

Agreement for Professional Services
(Municipal Prosecution)

This Agreement for Professional Services (the "Agreement") is made and entered into this ____ day of _____, 2025 (the "Effective Date"), by and between the Town of Erie, a Colorado home rule municipality with an address of 645 Holbrook Street, P.O. Box 750, Erie, CO 80516, (the "Town"), and the Ausmus Law Firm, P.C., an independent contractor with a principal place of business at _____ ("Attorney") (each a "Party" and collectively the "Parties").

Whereas, pursuant to Section 8.04 of the Erie Home Rule Charter, the Town requires a Town Prosecutor; and

Whereas, Attorney represents that the firm and its members are fully qualified, through experience and education, and where required by state or local law, are duly licensed to perform such legal services, and is ready, willing and able to serve as the Town Prosecutor.

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. Upon appointment by the Town Council under Section 8.04 of the Erie Home Rule Charter, Attorney shall act as the Town Prosecutor. Attorney shall perform all duties of the Town Prosecutor required by applicable law. Ms. Christy Ausmus shall be principally responsible to the Town for Attorney's work. The duties shall include: 2 full day court sessions per month, including witness preparation for court trials; ongoing police officer training during court appearances; availability for telephone calls for any police officer questions; and availability for extra court sessions and jury trials as needed.

B. A change in the Scope of Services shall not be effective unless authorized as an amendment to this Agreement. No agent, employee, or representative of the Town is authorized to modify any term of this Agreement, either directly or implied by a course of action.

II. Term.

A. The services to be performed by Attorney shall begin on December 1, 2025. Pursuant to Section 8.04 of the Erie Home Rule Charter, Attorney shall serve at the pleasure of the Town Council.

B. If Attorney wishes to voluntarily resign as Town Prosecutor, Attorney shall provide at least 30 days' prior written notice to the Town Council.

III. Compensation

The Town agrees to pay Attorney a flat fee of \$3,500 per month for attendance at the 2 regularly-scheduled court sessions per month and preparation for such sessions. For jury trials, appeals and additional court sessions, the Town shall pay Attorney \$150 per hour. Attorney shall bill the Town monthly, indicating the services performed and the dates of service.

IV. Professional Responsibility

A. Attorney 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. The work performed by Attorney 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 Attorney hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations.

B. The Town'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.

D. Attorney shall at all times comply with all applicable law, including all federal, state and local statutes, regulations, ordinances, decrees and rules relating to the emission, discharge, release or threatened release of a hazardous material into the air, surface water, groundwater or land, the manufacturing, processing, use, generation, treatment, storage, disposal, transportation, handling, removal, remediation or investigation of a hazardous material, and the protection of human health and safety, including without limitation the following, as amended: the Comprehensive Environmental Response, Compensation and Liability Act; the Hazardous Materials Transportation Act; the Resource Conservation and Recovery Act; the Toxic Substances Control Act; the Clean Water Act; the Clean Air Act; the Occupational Safety and Health Act; the Solid Waste Disposal Act; the Davis Bacon Act; the Copeland Act; the Contract Work Hours and Safety Standards Act; the Byrd Anti-Lobbying Amendment; the Housing and Community Development Act; and the Energy Policy and Conservation Act.

E. Attorney 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 Attorney's noncompliance with such accessibility standards.

VI. Independent Contractor

Attorney is an independent contractor. Notwithstanding any other provision of this Agreement, all personnel assigned by Attorney to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of Attorney for all purposes. Attorney shall make no representation that it is a Town employee for any purposes.

VII. Insurance

A. Attorney agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Attorney pursuant to this Agreement. At a minimum, Attorney shall procure and maintain, and shall cause any subcontractor to procure and maintain, the insurance coverages listed below, with forms and insurers acceptable to the Town.

1. Worker's Compensation insurance as required by law.
2. Commercial General Liability insurance with minimum combined single limits of \$500,000 each occurrence and \$1,000,000 general aggregate. The policy shall be applicable to all premises and operations, and shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), blanket contractual, products, and completed operations. The policy shall contain a severability of interests provision, and shall include the Town and the Town's officers, employees, and contractors as additional insureds. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.
3. Professional liability insurance with minimum limits of \$500,000 each claim and \$1,000,000 general aggregate.

B. 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 30 days prior written notice to the Town. 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 Town, its officers, its employees or its contractors shall be excess and not contributory insurance to that provided by Attorney. Attorney shall be solely responsible for any deductible losses under any policy.

C. Attorney shall provide to the Town a certificate of insurance as evidence that the required policies are in full force and effect. The certificate shall identify this Agreement.

VIII. Indemnification

Attorney agrees to indemnify and hold harmless the Town and its officers, insurers, volunteers, representative, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including reasonable 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 omission, error, professional error, mistake, negligence, or other fault of Attorney, any subcontractor of Attorney, or any officer, employee, representative, or agent of Attorney, or which arise out of a worker's compensation claim of any employee of Attorney or of any employee of any subcontractor of Attorney; provided that Attorney'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 Attorney, any subcontractor of Attorney, or any officer, employee, representative, or agent of Attorney or of any subcontractor of Attorney.

IX. 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 Boulder County, Colorado.

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

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

D. *Third Parties.* There are no intended third-party beneficiaries to this Agreement.

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 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.

G. *Modification.* This Agreement may only be modified upon written agreement of the Parties.

H. *Assignment.* Neither this Agreement 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 Agreement, the monetary limitations or any other rights, immunities or 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. *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, debt or liability beyond the current fiscal year.

K. *Force Majeure.* No Party shall be in breach of this Agreement if such Party's failure to perform any of the duties under this Agreement is due to Force Majeure, which shall be defined as the inability to undertake or perform any of the duties under this Agreement due to acts of God, floods, fires, sabotage, terrorist attack, strikes, riots, war, labor disputes, forces of nature, the authority and orders of government or pandemics.

L. *Electronic Signatures.* The Parties intend that this Agreement be governed by the Uniform Electronic Transactions Act, C.R.S. § 24-71.3-101, *et seq.*

In Witness Whereof, the Parties have executed this Agreement as of the Effective Date.

Town of Erie, Colorado

Andrew J. Moore, Mayor

Attest:

Debbie Stamp, Town Clerk

Ausmus Law Firm, P.C.

By: _____

State of Colorado)
) ss.
County of _____)

The foregoing instrument was subscribed, sworn to and acknowledged before me this ____ day of _____, 2025, by _____ as _____ of Ausmus Law Firm, P.C.

My commission expires:

(Seal)

Notary Public