

Construction Contract
(Arapahoe Road and 111th Street Intersection Improvements P22-453)

This Construction Contract (the "Contract") is made and entered into this _____ day of _____, 2025 (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 DeFalco Construction Company, an independent contractor with a principal place of business at P.O. Box 820, Longmont, 80502 ("Contractor") (each a "Party" and collectively the "Parties").

Whereas, the Town issued a Request for Bids for the construction of the Project, dated September 18th, 2025 ("RFB"), which is incorporated by this reference as if fully set forth here. The Town subsequently issued addendum #1 dated 10/2/2025, addendum #2 dated 10/2/2025, and addendum #3 dated 10/14/2025, all of which are also incorporated by this reference as if fully set forth here.

Whereas, Contractor responded to the RFB and submitted its Bid for the Project on 10/17/2025, which Bid is incorporated by this reference as if fully set forth here.

Whereas, the Town has determined that Contractor submitted the most qualified, responsible and responsive Bid and has selected Contractor to perform the Work, subject to the terms and conditions of the Contract Documents.

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

1. Contract Documents. The "Contract Documents" for this Project consist of the following:

- A. Bid Form (including Bid Summary)
- B. Bid Schedule
- C. Bidder's Qualification Statement
- D. Construction Contract
- E. Certificate of Insurance Verification
- F. Notice of Award
- G. Notice to Proceed
- H. Bid Bond
- I. Payment and Performance Bond
- J. Certificate of Final Payment
- K. Certificate of Final Acceptance Form
- L. Documentation submitted by Contractor prior to Notice of Award
- M. General Provisions
- N. Special Provisions
- O. Technical Specifications

P. Construction Drawings

Q. Addenda issued to the Bid Documents

Any conflicts or inconsistencies between or among any of the Contract Documents shall be resolved in accordance with the order of precedence specified in Section 8.04 of the General Provisions. In case of any discrepancy between any of the requirements set forth in the Urban Drainage and Flood Control District Urban Storm Drainage Criteria Manual, CDOT Specifications, AASHTO Specifications, International Building Code, Uniform Plumbing Code, Uniform Mechanical Code, National Electrical Code, Americans with Disabilities Act, and these Contract Documents, the more stringent requirement shall apply. If any questions arise as to which requirement is more stringent than another, the Project Manager shall be authorized to determine which is more stringent, and the Project Manager's decision shall be final.

2. Scope of Work. Contractor shall perform the following described work (the "Work"), in accordance with and reasonably inferable from this Contract and the Contract Documents, attached hereto and incorporated herein by this reference, necessary for the successful completion of the Project:

All labor, services, material, and other work necessary for the construction of improvements at the intersection of Arapahoe Road & 111th Street as identified in the Unit-Price Bid Form and shown or called for in the Contract Documents.

3. Bonds. Within 10 days of the Effective Date, 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.

4. Commencement and Completion of Work. Contractor shall commence the Work identified in the Notice to Proceed within 15 days of date of the Notice to Proceed. Substantial Completion of the entirety of the Work for the Project shall be accomplished by Contractor within 65 days of the Notice to Proceed, unless the time within which Contractor is required to achieve Substantial Completion is subsequently extended in accordance with the Contract Documents. Final Completion and Final Acceptance of the Work shall be accomplished within 15 days of the date of Substantial Completion.

5. Contract Price. The Town agrees to pay Contractor, subject to all of the terms and conditions of the Contract Documents, for the Work, at the unit Bid prices shown in the Bid Schedule and the Unit-Price Bid Form for the actual quantity of the Work placed and accepted by the Town, as determined by the Project Manager, in an amount not to exceed \$508,500.00. The Contract Price includes a base amount of \$442,108.91 and a contingency of \$66,391.09. Payment to Contractor of any portion of the contingency amount requires the Town's express, written approval. The contingency amount paid to Contractor, if any, shall not result in or serve as the basis for any increase to the Contract Price. In no event shall any portion of the contingency amount be used to cover costs arising from the failure, negligence, mistake or misconduct of Contractor or any of

Contractor's subcontractors or suppliers or anyone for whom any of them may be liable. The Contract Price shall include all fees, costs and expenses incurred by Contractor.

6. 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 Project, without discrimination as to race, color, creed, sex, sexual orientation, gender identity, gender expression, marital status, national origin, ancestry, age, or religion except when sex or age is a *bona fide* occupational 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.

7. 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, the Contract Documents 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 Contract 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 Contract.

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 provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

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.

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

l. *Accessibility.* Contractor shall comply with the accessibility standards for an individual with a disability adopted by the State Office of Information Technology pursuant to C.R.S. § 24-85-103, and shall indemnify, hold harmless and assume liability on behalf of the Town and its officers, employees, agents and attorneys for all costs, expenses, claims, damages, liabilities, court awards, attorney fees and related costs, and any other amounts incurred by the Town in relation to Contractor's noncompliance with such accessibility standards.

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


Town of Erie, Colorado

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

Contractor

DocuSigned by:

6B3AA65B198B459

Anthony DeFalco,

(Seal) _____

Certificate Of Completion

Envelope Id: 9F47C2CD-F10C-4013-A098-0D563965AE5A

Status: Completed

Subject: Complete with Docusign: Contract Document D - Construction Contract.pdf

Source Envelope:

Document Pages: 5

Signatures: 1

Envelope Originator:

Certificate Pages: 4

Initials: 0

Kris McDaniel

AutoNav: Enabled

645 Holbrook Street

Envelopeld Stamping: Enabled

P.O. Box 750

Time Zone: (UTC-07:00) Mountain Time (US & Canada)

Erie, CO 80516

krismc@erieco.gov

IP Address: 73.34.182.144

Record Tracking

Status: Original

Holder: Kris McDaniel

Location: DocuSign

11/6/2025 10:13:50 AM

krismc@erieco.gov

Signer Events

Tony DeFalco

tony@defalcoconstruction.com

Security Level: Email, Account Authentication
(None)

Signature

DocuSigned by:

6B3AA65B196B459...

Signature Adoption: Pre-selected Style

Using IP Address: 209.71.142.230

Timestamp

Sent: 11/6/2025 10:16:18 AM

Viewed: 11/6/2025 12:10:01 PM

Signed: 11/6/2025 12:10:25 PM

Electronic Record and Signature Disclosure:

Accepted: 11/6/2025 12:10:01 PM

ID: 068bbfc9-69e8-4dc7-a341-92ed43d71773

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

Witness Events

Signature

Timestamp

Notary Events

Signature

Timestamp

Envelope Summary Events

Status

Timestamps

Envelope Sent

Hashed/Encrypted

11/6/2025 10:16:18 AM

Certified Delivered

Security Checked

11/6/2025 12:10:01 PM

Signing Complete

Security Checked

11/6/2025 12:10:25 PM

Completed

Security Checked

11/6/2025 12:10:25 PM

Payment Events

Status

Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Town of Erie (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Town of Erie:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: docusign@erieco.gov

To advise Town of Erie of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at docusign@erieco.gov and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from Town of Erie

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to townclerk@erieco.gov and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Town of Erie

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to docusign@erieco.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Town of Erie as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Town of Erie during the course of your relationship with Town of Erie.