

RESOLUTION NO. 26-04

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO, APPROVING AN AGREEMENT FOR SERVICES AND EQUIPMENT BETWEEN THE CITY OF CASTLE PINES AND SABELL'S CIVIL AND LANDSCAPE L.L.C. FOR STREET MAINTENANCE SERVICES

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

WHEREAS, the City issued a Request for Bid ("RFB") No. 2026-PW-001 in September 2025 for right-of-way and street maintenance services (the "Services"); and

WHEREAS, the City Council, after consideration of the proposals submitted and the recommendations of City staff, finds it in the best interests of the City to award the Services to SaBell's Civil and Landscape L.L.C., a Colorado limited liability company (the "Contractor"); and

WHEREAS, the City desires to enter into an agreement for services and equipment with the Contractor to complete the Services (the "Agreement"); and

WHEREAS, the City Council desires to approve the Agreement and further desires to authorize the City Manager to execute the Agreement on behalf of the City once in final form.

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

Section 1. The recitals contained above are incorporated herein by reference and are adopted as findings and determinations of the City Council.

Section 2. The City Council hereby: (a) approves the Agreement with the Contractor in substantially the same form as attached hereto and incorporated herein as **Exhibit A**; (b) authorizes the City Attorney, in consultation with the City Manager, to make or negotiate such changes as may be needed to the Agreement so long as any changes do not substantially increase the obligations of the City; and (c) authorizes the City Manager to execute the Agreement on behalf of the City when in final form.

Section 3. 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 4. 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 7 IN FAVOR, 0 AGAINST AND 0 ABSENT ON THIS 13TH DAY OF JANUARY, 2026.



ATTEST:

Tobi Duffey

Tobi Duffey, MMC, City Clerk

Tracy Engerman

Tracy Engerman (Jan 21, 2026 23:59:45 MST)

Tracy Engerman, Mayor

APPROVED AS TO FORM:

Linda Michow

Linda Michow (Jan 20, 2026 13:53:32 MST)

Linda C. Michow, City Attorney

EXHIBIT A

**AGREEMENT FOR SERVICES AND EQUIPMENT BETWEEN THE CITY OF
CASTLE PINES AND SABELL'S CIVIL AND LANDSCAPE L.L.C. FOR STREET
MAINTENANCE SERVICES**

City of Castle Pines, Colorado
AGREEMENT FOR SERVICES AND EQUIPMENT

Project/Services Name: 2026-PW-001 Street Maintenance Services

THIS AGREEMENT FOR SERVICES AND EQUIPMENT ("Agreement") is made and entered into by and between the City of Castle Pines, a home rule municipality of the State of Colorado, with offices at 7437 Village Square Drive, Suite 200, Castle Pines, Colorado 80108 (the "City"), and SaBell's Civil and Landscape L.L.C., a Colorado limited liability company with offices at 8500 West Bowles Avenue, Suite 204, Littleton, CO 80123 ("Contractor") (each individually a "Party" and collectively the "Parties").

RECITALS

WHEREAS, the City requires certain professional services, including the purchase and installation of certain equipment and materials, as more fully described in **Exhibit A**; and

WHEREAS, Contractor represents that it has the requisite expertise and experience to perform the professional services; and

WHEREAS, the City desires to contract with the Contractor subject to the terms of this Agreement.

NOW, THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

I. SCOPE OF SERVICES

A. Services. Contractor shall furnish all labor and materials required for the complete and prompt execution and performance of all duties, obligations, and responsibilities which are described or reasonably implied from the Scope of Services set forth in **Exhibit A**, attached hereto and incorporated herein by this reference (the "Services" or "Scope of Services"). The Parties recognize and acknowledge that, although the City has requested certain general services to be performed or certain work product to be produced, the Contractor has offered to the City the process, procedures, terms, and conditions under which the Contractor plans and proposes to achieve or produce the services and/or work product(s) and the City, through this Agreement, has accepted such process, procedures, terms, and conditions as binding on the Parties.

B. Equipment. Contractor shall supply and convey to the City title for all materials and equipment supplied by Contractor as specified in **Exhibit A** ("Equipment"). Contractor represents and agrees that all the Equipment meets the appropriate standards and specifications as set forth in **Exhibit A** and that the City's purchase of the Equipment shall have the warranty terms set forth in Section IV of this Agreement. Contractor shall not substitute any specified Equipment without prior written approval of the City.

C. Changes to Services or Equipment. A change in the Scope of Services or Equipment shall not be effective unless authorized through a written amendment to this Agreement signed by both Parties. If Contractor proceeds without such written authorization, Contractor shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum meruit or implied contract. Except as expressly provided herein or as otherwise provided in writing by the City, no agent, employee, or representative of the City is authorized to modify any term of this Agreement.

D. Duty to Inform. The Contractor shall perform the Services in accordance with this Agreement and shall promptly inform the City concerning ambiguities and uncertainties related to the Contractor's performance that are not addressed by the Agreement.

E. Time of Performance. The Contractor shall perform all Services in accordance with this Agreement commencing on the Effective Date, as set forth in Section II of this Agreement, until such Services are terminated or suspended in accordance with this Agreement. The Contractor shall not temporarily delay, postpone, or suspend the performance of the Services without the written consent of the City Council, City Manager, or a person expressly authorized in writing to direct the Contractor's services. Contractor agrees that failure to complete any of the Services during the term of this Agreement may be deemed a breach of this Agreement.

II. TERM AND TERMINATION

A. Term. This Agreement shall commence on the date of mutual execution of the Parties (the "Effective Date") and shall continue until December 31, 2026, or until terminated as provided herein ("Termination Date"). The Parties may mutually agree in writing to extend the term of this Agreement, subject to annual appropriation.

B. City Unilateral Termination. This Agreement may be terminated by the City for any or no reason upon written notice delivered to the Contractor at least ten (10) days prior to termination. In the event the City exercises its right of unilateral termination as provided by this paragraph:

1. Unless otherwise provided in any notice of termination, the Contractor shall provide no further services in connection with this Agreement after Contractor's receipt of a notice of termination; and

2. The Contractor shall deliver all finished or unfinished materials, documents, equipment, data, studies and reports prepared by the Contractor pursuant to this Agreement to the City and such materials, documents, equipment, data, studies, and reports shall become the property of the City; and

3. The Contractor shall submit to the City a final accounting and final invoice of charges for all outstanding and unpaid Services performed and reimbursable expenses incurred prior to the Contractor's receipt of notice of termination and for any services authorized to be performed by the notice of termination as provided by Section II.B of this Agreement. The Contractor shall deliver such final accounting and final invoice to the City within thirty (30) days

of the date of termination; thereafter, the City shall not accept and Contractor shall not submit any other invoice, bill, or other form of statement of charges owing to the Contractor.

C. Termination for Non-Performance. Should a party to this Agreement fail to materially perform in accordance with the terms and conditions of this Agreement, this Agreement may be terminated by the performing party if the performing party first provides written notice to the non-performing party. Such notice shall specify the non-performance, provide a demand to cure the non-performance, state a reasonable time to cure the non-performance, and set a date upon which the Agreement shall be terminated if there is a failure to timely cure the non-performance. For purpose of this Section II.C, “reasonable time” shall not be less than five (5) business days. In the event of a failure to timely cure a non-performance and upon the date of the resulting termination for non-performance, the Contractor shall prepare a final accounting and final invoice of charges for all performed but unpaid Services and any reimbursable expenses authorized by this Agreement. Such final accounting and final invoice shall be delivered to the City within fifteen (15) days of the Termination Date contained in the written notice. Thereafter, the City shall not accept and Contractor shall not submit any other invoice, bill, or other form of statement of charges owing to the Contractor. If the notice of non-performance is provided in accordance with this Section II.C, nothing in this Section II.C shall prevent, preclude, or limit any claim or action for default or breach of contract resulting from non-performance by a Party.

D. Suspension of Services. The City may suspend the Contractor’s performance of the Services at the City’s discretion and for any reason by delivery of written notice of suspension to the Contractor, which notice shall state a specific date of suspension. Upon Contractor’s receipt of such notice of suspension from the City, the Contractor shall immediately cease performance of the Services on the date of suspension except: (1) as may be specifically authorized by the notice of suspension (e.g., to secure the work area from damage due to weather or to complete a specific report or study); or (2) for the submission of an invoice for Services performed in accordance with this Agreement prior to the date of suspension. Contractor shall not re-commence performance of the Services until it receives written notice of re-commencement from the City.

E. Delivery of Notices. Any notice required or permitted by this Section II and its subsections shall be addressed to the City Representative or the Contractor Representative at the address set forth in Section XIII.D of this Agreement, or such other address as either Party may notify the other of, and shall be deemed given upon delivery if personally delivered, or forty-eight (48) hours after deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested.

III. REPRESENTATIVES AND SUPERVISION

A. City Representative. The City representative responsible for oversight of this Agreement and the Contractor’s performance of Services hereunder shall be the City Manager or the City Manager’s designee (“City Representative”). The City Representative shall act as the City’s primary point of contact with the Contractor.

B. Contractor Representative. The Contractor representative under this Agreement shall be Laura Strauch, Owner (“Contractor Representative”). The Contractor Representative shall

act as the Contractor's primary point of contact with the City. The Contractor shall not designate another person to be the Contractor Representative without prior written notice to the City.

C. City Supervision. The Contractor shall provide all Services with little or no daily supervision by City staff or other contractors. Inability or failure of the Contractor to perform the Services with little or no daily supervision which results in the City's need to allocate resources in time or expense for daily supervision shall constitute a material breach of this Agreement and be subject to cure or remedy, including possible termination of the Agreement, as provided in this Agreement. Notwithstanding the foregoing, the City reserves the right to monitor and evaluate the progress and performance of the Contractor to ensure the terms of this Agreement are being satisfactorily met in accordance with the City's criteria and standards. Contractor shall cooperate with the City relating to such monitoring and evaluation.

IV. WARRANTIES.

A. New Equipment. Contractor warrants that the Equipment shall be new and suitable for the purpose used by the City and will be of good quality, free from faults and defects and in conformance with **Exhibit A**.

B. Title to Equipment. Contractor further warrants that it has full title to all the Equipment to be conveyed to the City hereunder, that its transfer of such title to the City is rightful and that all such Equipment shall be transferred free and clear from all security interests, liens, claims or encumbrances whatsoever. Contractor agrees to warrant and defend such title against all persons claiming the whole or any part thereof, at no cost to the City.

C. Warranty on Workmanship. Contractor shall, for one year from the date that the City initiates beneficial use of all Equipment provided under this Agreement (last piece of Equipment is put into its intended use), promptly investigate, repair, or otherwise correct any parts, components or Equipment supplied hereunder which contain faults or defects considered to be minor and not affecting the integrity or structure of the Equipment. Contractor shall, for one year from the date that the City initiates beneficial use of all Equipment provided under this Agreement (last piece of Equipment is put into its intended use), promptly replace any parts, components or Equipment supplied hereunder which contain faults or defects considered to be other than minor, including affecting the integrity of the Equipment.

D. Assignment of Equipment Warranties. The Contractor warrants and shall be responsible and liable to the City for the warranties which are provided from the manufacturer(s) of all Equipment supplied hereunder. Contractor shall provide, assign, and take whatever additional steps are necessary to ensure that the Equipment is warranted for the benefit of the City for the respective manufacturers' warranty periods.

V. COMPENSATION

A. Not-to-Exceed Amount. Following execution of this Agreement by the Parties, the Contractor shall be authorized to and shall commence performance of the Services as described in **Exhibit A**, subject to the requirements and limitations on compensation as provided by this Section

IV and its subsections. Compensation to be paid hereunder shall not exceed **Four Hundred Twenty-Five Thousand Dollars and Zero Cents (\$425,000.00)** ("Not-to-Exceed Amount") unless a different amount is agreed to by and between the Parties in accordance with the amendment requirements of this Agreement. Notwithstanding the amount specified in this Section, Contractor shall be paid only for work performed. Contractor shall not be paid until tasks identified in the Scope of Services are performed to the satisfaction of the City. In consideration for the completion of the Scope of Services by Contractor, the City shall pay Contractor as follows:

- ☒ If this box is checked, the City shall pay Contractor on a time and materials basis in accordance with the rate schedule shown in **Exhibit B**. This amount shall include all fees, costs and expenses incurred by Contractor, and no additional amounts shall be paid by the City for such fees, costs and expenses. Final payment may be requested by the Contractor upon completion and the City's acceptance of all work or Services as set forth in **Exhibit A**.
- ☐ If this box is checked, the City shall pay the Contractor the Not-to-Exceed Amount in a single lump sum payment on N/A.

B. Invoicing. The City shall make payments to Contractor in accordance with subsection A of this Section IV within thirty (30) days after receipt and approval of invoices submitted by Contractor. If payment is on a time and materials basis, Contractor shall submit invoices to the City no more frequently than monthly and shall identify the specific Services performed for which payment is requested.

C. Receipts. The City, before making any payment, may require the Contractor to furnish at no additional charge releases or receipts from any or all persons performing work under this Agreement and/or supplying material or services to the Contractor, or any subcontractor if this is deemed necessary to protect the City's interest. The City, however, may in its discretion make payment in part or full to the Contractor without requiring the furnishing of such releases or receipts.

D. Reimbursable Expenses.

1. If this Agreement is for lump sum compensation, there shall be no reimbursable expenses.

2. If the Agreement is for compensation based on a time and materials basis, the following shall be considered "reimbursable expenses" for purposes of this Agreement and may be billed to the City without administrative mark-up, which must be accounted for by the Contractor, and proof of payment shall be provided by the Contractor with the Contractor's monthly invoices:

- ☒ None
- ☐ Vehicle Mileage (billed at not more than the prevailing per mile charge permitted by the IRS as a tax deductible business expense)
- ☐ Printing and Photocopying Related to the Services (billed at actual cost)
- ☐ Long Distance Telephone Charges Related to the Services

- ☐ Postage and Delivery Services
- ☐ Lodging and Meals (but only with prior written approval of the City as to dates and maximum amount)

3. Other Expenses. Any fee, cost, charge, or expense incurred by the Contractor not otherwise specifically authorized by this Agreement shall be deemed a non-reimbursable cost that shall be borne by the Contractor, shall not be billed or invoiced to the City, and shall not be paid by the City.

E. No Waiver. The City's review, approval or acceptance of, or payment for any services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

VI. PROFESSIONAL RESPONSIBILITY

A. General. Contractor hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing required by law.

B. Standard of Performance. The work performed by Contractor shall be in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms in the same or similar type of work in the applicable community. The work and services to be performed by Contractor hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations.

C. Subcontractors. The Parties recognize and agree that subcontractors may be utilized by the Contractor for the performance of certain Services if and as described more particularly in **Exhibit A**; however, the engagement or use of subcontractors will not relieve or excuse the Contractor from performance of any obligations imposed in accordance with this Agreement and Contractor shall remain solely responsible for ensuring that any subcontractors engaged to perform Services hereunder shall perform such Services in accordance with all terms and conditions of this Agreement. If Contractor engages subcontractors to perform any part of the Services, Contractor shall require and confirm that the requirements of Section VIII (Insurance) and Section IX (Indemnification) of this Agreement are included in any such subcontract. Contractor shall be responsible and liable to the City for indemnification of the City on behalf of a subcontractor if Contractor fails to confirm that the requirements of Section IX are included in any subcontract between Contractor and a subcontractor related to this Agreement.

VII. INDEPENDENT CONTRACTOR

A. General. Contractor is an independent contractor. Notwithstanding any other provision of this Agreement, all personnel assigned by Contractor to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of Contractor for all purposes and shall not be considered employees or agents of the City. Contractor shall make no representation that it is a City employee for any purposes.

B. Liability for Employment-Related Rights and Compensation. The Contractor shall be solely responsible for all compensation, benefits, insurance and employment-related rights of any person providing Services hereunder during the course of or arising or accruing as a result of any employment, whether past or present, with the Contractor, as well as all legal costs including attorney's fees incurred in the defense of any conflict or legal action resulting from such employment or related to the corporate amenities of such employment. The Contractor will comply with all laws, regulations, municipal codes, ordinances, and other requirements and standards applicable to the Contractor's employees, including, without limitation, federal and state laws governing wages and overtime, equal employment, safety and health, employees' citizenship, withholdings, reports and record keeping. Accordingly, the City shall not be called upon to assume any liability for or direct payment of any salaries, wages, contribution to pension funds, insurance premiums or payments, workers' compensation benefits, or any other amenities of employment to any of the Contractor's employees or any other liabilities whatsoever, unless otherwise specifically provided herein.

C. Insurance Coverage and Employment Benefits. The City will not include the Contractor as an insured under any policy the City has for itself. The City shall not be obligated to secure nor provide any insurance coverage or employment benefits of any kind or type to or for the Contractor or the Contractor's employees, sub-consultants, subcontractors, agents, or representatives, including but not limited to coverage or benefits related to: local, state, or federal income or other tax contributions, FICA, workers' compensation, unemployment compensation, medical insurance, life insurance, paid vacations, paid holidays, pension or retirement account contributions, profit sharing, professional liability insurance, or errors and omissions insurance. The following disclosure is provided in accordance with Colorado law:

CONTRACTOR ACKNOWLEDGES THAT NEITHER IT NOR ITS AGENTS OR EMPLOYEES ARE ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS CONTRACTOR OR SOME ENTITY OTHER THAN THE CITY PROVIDES SUCH BENEFITS. CONTRACTOR FURTHER ACKNOWLEDGES THAT NEITHER IT NOR ITS AGENTS OR EMPLOYEES ARE ENTITLED TO WORKERS' COMPENSATION BENEFITS. CONTRACTOR ALSO ACKNOWLEDGES THAT IT IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONEYS EARNED OR PAID PURSUANT TO THIS AGREEMENT.

D. Employee Benefits Claims. To the maximum extent permitted by law, the Contractor waives all claims against the City for any Employee Benefits; the Contractor will defend the City from any claim and will indemnify the City against any liability for any Employee Benefits for the Contractor imposed on the City; and the Contractor will reimburse the City for any award, judgment, or fine against the City based on the position the Contractor was ever the City's employee, and all attorneys' fees and costs the City reasonably incurs defending itself against any such liability.

VIII. INSURANCE

A. General. During the term of this Agreement, the Contractor shall obtain and shall continuously maintain, at the Contractor's expense, insurance of the kind and in the minimum amounts specified as follows by checking the appropriate boxes:

- ☐ The Contractor shall obtain and maintain the types, forms, and coverage(s) of insurance deemed by the Contractor to be sufficient to meet or exceed the Contractor's minimum statutory and legal obligations arising under this Agreement ("Contractor Insurance"); OR
- ☒ The Contractor shall secure and maintain the following ("Required Insurance"):
 - ☒ Worker's Compensation insurance in the minimum amount required by applicable law for all employees and other persons as may be required by law.
 - ☒ Comprehensive General Liability insurance with minimum combined single limits of One Million Dollars (\$1,000,000.00) each occurrence and of Two Million Dollars (\$2,000,000.00) aggregate. The policy shall be applicable to all premises and all operations of the Contractor. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision. Coverage shall be provided on an "occurrence" basis as opposed to a "claims made" basis. Such insurance shall be endorsed to name the City as Certificate Holder and name the City, and its elected officials, officers, employees and agents as additional insured parties.
 - ☒ Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than One Million Dollars (\$1,000,000.00) each occurrence with respect to each of the Contractor's owned, hired and non-owned vehicles assigned to or used in performance of the Services. The policy shall contain a severability of interests provision. Such insurance coverage must extend to all levels of subcontractors. Such coverage must include all automotive equipment used in the performance of the Services, both on the work site and off the work site, and such coverage shall include non-ownership and hired cars coverage. Such insurance shall be endorsed to name the City as Certificate Holder and name the City, and its elected officials, officers, employees and agents as additional insured parties.
 - ☐ Professional Liability (errors and omissions) insurance with a minimum limit of coverage of One Million Dollars (\$1,000,000.00) per claim and annual aggregate. Such policy of insurance shall be obtained and

maintained for one (1) year following completion of all Services under this Agreement. Such policy of insurance shall be endorsed to include the City as a Certificate Holder.

B. Additional Requirements. Such insurance shall be in addition to any other insurance requirements imposed by law. The coverages afforded under the policies shall not be canceled, terminated or materially changed without at least thirty (30) days prior written notice to the City. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Any insurance carried by the City, its officers, its employees, or its contractors shall be excess and not contributory insurance to that provided by Contractor. Contractor shall be solely responsible for any deductible losses under any policy. For any and all insurance policies required hereunder, Contractor shall waive subrogation rights against the City.

C. Insurance Certificates. Contractor shall provide to the City a certificate of insurance and all endorsements required hereunder as evidence that the required policies are in full force and effect prior to the commencement of the Services. The certificate shall identify the Project/Services Name as set forth on the first page of this Agreement.

D. Failure to Obtain or Maintain Insurance. The Contractor's failure to obtain and continuously maintain policies of insurance shall not limit, prevent, preclude, excuse, or modify any liability, claims, demands, or other obligations of the Contractor arising from performance or non-performance of this Agreement. Failure on the part of the Contractor to obtain and to continuously maintain policies providing the required coverage, conditions, restrictions, notices, and minimum limits shall constitute a material breach of this Agreement upon which the City may immediately terminate this Agreement, or, at its discretion, the City may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith. All monies so paid by the City, together with an additional five percent (5%) administrative fee, shall be repaid by the Contractor to the City immediately upon demand by the City. At the City's sole discretion, the City may offset the cost of the premiums against any monies due to the Contractor from the City pursuant to this Agreement.

IX. INDEMNIFICATION

A. Contractor agrees to indemnify and hold harmless the City and its officers, insurers, volunteers, representatives, agents, employees, and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement if such injury, loss, or damage is caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor, or which arise out of a worker's compensation claim of any employee of Contractor or of any employee of any subcontractor of Contractor. Contractor's liability under this indemnification provision shall be to the fullest extent of, but shall not exceed, that amount represented by the degree or percentage of negligence or fault attributable to Contractor, any

subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor or of any subcontractor of Contractor.

B. If Contractor is providing architectural, engineering, surveying or other design services under this Agreement, the extent of Contractor's obligation to indemnify and hold harmless the City may be determined only after Contractor's liability or fault has been determined by adjudication, alternative dispute resolution or otherwise resolved by mutual agreement between the Parties, as provided by C.R.S. § 13-50.5-102(8)(c).

X. RESERVED

XI. REMEDIES

A. In addition to any other remedies provided for in this Agreement, and without limiting its remedies available at law, the City may exercise the following remedial actions if the Contractor substantially fails to perform the duties and obligations of this Agreement. Substantial failure to perform the duties and obligations of this Agreement shall mean a significant, insufficient, incorrect, or improper performance, activities or inactions by the Contractor. The remedial actions the City may take include:

1. Suspend the Contractor's performance pending necessary corrective action as specified by the City without the Contractor's entitlement to an adjustment in any charge, fee, rate, price, cost, or schedule; and/or

2. Withhold payment to the Contractor until the necessary services or corrections in performance are satisfactorily completed; and/or

3. Deny payment for those services which have not been satisfactorily performed, and which, due to circumstances caused by the Contractor, cannot be performed, or if performed would be of no value to the City; and/or

4. Terminate this Agreement in accordance with this Agreement.

B. The foregoing remedies are cumulative and the City, in its sole discretion, may exercise any or all of the remedies individually or simultaneously.

XII. RECORDS AND OWNERSHIP

A. Retention and Open Records Act Compliance. Contractor hereby acknowledges that the City is a public entity subject to the Colorado Open Records Act, C.R.S. § 24-72-101 *et seq.* ("CORA"). As such, this Agreement may be subject to public disclosure under CORA. Furthermore, all records of the Contractor related to the provision of Services hereunder, including public records as defined in the CORA, and records produced or maintained in accordance with this Agreement, are to be retained and stored in accordance with the City's records retention and disposal policies. Those records which constitute "public records" under CORA are to be at the City offices or accessible and opened for public inspection in accordance with CORA and City policies. Public records requests for such records shall be processed in accordance with City

policies. Contractor agrees to allow access by the City and the public to all documents subject to disclosure under applicable law. Contractor's willful failure or refusal to comply with the provisions of this Section shall result in the immediate termination of this Agreement by the City. For purposes of CORA, the City Clerk is the custodian of all records produced or created as a result of this Agreement. Nothing contained herein shall limit the Contractor's right to defend against disclosure of records alleged to be public.

B. City's Right of Inspection. The City shall have the right to request that the Contractor provide to the City a list of all records of the Contractor related to the provision of Services hereunder retained by the Contractor in accordance with this subsection and the location and method of storage of such records. Contractor agrees to allow inspection at reasonable times by the City of all documents and records produced or maintained in accordance with this Agreement.

C. Ownership. Any work product, materials, and documents produced by the Contractor pursuant to this Agreement shall become property of the City of Castle Pines upon delivery and shall not be made subject to any copyright by the Contractor unless authorized by the City. Other materials, statistical data derived from other clients and other client projects, software, methodology and proprietary work used or provided by the Contractor to the City not specifically created and delivered pursuant to the Services outlined in this Agreement shall not be owned by the City and may be protected by a copyright held by the Contractor and the Contractor reserves all rights granted to it by any copyright. The City shall not reproduce, sell, or otherwise make copies of any copyrighted material, subject to the following exceptions: (1) for exclusive use internally by City staff and/or employees; or (2) pursuant to a request under the CORA to the extent that such statute applies; or (3) pursuant to law, regulation, or court order. The Contractor waives any right to prevent its name from being used in connection with the Services. The Contractor may publicly state that it performs the Services for the City.

D. Return of Records to City. At the City's request, upon expiration or termination of this Agreement, all records of the Contractor related to the provision of Services hereunder, including public records as defined in the CORA, and records produced or maintained in accordance with this Agreement, are to be returned to the City in a reasonable format and with an index as determined and requested by the City.

XIII. MISCELLANEOUS

A. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Douglas County, Colorado.

B. No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the City shall not constitute a waiver of any of the other terms or obligations of this Agreement.

C. Integration. This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

D. Notice. Unless otherwise provided in this Agreement, any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent via pre-paid, first class United States Mail, to the party at the address set forth below.

If to the City:

If to Contractor:

City of Castle Pines Attn: City Manager 7437 Village Square Drive, Suite 200 Castle Pines, CO 80108	SaBell's Civil and Landscape L.L.C. Attn: Laura Strauch 8500 West Bowles Avenue Suite 204 Littleton, CO 80123
With Copy to: Castle Pines City Attorney Michow Guckenberger & McAskin LLP 5299 DTC Boulevard, Suite 300 Greenwood Village, Colorado 80111	With Copy to:

E. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

F. Modification. This Agreement may only be modified upon written agreement signed by the Parties.

G. Assignment. Neither this Agreement nor any of the rights or obligations of the Parties hereto, shall be assigned by either Party without the written consent of the other.

H. Affirmative Action. The Contractor warrants that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor warrants that it will take affirmative action to ensure applicants are employed, and employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

I. 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.

J. Rights and Remedies. In the event of a breach of this Agreement by Contractor, the City shall have the right, but not the obligation, to obtain specific performance of the Services. In addition, if the City terminates this Agreement, in whole or in part, due to a breach by

Contractor, Contractor shall be liable for actual and consequential damages to the City. The rights and remedies of the City under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the City's legal or equitable remedies, or the period in which such remedies may be asserted.

K. Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the City not performed during the current fiscal year is subject to annual appropriation, and thus any obligations of the City hereunder shall extend only to monies currently appropriated and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

L. Binding Effect. The Parties agree that this Agreement, by its terms, shall be binding upon the successors, heirs, legal representatives, and assigns; provided that this Section XII shall not authorize assignment.

M. No Third-Party Beneficiaries. Nothing contained in this Agreement is intended to or shall create a contractual relationship with, cause of action in favor of, or claim for relief for, any third party, including any agent, sub-consultant or subcontractor of Contractor. Absolutely no third-party beneficiaries are intended by this Agreement. Any third party receiving a benefit from this Agreement is an incidental and unintended beneficiary only.

N. Release of Information. The Contractor shall not, without the prior written approval of the City, release any privileged or confidential information obtained in connection with the Services or this Agreement.

O. Attorneys' Fees. If the Contractor breaches this Agreement, then it shall pay the City's reasonable costs and attorney's fees incurred in the enforcement of the terms, conditions, and obligations of this Agreement.

P. Survival. The provisions of Sections VII (Independent Contractor), VIII (Insurance), IX (Indemnification) and XIII (A) (Governing Law and Venue), (J) (Rights and Remedies), (K) Annual Appropriation), (N) (Release of Information) and (O) Attorneys' Fees, shall survive the expiration or termination of this Agreement. Any additional terms and conditions of the Agreement that require continued performance, compliance, or effect beyond the termination date of the Agreement shall survive such termination date and shall be enforceable in the event of a failure to perform or comply.

Q. Agreement Controls. In the event a conflict exists between this Agreement and any term or provisions in any exhibit attached or incorporated into this Agreement, the terms and provisions in this Agreement shall supersede and control over the terms and provisions in such exhibit.

R. Force Majeure. Neither the Contractor nor the City shall be liable for any delay in, or failure of performance of, any covenant or promise contained in this Agreement, nor shall any delay or failure constitute default or give rise to any liability for damages if, and only to extent that, such delay or failure is caused by "force majeure." As used in this Agreement, "force majeure"

means acts of God, acts of the public enemy, acts of terrorism, unusually severe weather, fires, floods, epidemics, quarantines, strikes, labor disputes and freight embargoes, to the extent such events were not the result of, or were not aggravated by, the acts or omissions of the non-performing or delayed party.

S. Protection of Personal Identifying Information. In the event the Services include or require the City to disclose to Contractor any personal identifying information as defined in C.R.S. § 24-73-101, Contractor shall comply with the applicable requirements of C.R.S. §§ 24-73-101, et seq., relating to third-party services providers.

T. Authority. The individuals executing this Agreement represent that they are expressly authorized to enter into this Agreement on behalf of the City of Castle Pines and the Contractor and to bind their respective entities.

U. Counterparts and Electronic Signatures. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document. In addition, the Parties specifically acknowledge and agree that electronic signatures shall be effective for all purposes, in accordance with the provisions of the Uniform Electronic Transactions Act, Title 24, Article 71.3 of the Colorado Revised Statutes.

V. Web Accessibility Compliance Requirements. Contractor agrees to provide Services in a manner that ensures the City's full compliance with applicable web accessibility requirements set forth in C.R.S. § 24-34-802 and associated regulations, as may be amended from time to time.

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SIGNATURE PAGES FOLLOW

THIS AGREEMENT is executed and made effective as provided herein.

CITY OF CASTLE PINES, COLORADO:

By: _____

Printed Name: Michael Penny

Title: City Manager

Date of execution: _____

ATTEST:

Tobi Duffey, MMC, City Clerk

APPROVED AS TO FORM (*excluding exhibits*):

Linda Michow, City Attorney

SABELL'S CIVIL AND LANDSCAPE L.L.C.:

By: _____

Printed Name: Laura Strauch

Title: Owner

Date of execution: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing Agreement for Services and Equipment was subscribed, sworn to and acknowledged before me this ____ day of _____, 20____, by Laura Strauch as Owner of SaBell's Civil and Landscape L.L.C., a Colorado limited liability company.

My commission expires: _____

(S E A L)

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

EXHIBIT A

SCOPE OF SERVICES

The Public Works right-of-way maintenance operations involves repairing and maintaining asphalt and concrete pavement, sidewalk, curb & gutter, the stormwater system, signage, and walls. On-call and after-hours availability is required for this Agreement to ensure public safety. Urgent availability for tasks may include street sign maintenance, pothole repair, excavation, utility backfill, demolition, debris and material removal, traffic control services, concrete repair, asphalt repair, clean-up, and other right-of-way needs as directed. For both on-call and scheduled work, material quantities and services will vary depending on infrastructure needs.

The City and Contractor acknowledge that weather and other unforeseen conditions may affect work completion schedules. The Contractor is responsible for notifying the City of any required adjustments. Because unexpected circumstances are common during construction, Public Works staff will work with the Contractor to justify costs not included in the Bid Schedule (Exhibit B). For urgent and after-hours services, "ROW Maintenance" hourly rates will be invoiced to the City. For planned work, all labor costs must be included in the Bid Schedule items.

Other items to note:

- Small tools required to perform the work will be considered incidental to the bid and include power tools, shovels, rakes, hand tools, and transportation as necessary.
- The Contractor may be required to contact citizens if property access is needed or if property damage occurs.
- The City will request proof of work quantities for each work order or project.
- Right-of-way permits are generally not required under this Agreement since all work is for the City.
- The Contractor must use the City's Work Order System for task management (although some work may be scheduled verbally or by email).
- Sanitary sewer and waterline repair are not part of this Agreement.
- If the City requests street signage or signpost replacement, the City will provide the signage and posts. All labor and equipment will be billed at the "ROW Maintenance" hourly rates.
- The Contractor is responsible for worker safety.

I. ROW MAINTENANCE

The Contractor shall provide equipment and personnel on an hourly basis to perform emergency repairs, maintenance, and clean-up services. The "ROW Maintenance" costs will also apply to small-scale projects, such as adjusting a signpost, replacing a street sign, removing debris from the street, urgent pothole repairs, street safety issues, and other requests that require immediate attention.

The Contractor must replace any Stop or Yield sign reported as damaged, missing, or stolen within 24 hours of notification. All other signage work orders must be completed within 30 calendar days of the request. Steel signposts shall include a single square tube post with vandal-proof hardware for any traffic, street, or warning sign within the City limits.

A Working Foreman or Supervisor must be capable of coordinating with the City and emergency services as needed. Traffic Control Services must be used to maintain safety in the right-of-way. The Contractor's judgment, experience, and adherence to traffic control standards will determine what devices are required.

Heavy equipment may include a loader, skid steer, or excavator, but the City understands that equipment deployment needs may vary. The City will work with the Contractor to cover necessary costs not listed in the Bid Schedule.

Emergency work includes tasks requiring immediate attention due to safety concerns involving traffic or pedestrians. Such work may occur at any time of day or night. If items are not listed in the Bid Schedule, all other hourly rates will apply.

II. ASPHALT PAVEMENT

The Contractor shall repair asphalt pavements by removing and replacing distressed areas with hot bituminous materials per the Castle Pines Roadway Design and Construction Standards (the "City Standards") or proprietary cold mix patching materials as specified. The work is subject to the following conditions:

- Asphalt placement or repairs must use a City-approved mix unless otherwise specified. Asphalt placement and acceptance must follow City Standards or be approved by the Public Works Department.
- Hot-poured joint and crack sealant must meet CDOT Specifications or be accepted by the Public Works Department.
- Asphalt patching must extend one foot into solid pavement on all edges. T-Patching will be required. Patch thickness must be one inch lower than the adjacent pavement, with a minimum thickness of four inches. Road base placement may be required on a case-by-case basis.
- If unstable base material or subgrade is encountered and deemed unsuitable by the City, the Contractor may be required to stabilize the subgrade before completing the asphalt repair.
- The City reserves the right to require compaction testing of asphalt, subgrade, and base course materials per City Standards.

- Materials used for cold weather or emergency repairs must be pre-approved by the City. The Contractor must submit manufacturer product information for approval.
- Payment for cold mix asphalt patching will be measured to the nearest 0.05 tons.
- When large areas of subgrade or base material are exposed, the Contractor must comply with the City's MS4 permitting requirements.

III. CONCRETE PAVEMENT REPAIRS AND CONCRETE MINOR REPAIRS

The Contractor shall furnish all labor, equipment, and materials needed to repair concrete pavements by removing and replacing distressed areas with new concrete per City Standards. Minor repairs include, but are not limited to, sidewalks, curb/gutter sections, concrete pans, curb ramps, and other hardscape features. The Contractor is also responsible for removal and disposal of existing materials as required.

- The work is subject to the following conditions: Concrete placement or repairs must use a City-approved mix unless otherwise specified. Placement and acceptance must follow City Standards or be approved by the Public Works Department.
- Concrete patching must meet City Standards. Patch thickness must match the adjacent pavement, with a minimum thickness of eight inches. Road base may be required on a case-by-case basis.
- If unstable base material or subgrade is encountered, the Contractor must stabilize it before completing the concrete repair.
- The City reserves the right to require testing of concrete, subgrade, and base course compaction.
- Cold weather and emergency repair materials must be pre-approved by the City. Manufacturer product information must be submitted for approval.
- When large areas of subgrade or base material are exposed, the Contractor must comply with the City's MS4 permitting requirements.
- All ADA Standards must be followed for pedestrian ramps and sidewalks.

IV. TRAFFIC CONTROL

All traffic control must comply with the current *Manual on Uniform Traffic Control Devices (MUTCD)*.

EXHIBIT B
COMPENSATION/BID SCHEDULE

ROW MAINTENANCE	UNIT	BID PRICES
Dump Truck (Single Axle)	HOUR	\$75.00
Working Foreman	HOUR	\$65.00
Laborers	HOUR	\$45.00
3/4 or 1 Ton 4 X 4 Pickup Truck (Emergency)	HOUR	\$65.00
Dump Truck (Single Axle Emergency)	HOUR	\$95.00
Working Foreman (Emergency)	HOUR	\$75.00
Laborers (Emergency)	HOUR	\$55.00
Heavy Equipment	HOUR	\$95.00

ASPHALT PAVEMENT	UNIT	BID PRICES
Removal of Asphalt Mat - 4 inches	SY	\$22.50
Removal of Asphalt Mat - 8 inches	SY	\$36.00
Install Aggregate Base Course	TON	\$65.00
Hot Mix Asphalt (Grading S)	TON	\$220.00
Hot Mix Asphalt (Grading SX)	TON	\$220.00
Cold Asphalt Pavement	TON	\$125.00
Hot Poured Joint and Crack Sealant	TON	\$47.50
Sawcut	LF	\$4.50
Subgrade Stabilization (12" Scarification)	SY	\$49.50

CONCRETE PAVEMENT REPAIRS	UNIT	BID PRICES
Removal of Concrete Pavement - 8 inches	SY	\$33.75
Install Aggregate Base Course	TON	\$65.00
Construct Concrete Pavement with Reinforcement	CY	\$1,450.00
Subgrade Stabilization (12" Scarification)	SY	\$49.50

CONCRETE MINOR REPAIRS	UNIT	BID PRICES
Removal of Curb and Gutter	LF	\$25.00
Removal of Sidewalk - 4 inch	SY	\$20.50
Removal of Curb Ramp	SY	\$35.00
Construct Concrete Sidewalk - 4 inches	SY	\$95.50
Construct Concrete Sidewalk - 6 inches	SY	\$112.50
Construct Concrete Curb Ramp	SY	\$135.00
Construct Concrete Catch Curb	LF	\$46.50
Construct Concrete Spill Curb	LF	\$46.50
Construct Concrete Curb and Gutter	LF	\$52.00
Construct Concrete Cross Pans - 8 inches with Reinforcement	SY	\$140.00
Construct Concrete Median Cover - 6 inches	SY	\$112.50
Install Truncated Domes	SF	\$50.00
Sawcut	LF	\$4.50
Subgrade Stabilization (12" Scarification)	SY	\$49.50

TRAFFIC CONTROL	UNIT	BID PRICES
Construction Traffic Sign Each	DAY	\$6.50
Advance Warning Flashing or Sequencing Arrow Panel Each	DAY	\$250.00
Drum Channelizing Device	DAY	\$12.50
Traffic Cone Each	DAY	\$3.50
Tubular Marker Each	DAY	\$4.50
Concrete Barrier (Temporary)	LF	\$20.00
Delineator (Temporary)	DAY	\$7.50
Barricade (Temporary)	DAY	\$15.00
Stackable Vertical Panel Each	DAY	\$10.50
Variable Message Board	DAY	\$450.00
Temporary Portable Message Strips	DAY	\$250.00