required by the Contract Documents.

1.02 The Contractor agrees to undertake the performance of the Work within Fourteen (14) days following the Notice to Proceed and agrees that the Work will be completed within One Hundred Fifty (150) calendar days of the date of the Notice to Proceed unless the contract time is extended by the City as provided in the Contract Documents.

1.03 The Parties agree that, in any section in which the Contractor prepares any document for “the approval of the City,” such subsequent approval by the City does not mean that City is responsible for the accuracy, thoroughness, or judgment contained in the document. The City does not waive the right to hold the Contractor

responsible for the accuracy, thoroughness, or judgment expressed in the document, as it is expressly agreed by the Parties that the City is relying on the expertise of the Contractor for the timely completion of the Work required by the Contract Documents.

PART 2 – CONTRACT PRICE AND PAYMENT

2.01 The City shall pay the Contractor for performance of the Work in accordance with the Contract Documents the amount(s) shown on Contractor's Form of Bid, attached hereto and incorporated herein as **Exhibit A**, not to exceed **Two Million Four Thousand One Hundred Ninety-Eight Dollars and Fifty Cents (\$2,004,198.50)**.

2.02 The City shall make payments as set forth in Article 9 of the General Conditions, subject to the City's obligation to retain a portion of the payments until final completion and acceptance by the City of all Work included in the Contract Documents.

2.03 Prior to final payment, all Work specified by the Contract Documents must be completed. Payment shall be made only after the procedure specified by the General Conditions is completed.

2.04 The City represents that either an appropriation for the price specified in this Construction Contract has been made by the City Council or that sufficient funds have otherwise been made available for the payment of this Construction Contract.

2.05 The Parties understand and acknowledge that the City of Castle Pines is subject to Article X § 20 of the Colorado Constitution ("TABOR"). The parties do not intend to violate the terms and requirements of TABOR by the execution of this Contract. It is understood and agreed that this Contract does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, therefore, notwithstanding anything in this Contract to the contrary, all payment obligations of the City are expressly dependent and conditioned upon the continuing availability of the funds beyond the term of the City's current fiscal period ending upon the next succeeding December 31. Financial obligations of the City payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of the City of Castle Pines and other applicable law. Upon the failure to appropriate such funds, this Contract shall be terminated.

PART 3 – CONTRACTOR'S REPRESENTATIONS

3.01 In order to induce the City to enter into this Construction Contract, the Contractor makes the following representations:

(a) The Contractor has familiarized itself with the nature and the extent of the Contract Documents, Work, the location and site of the Work and any and all local conditions and federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work.

(b) Contractor has carefully studied all physical conditions at the site and existing facilities affecting cost, progress or performance of the Work.

(c) Contractor has given the City written notice of all conflicts, errors or discrepancies that it has discovered in the Contract Documents and, if applicable, the written resolution(s) thereof by the City is/are acceptable to the Contractor.

3.02 Contractor agrees to remedy all defects appearing in the Work or developing in the materials furnished and the workmanship performed under this Construction Contract for a period of one (1) year or such other time that is specified in the Contract Documents after the date of acceptance of the Work by the City, and further agrees to indemnify and save the City harmless from any costs encountered in remedying such defects. Contractor shall provide a performance, payment, maintenance and warranty bond that shall remain in effect until all defects are corrected as required by this paragraph.

3.03 Contractor is an independent contractor, and nothing herein contained shall constitute or designate the Contractor or any of its employees or agents as agents or employees of the City.

PART 4 - CONTRACT DOCUMENTS

4.01 The Contract Documents, which comprise the entire Construction Contract between the City and the Contractor, are attached to this Construction Contract and made a part hereof, including:

Invitation for Bid (IFB No. 2023-PW-002)
Bid Form, **Exhibit A** to this Contract
Notice to Proceed
Construction Contract
Construction Drawings
Specifications
Performance, Payment, Maintenance and
Warranty Bond
General Conditions (Exhibit B)
Special Provisions (Exhibit C)
Addendum Change Orders
Insurance Certificates Tax-
Exempt Certificates

Other:

Stormwater SOPs (Exhibits C-1 through C-8)
Technical Specifications (Exhibit F)
Pavement Rehabilitation Construction Drawings
Incorporated in Contract Documents but not attached:
CDOT Standard Specifications for Road and
Bridge Construction (current edition)

In the event of an inconsistency between any provisions of the Contract Documents, the more specific provisions shall govern the less specific provisions, and written addenda, change orders, or other modifications approved in writing by both Parties subsequent to the date of this Contract as set forth on page 1 hereof shall govern the original Contract Documents.

4.02 There are no Contract Documents other than those listed above. The Contract Documents may only be altered, amended, or repealed by a modification, in writing, executed by the City and the Contractor.

PART 5 - PROJECT MANAGER

5.01 The Project Manager, for the purposes of the Contract Documents, is the following, or such other person or firm as the City may designate in writing:

Name: Larry Nimmo, Public Works Director
Address: 7437 Village Square Drive, Suite 200, Castle Pines, CO 80108
Telephone: 303-705-0216
Email: larry.nimmo@castlepinesgov.com

The Project Manager is authorized to represent and act as agent for the City with respect to City's rights and duties under the Contract Documents, provided, however, the Project Manager shall not have any authority to approve any Change Order or approve any amendment to the Construction Contract or Contract Documents, except for those minor Change Orders defined in paragraph 7.4.1 of the General Conditions, such authority being specifically reserved to the duly authorized official of the City having such approval authority pursuant to the City's Charter and ordinances. In the event of doubt as to such authority, the Contractor may request a written representation from the City Manager resolving such doubt and designating the person with authority under the circumstances, which written representation shall be conclusive and binding upon the City.

PART 6 - ASSIGNMENT

6.01 No assignment by a party hereto of any rights under or interest in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically, but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents. This restriction on assignment includes, without limitation, assignment of the Contractor's right to payment to its surety or lender.

6.02 It is agreed that this Construction Contract shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, assigns and successors.

PART 7 - GOVERNING LAW AND VENUE

7.01 This Construction Contract shall be governed by the laws of the State of Colorado and the Charter and ordinances of the City of Castle Pines.

7.02 This Construction Contract shall be deemed entered into in Douglas County, State of Colorado, as the City is located in said County. The location for settlement of any and all claims, controversies and disputes arising out of or related to this Construction Contract or any breach thereof, whether by alternative dispute resolution or litigation, shall be proper only in Douglas County, Colorado.

PART 8 - LIQUIDATED DAMAGES

8.01 The City and the Contractor recognize that time is of the essence in this Construction Contract and that the City will suffer financial loss if the Work is not substantially completed within the time specified in paragraph 1.02 above, plus any extensions thereof allowed by the City by written Change Order. They also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by the City if the Work is not substantially complete on time. Accordingly, rather than requiring any such proof, the City and the Contractor agree that as liquidated damages for delay (but not as a penalty) the Contractor shall pay the City the applicable amount set forth in the General Conditions for each day that expires after the time specified in paragraph 1.02 until the Work is complete. It is agreed that this is a reasonable estimate of the damages likely to be suffered by the City for late completion of the Work. If the Contractor shall fail to pay such liquidated damages promptly upon demand therefor, the Surety on the Performance, Payment, Maintenance and Warranty Bond shall pay such damages. In addition, and at the City's option, the City may withhold all or any part of such liquidated damages from any payment due the Contractor.

PART 9 - MODIFICATIONS

9.01 This Construction Contract shall be modified only by written Change Orders or Addenda agreed upon by the Parties hereto, duly issued in form approved by the City Attorney and in conformance with the other Contract Documents.

PART 10 - CONTINGENCY

10.01 This Construction Contract is expressly contingent upon the approval of the City of all of the terms set forth herein. In the event this Construction Contract is not approved and fully executed by the City, neither Party shall be bound to the terms of this Construction Contract.

10.02 The person or persons signing and executing this Construction Contract on behalf of each Party, do hereby warrant and guarantee that he/she or they have been fully authorized to execute this Construction Contract and to validly and legally bind such Party to all the terms, performances and provisions herein set forth.

10.03 Governmental Immunity. The City, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended ("CGIA"), or otherwise available to the City and its officers or employees.

INSURANCE CERTIFICATES REQUIRED BY THE GENERAL CONDITIONS OF THIS CONTRACT SHALL BE SENT TO THE PUBLIC WORKS DEPARTMENT, CITY OF CASTLE PINES, ATTENTION: LARRY NIMMO, PROJECT MANAGER.

IN WITNESS WHEREOF, the parties hereto have executed this Construction Contract in triplicate. Two counterparts have been delivered to the City and one counterpart has been delivered to the Contractor. All portions of the Contract Documents have been signed or identified by the City and the Contractor.

CITY OF CASTLE PINES, COLORADO

By: _____

Printed Name: Michael Penny

Title: City Manager

Date: _____

ATTEST:

APPROVED AS TO FORM (excluding exhibits)

City Clerk or Deputy City Clerk

City Attorney

[Contractor signature page to Construction Contract].

EDW. C. LEVY CO., d/b/a Schmidt Construction Company, a
Michigan corporation

By: Jeff Lawson

Name: Jeff Lawson

Title: Project Manager

Date: 5/5/2025

STATE OF Colorado)
COUNTY OF El Paso) ss.

The foregoing Construction Contract was acknowledged before me this 5th day of May,
2025, by Jeff Lawson as
P. M. of EDW. C. LEVY CO., d/b/a Schmidt Construction Company, a Michigan
corporation.

Witness my hand and official seal
My commission expires: 6/30/28

Jessi Winter Maxwell
Notary Public
JESSI WINTER MAXWELL
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 2008402664
MY COMMISSION EXPIRES 6/30/2028


EXHIBIT A
CONTRACTOR'S FORM OF BID



To:	City of Castle Pines	Contact:	Jay Rowe
Address:	7501 Village Square Drive, Suite 100 CASTLE ROCK, CO 80108 US	Phone:	
		Fax:	
Project Name:	2025 - Castle Pines Pymt Rehab - Street Imprvmt_Rev1	Bid Number:	
Project Location:	Castle Pines, CO	Bid Date:	4/17/2025

Item #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
202-A	Removal Of Curb And Gutter	31.00	LF	\$22.00	\$682.00
202-B	Removal Of Curb, Gutter And Sidewalk	3,836.00	LF	\$18.70	\$71,733.20
202-C	Removal Of Concrete Curb Ramp	960.00	SY	\$38.50	\$36,960.00
202-D	Removal Of Concrete Crossspan	267.00	SY	\$39.65	\$10,586.55
203-A	Removal Of Asphalt Milling (Edge Mill) (1.5" To 0" In 14')	34,223.00	SY	\$2.35	\$80,424.05
210-A	Adjust Manhole	52.00	EACH	\$180.00	\$9,360.00
210-B	Adjust Valve	73.00	EACH	\$110.00	\$8,030.00
403-A	Hot Mix Asphalt (Grading 5X) (64-22)	3,900.00	TON	\$101.00	\$393,900.00
403-B	Hot Mix Asphalt (Patching) (Includes Removals, Disposal, Patching)	1,692.00	TON	\$230.00	\$389,160.00
408-A	Crack Seal	2.00	TON	\$1.85	\$3.70
409-A	Slurry Seal (Type 2)	24,809.00	SY	\$4.70	\$116,602.30
608-A	Concrete Curb Ramp (CCP Standards)	892.00	SY	\$142.75	\$127,333.00
608-B	Concrete Curb, Gutter And Sidewalk (6'-6")	3,702.00	LF	\$90.70	\$335,771.40
608-C	Concrete Curb, Gutter And Sidewalk (7'-6")	103.00	LF	\$104.50	\$10,763.50
609-A	Curb And Gutter Type 2 (Section II-B)	31.00	LF	\$51.00	\$1,581.00
608-A	Concrete Crossspan	224.00	SY	\$148.70	\$33,308.80
304-A	Aggregate Base Course (Class 6)	250.00	CY	\$123.30	\$30,825.00
626-A	Mobilization	1.00	LS	\$126,000.00	\$126,000.00
630-A	Flagging	2,280.00	HR	\$46.00	\$104,880.00
630-B	Traffic Control Supervisor	57.00	DY	\$1,025.00	\$58,425.00
630-C	Traffic Control Inspections	15.00	EACH	\$175.00	\$2,625.00
630-D	Cones	57.00	DY	\$46.00	\$2,622.00
630-E	Construction Traffic Sign	57.00	DY	\$46.00	\$2,622.00
208-A	F/A - Erosion Control	1.00	LS	\$10,000.00	\$10,000.00
700-A	F/A - Minor Contract Revisions	1.00	FA	\$40,000.00	\$40,000.00

Total Bid Price: \$2,004,198.50

ACCEPTED: The above prices, specifications and conditions are satisfactory and are hereby accepted. Buyer: _____ Signature: _____ Date of Acceptance: _____	CONFIRMED: SCHMIDT CONSTRUCTION COMPANY - CASTLE ROCK Authorized Signature:  Estimator: Jeff Lawson (5530) 303-660-0439 jlawson@schmidtco.co
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