

Agreement for Professional Services
(Transportation Mobility Plan)

This Agreement for Professional Services (the "Agreement") is made and entered into this ____ day of _____, 2023 (the "Effective Date"), by and between the Town of Erie, a Colorado municipal corporation with an address of 645 Holbrook Street, P.O. Box 750, Erie, CO 80516, (the "Town"), and Fehr & Peers, an independent contractor with a principal place of business at 410 17th Street, Suite 1000, Denver, CO 80202 ("Contractor") (each a "Party" and collectively the "Parties").

Whereas, the Town requires professional services; and

Whereas, Contractor has held itself out to the Town as having the requisite expertise and experience to perform the required professional services.

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. 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, and known as: Scope of Services.

B. A change in the Scope of Services shall not be effective unless authorized as an amendment to this Agreement. 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 merit or implied contract. Except as expressly provided herein, 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 and Termination

A. This Agreement shall commence on the Effective Date, and shall continue until Contractor completes the Scope of Services to the satisfaction of the Town, or until terminated as provided herein.

B. Either Party may terminate this Agreement upon 30 days advance written notice. The Town shall pay Contractor for all work previously authorized and completed prior to the date of termination. If, however, Contractor has substantially or materially breached this Agreement, the Town shall have any remedy or right of set-off available at law and equity.

III. Compensation

In consideration for the completion of the Scope of Services by Contractor, the Town shall pay Contractor \$150,973. This amount shall include all fees, costs and expenses incurred by Contractor, and no additional amounts shall be paid by the Town for such fees, costs and expenses. Contractor may submit periodic invoices, which shall be paid by the Town within 30 days of receipt.

IV. Professional Responsibility

A. 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. 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.

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.

C. Because the Town has hired Contractor for its professional expertise, Contractor agrees not to employ subcontractors to perform any work under this Agreement, except as expressly set forth in the Scope of Services.

D. Contractor shall at all times comply with all applicable law, including without limitation all current and future federal, state and local statutes, regulations, ordinances 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, safety or the indoor or outdoor environmental, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.* ("CERCLA"); the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.* ("RCRA"); the Toxic Substances Control Act, 15 U.S.C. § 2601, *et seq.*; the Clean Water Act, 33 U.S.C. § 1251, *et seq.*; the Clean Air Act, 42 U.S.C. § 7401, *et seq.*; the Occupational Safety and Health Act, 29 U.S.C. § 651, *et seq.*; all applicable environmental statutes of the State of Colorado; and all other federal, state or local statutes, laws, ordinances, resolutions, codes, rules, regulations, orders or decrees regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect.

V. Ownership

Any materials, items, and work specified in the Scope of Services, and any and all related documentation and materials provided or developed by Contractor shall be exclusively owned by the Town. Contractor expressly acknowledges and agrees that all work performed under the Scope of Services constitutes a "work made for hire." To the extent, if at all, that it does not constitute a "work made for hire," Contractor hereby transfers, sells, and assigns to the Town all of its right, title, and interest in such work. The Town may, with respect to all or any portion of such work, use, publish, display, reproduce, distribute, destroy, alter, retouch, modify, adapt, translate, or change the Work Product without providing notice to or receiving consent from Contractor; provided that Contractor shall have no liability for any work that has been modified by the Town.

VI. Independent Contractor

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. Contractor shall make no representation that it is a Town employee for any purposes.

VII. Insurance

A. Contractor 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 Contractor pursuant to this Agreement. At a minimum, Contractor 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 \$1,000,000 each occurrence and \$2,000,000 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 \$1,000,000 each claim and \$2,000,000 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 Contractor. Contractor shall be solely responsible for any deductible losses under any policy.

C. Contractor 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

A. Contractor 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 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; provided that 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 Town 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).

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. *Rights and Remedies.* The rights and remedies of the Town 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 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, debt or liability beyond the current fiscal year.

L. *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.

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

Town of Erie, Colorado

Justin Brooks, Mayor

Attest:

Debbie Stamp, Town Clerk

Contractor

By: _____

State of Colorado)
) ss.
County of _____)

The foregoing instrument was subscribed, sworn to and acknowledged before me this ____ day of _____, 2023, by _____ as _____ of Fehr & Peers.

My commission expires:

(Seal)

Notary Public

Exhibit A Scope of Services

Contractor's Duties

During the term of this Agreement, Contractor shall perform the following duties, as directed by the Town:

- Contractor shall apply to local transportation planning and decisions, but also include strategic planning for multimodal transportation projects in both counties (Weld and Boulder) and the region.
- Contractor shall use community input, historic data, future trends, safety recommendations, realistic infrastructure cost estimates and a strategic action plan to guide the next decade of multimodal travel in the Town.

Key themes that shall be addressed during the TMP include without limitation:

- Community character, equity and inclusion
- Vision Zero planning, priorities and funding
- Neighborhood traffic management and multimodal connectivity
- Safe routes to schools
- Action plans for microtransit, local bus routes and RTD service gaps
- First and Last mile routes to SH7 and US 287 BRT
- Off-street multi-use trail connectivity
- Build off DRCOG Complete Streets toolkit
- TDM guidelines and targets for current and new development
- Transit Oriented Development (TOD) best practices
- Development review changes (going beyond LOS)
- Multimodal corridor phasing for existing and future travel corridors
- VMT and Transportation GHG calculation for land use alternatives
- Intelligent streets (lighting, landscape, signals, crash detection and solar roads)
- Strategic budgeting and grant leverage to achieve TMP goals in next decade
- Achievable multimodal travel targets with annual monitoring programs
- Phased implementation per DRCOG TIP schedules

Contractor's Deliverables

In performance of the duties described above, Contractor shall deliver the following items to the Town, during the timeframes established by the Town:

Project Initiation & Management

Project Initiation

- Contractor shall review and contribute to the Project Management Plan, providing a separate section on schedule and communication for the TMP.
- Contractor shall attend bi-weekly PMT meetings with transportation staff to discuss status updates and next steps. Bi-weekly meetings will be virtual.

Draft Recommendations (Goals, Options and Funding) (6 months)

- Planning for the future multimodal transportation system will be done in conjunction with the land use planning tasks of the Comprehensive Plan update.

Goal Development & Visioning

- Contractor shall develop transportation- related vision, goals and guiding principles. The transportation goals should be aspirational, but achievable in the next decade based on realistic funding, design standards and policy considerations.

Modeling

- Contractor shall apply the DRCOG Focus travel demand model to export volume to capacity ratios and forecasted volumes for 2050. Contractor shall not make any modifications to the land use and transportation assumptions in the model. Contractor shall have one call with Town staff to present the results to determine if additional fee is needed to customize the model. Contractor shall develop an add-on if it is determined to be needed after viewing the results from the initial model run.

Layered Network/Multimodal Recommendations

- Contractor shall develop multimodal recommendations to improve walking, biking, transit and driving in Erie. The approach to developing recommendations will consist of:
 - Pedestrian
 - Map of missing and deficient sidewalks, curb ramps, and crosswalks using available data
 - A 3-tier pedestrian prioritization map based on Town-supported inputs including key destinations, high pedestrian-involved crash locations, and trails
 - Use of the pedestrian crossing tool at up to 15 locations for enhanced crossings
 - Bicycle
 - Using the 2018 TMP's future bicycle map as a starting off point, a low-stress bike network map
 - Identification of the proposed facility type for each corridor with a

- proposed bike facility
 - Reference to proposed trails from the Parks & Recreation Department but recommendations will focus on on-street facilities
- Transit
 - Reference to recommendations from the microtransit effort taking place concurrent to the TMP
 - Identification of opportunities for mobility hubs
 - Identification of regional BRT investment corridors and their implications for Erie
 - Identification of first and final mile connections to better leverage regional Bus Rapid Transit ("BRT") corridors
- Driving
 - Using the 2018 TMP's roadway map as a starting off point, a map of roadway classifications, number of lanes and roadway projects
 - Edits based on planned development, the 2050 model outputs, and Town input

Discussion of the implications of the Town's investment in vehicle infrastructure versus multimodal infrastructure on safety and on vehicle miles traveled.

Discussion of these correlations qualitatively and at a high-level, without modeling any specific investments and their specific outcomes.

Policies and Programs

- Contractor shall develop a policy and programs chapter that provides high-level recommendations under the following categories.
 - a. TDM
 - b. Maintenance
 - c. Bicycle/Pedestrian Amenities
 - i. Wayfinding
 - ii. Furnishings
 - d. Access Management
 - i. Connectivity
 - e. Emergency Planning
 - f. Vision Zero
 - g. Parking
 - h. Roadway design
 - i. DRCOG's complete streets tool kit/ as a guide to roadway design
 - i. Emerging Mobility
 - i. Intelligent Transportation Systems
 - ii. Electric Vehicles
 - iii. Autonomous and Connected Vehicles
 - iv. Shared Micromobility
 - v. Curbside Management
 - j. Development or update of additional plans

- i. Vision Zero Plan
- ii. Safe Routes to School Plan
- iii. Fleet transition to EV Plan
- iv. Airport Master Plan

Community Engagement Series #2

- Contractor shall conduct a second phase of outreach to seek feedback on draft recommendations and get input on plan priorities. This shall include:
 - The content for a community survey
 - The electronic content for a community open house and will attend the open house
 - We will not coordinate logistics or advertising of the event
 - We ask that the Town print the material
 - Provide materials to PAC and TAC as needed (materials that have primarily already been created for the TMP)

Monitoring Program

- Contractor shall develop performance measures that are tied to the goals developed in Phase 2. Contractor shall use these performance measures to develop and deliver a monitoring program for the Town to track the success and progress of the TMP.

Recommended TMP and Strategic Actions

- Community input and one consolidated set of comments from the Board of Trustees shall be used to prepare a TMP document and monitoring program.

Final TMP and Presentation

- Contractor shall incorporate one round of consolidate comments on the draft plan to develop a final TMP. The final plan will provide a synthesis of the content developed in the previous tasks. Feedback on the draft TMP will include qualitative and quantitative summaries that can be used by Town staff and the Town Board to approve the TMP. Up to two work sessions or meetings with Town Board/Planning Commission/Board of Trustees will be required to approve the TMP.

Meetings and Deliverables

Goal Development

- List of transportation-related vision, goals, and guiding principles

Modeling

- Maps of V/C ratios and volumes from 2050 model
- One meeting with Town staff

Layered network

- Map and narrative of recommendations for walking, biking, transit, and driving

Policies and programs

- Chapter of the plan on policies and programs

Community Engagement Series #2

- Open house material and attendance
- Contribution to survey content and summary
- Provide materials to PAC and TAC as needed (materials that have primarily already been created for the TMP)

Monitoring Program

- Performance measures and metrics delivered in the format of a table to serve as a monitoring program for staff to complete after TMP approval.

TMP Draft Report

The consulting team will provide text, graphics and mapping that will outline specific details for each chapter. A summary presentation and TMP draft document will be shared with the community during outreach sessions.

TMP Draft, Reports, GIS data, Final Report, and Final Presentation

Contractor shall attend bi-weekly PMT meetings with transportation staff to discuss status updates and next steps. Bi-weekly meetings will be virtual.