

FIRST AMENDATORY AGREEMENT

THIS FIRST AMENDATORY AGREEMENT is made and entered effective as of the date set forth on the City’s signature page below (“**Effective Date**”) by and between the **CITY AND COUNTY OF DENVER**, a home rule and municipal corporation of the State of Colorado (the “**City**”) and **APRICITY, INC.** d/b/a ENGINEERED PAVING, a Colorado corporation, with an address of 4802 Christensen Dr., Littleton, Colorado 80123 (the “**Contractor**”), referred to herein jointly as the “**Parties**” and individually as a “**Party**”.

RECITALS:

A. The Parties entered into an Agreement executed on or about October 23, 2024 (the “**Agreement**”) for the performance of certain services set forth in that Agreement and the exhibits thereto; and

B. Rather than enter into a new contract, the Parties wish to revise the terms and conditions of the Agreement as they previously existed and the Parties further wish to amend the Agreement to extend the term date and add funds.

NOW, THEREFORE, in consideration of the premises and the Parties’ mutual covenants and obligations, the Parties agree as follows:

1. All of the recitals above are hereby confirmed and incorporated herein as part of the Agreement.

2. Section 3 of the Agreement entitled “**TERM**” is hereby amended to read as follows:

“The term of the Agreement runs from the Effective Date of this Agreement, and shall expire October 23, 2029, or until the Maximum Contract Amount specified is expended, whichever is sooner; or unless this Agreement is terminated earlier as provided in this Agreement; or unless this Agreement is extended as provided in a separate amendment to this Agreement (“**Term**”). If the time needed to complete any Work Order or Work Order Change extends beyond the Term specified herein, this Agreement shall remain in full force and effect but only as to such Work Order or Work Order Change; however, the total amount paid to the Contractor shall not exceed the Maximum Contract Amount specified in sub-section 4.A. below.”

3. Section 4 of the Agreement, entitled “**COMPENSATION AND PAYMENT**”, is hereby amended at subsection A, entitled Maximum Contract Amount, to read as follows:

“The Maximum Contract Amount to be paid by the City to the Contractor shall in no event exceed the sum of **TWO MILLION FIVE HUNDRED THOUSAND DOLLARS AND ZERO CENTS (\$2,500,000.00)** (the “**Maximum Contract Amount**”), unless this Agreement is modified to increase said amount by a duly

authorized and written amendment to this Agreement executed by the Parties in the same manner as this Agreement. The Maximum Contract Amount stated herein is not intended, and shall not be construed, as a promise or guarantee to the Contractor that Work Orders or amended Work Orders with Work Project Amounts totaling or approximating the Maximum Contract Amount will be issued to the Contractor. Issued Work Orders and amended Work Orders shall not, individually or cumulatively, authorize the performance of Work for which the Work Project Amount(s) exceed the Maximum Contract Amount. It shall be the responsibility of the Contractor to verify that the total Work Project Amount(s) do not exceed the Maximum Contract Amount of this Agreement. All Work is subject to inspection by the City prior to payment.”

4. Except as herein amended, the Agreement continues in effect and is affirmed and ratified in each and every particular.

5. This First Amendatory Agreement will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

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[SIGNATURE PAGES TO FOLLOW]

Contract Control Number: PARKS-202582681-01 / 202475683-01
Contractor Name: APRICITY, INC.

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of Denver

By:

By:

By:

Contract Control Number:
Contractor Name:

PARKS-202582681-01 / 202475683-01
APRICITY, INC.

By: Signed by:
Gary Beutler
E79A666AD78048F...

Name: Gary Beutler
(please print)

Title: Vice President
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)