

Construction Contract
(2024 Street Maintenance Project (P24-098))

This Construction Contract (the "Contract") is made and entered into this _____ day of _____, 2024 (the "Effective Date"), by and between the Town of Erie, 645 Holbrook Street, P.O. Box 750, Erie, CO 80516, a Colorado municipal corporation (the "Town"), and Western Plains Construction, an independent contractor with a principal place of business at 8134 Conifer Road, Denver, CO 80221 ("Contractor") (each a "Party" and collectively the "Parties").

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

1. Scope of Work. Contractor shall perform the following described work (the "Work"), in accordance with this Contract and the Contract Documents, attached hereto and incorporated herein by this reference:

Application of a 2" mill & overlay on portions of various roads in Vista Ridge and Vista Pointe – approximately 154,069 SY. All areas will require repair of premarked subgrade failures, profile milling, following the milling the surface will be inspected for cracking and addressed as needed, valves and manholes will be adjusted and all pavement marking replaced.

- **Forsythia St** – approximately 2,166 SY
- **Forsythia Ct** – approximately 660 SY
- **Forsythia Pl** – approximately 820 SY
- **Lilac Cir** – approximately 3,520 SY
- **Alpine Drive** – approximately 9,657 SY
- **Wisteria Drive** – approximately 5,275 SY
- **Dogwood Drive** – approximately 8,266 SY
- **Dogwood Circle** – approximately 6,897 SY
- **Holly Drive** – approximately 2,604 SY
- **Ivy Way** – approximately 2,063 SY
- **Azaela Way** – approximately 4,238 SY
- **Crestview Lane** – approximately 6,041 SY
- **Primrose Lane** – approximately 5,647 SY
- **Primrose Place** – approximately 1,664 SY
- **Hamilton Road** – approximately 539 SY
- **Parkdale Court** – approximately 665 SY
- **North Parkdale Circle** – approximately 8,750 SY
- **South Parkdale Circle** – approximately 9,213 SY
- **Quintana Lane** – approximately 2,206 SY
- **Parkdale Place** – approximately 1,902 SY
- **Eaton Street** – approximately 988 SY
- **Columbine Way** – approximately 5,704 SY

- Columbine Court – approximately 1,356 SY
- Serene Drive – approximately 10,758 SY
- Serene Court – approximately 1,199 SY
- Lawson Way – approximately 1,767 SY
- Lawson Place – approximately 815 SY
- Lawson Avenue – approximately 8,755 SY
- Reliance Drive – approximately 7,320 SY
- Reliance Court – approximately 987 SY
- Reliance Place – approximately 1,157 SY
- Clayton Way – approximately 3,993 SY
- Jacques Way – approximately 4,900 SY
- Lawson Court – approximately 720 SY
- Taylor Lane – approximately 1,830 SY
- Eagle Way – approximately 539 SY
- Eagle Drive – approximately 1,505 SY
- Eagle Circle – approximately 7,434 SY
- Ironwood Way – approximately 519 SY
- Ironwood Place – approximately 1,624 SY
- Ironwood Circle – approximately 7,406 SY

2. Bonds. Within 10 days of the date of this Contract, Contractor shall provide the payment and performance bond and certificate of insurance required by the Contract Documents. A payment and performance bond is not required for contract amounts under \$50,000 unless indicated differently in the Request for Bids or the Contract Documents.

3. Commencement and Completion of Work. Contractor shall commence the Work within 10 days of date of the Notice to Proceed. Substantial Completion of the Work shall be accomplished within 120 days of the date of commencement, unless the period Substantial Completion is extended otherwise in accordance with the Contract Documents. Final Completion of the Work shall be accomplished within 7 days of the date of Substantial Completion.

4. Contract Price. The Town agrees to pay Contractor, subject to all of the terms and conditions of the Contract Documents, for the Work, an amount not to exceed \$2,352,600.00 which includes a base amount of \$2,138,807.27 and a contingency of \$213,792.73. The contingency amount will only be paid upon the Town's approval. . This not-to-exceed amount shall include all fees, costs and expenses incurred by Contractor. Contractor may submit periodic invoices, which shall be paid by the Town within 30 days of receipt.

5. Keep Jobs In Colorado Act. Pursuant to the Keep Jobs in Colorado Act, C.R.S. § 8-17-101, *et seq.* (the "Act"), and the rules adopted by the Division of Labor of the Colorado Department of Labor and Employment implementing the Act (the "Rules"), Contractor shall employ Colorado labor to perform at least 80% of the work under this Contract and shall obtain and maintain the records required by the Act and the Rules.

For purposes of this Section, "Colorado labor" means a person who is a resident of the state of Colorado at the time of this Contract, without discrimination as to race, color, creed, sex, sexual orientation, marital status, national origin, ancestry, age, or religion except when sex or age is a *bona fide* qualification. A resident of the state of Colorado is a person with a valid Colorado driver's license, a valid Colorado state-issued photo identification, or documentation that he or she has resided in Colorado for the last 30 days. Contractor represents that it is familiar with the requirements of the Act and the Rules and will fully comply with same. This Section shall not apply to any project for which appropriation or expenditure of moneys may be reasonably expected not to exceed \$500,000 in the aggregate for any fiscal year.

6. Miscellaneous.

a. *Governing Law and Venue.* This Contract shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Boulder County, Colorado.

b. *No Waiver.* Delays in enforcement or the waiver of any one or more defaults or breaches of this Contract by the Town shall not constitute a waiver of any of the other terms or obligation of this Contract.

c. *Integration.* This Contract and any attached exhibits constitute the entire Contract between Contractor and the Town, superseding all prior oral or written communications.

d. *Third Parties.* There are no intended third-party beneficiaries to this Contract.

e. *Notice.* Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class U.S. Mail to the Party at the address set forth on the first page of this Agreement.

f. *Severability.* If any provision of this Contract 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.

g. *Modification.* This Contract may only be modified upon written agreement of the Parties.

h. *Assignment.* Neither this Contract nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other.

i. *Governmental Immunity.* The Town and its officers, attorneys and employees are relying on, and do not waive or intend to waive by any provision of this Contract, the monetary limitations or any other rights, immunities, and protections

j. *Rights and Remedies.* The rights and remedies of the Town under this Contract are in addition to any other rights and remedies provided by law. The expiration of this Contract shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

In Witness Whereof, this Construction Contract has been executed by the Parties as of the Effective Date.

Justin Brooks, Mayor

Debbie Stamp, Town Clerk

By: _____

The foregoing instrument was subscribed, sworn to and acknowledged before me this ____ day of _____, 2024, by _____ as _____ of Western Plains Construction.

(Seal)

Notary Public

