

## **Agreement for Professional Services** **(Arapahoe Road Feasibility Study)**

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 DJ&A, an independent contractor with a principal place of business at 1526 Cole Boulevard, Suite 370, Lakewood, CO 80401 ("Consultant") (each a "Party" and collectively the "Parties").

Whereas, the Town requires professional services; and

Whereas, Consultant 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. Consultant 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:

B. A change in the Scope of Services shall not be effective unless authorized as an amendment to this Agreement. If Consultant proceeds without such written authorization, Consultant 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 Consultant 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 Consultant for all work previously authorized and completed prior to the date of termination. If, however, Consultant 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 Consultant, the Town shall pay Consultant \$135,471. This amount shall include all fees, costs and expenses incurred by Consultant, and no additional amounts shall be paid by the Town for such fees, costs and expenses. Consultant may submit periodic invoices, which shall be paid by the Town within 30 days of receipt.

### **IV. Professional Responsibility**

A. Consultant 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 Consultant 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 Consultant 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 Consultant for its professional expertise, Consultant agrees not to employ subcontractors to perform any work under this Agreement, except as expressly set forth in the Scope of Services.

D. Consultant 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. Consultant 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 Consultant's noncompliance with such accessibility standards.

## **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 Consultant shall be exclusively owned by the Town. Consultant 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," Consultant 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 Consultant; provided that Consultant shall have no liability for any work that has been modified by the Town.

## **VI. Independent Contractor**

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

## **VII. Insurance**

A. Consultant 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 Consultant pursuant to this Agreement. At a minimum, Consultant 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 Consultant. Consultant shall be solely responsible for any deductible losses under any policy.

C. Consultant 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. Consultant 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 Consultant, any subcontractor of Consultant, or any officer, employee, representative, or agent of Consultant, or which arise out of a worker's compensation claim of any employee of Consultant or of any employee of any subcontractor of Consultant; provided that Consultant'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 Consultant, any subcontractor of Consultant, or any officer, employee, representative, or agent of Consultant or of any subcontractor of Consultant.

B. If Consultant is providing architectural, engineering, surveying or other design services under this Agreement, the extent of Consultant's obligation to indemnify and hold harmless the Town may be determined only after Consultant'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



## **Exhibit A**

### **Scope of Services**

#### Consultant's Duties

During the term of this Agreement, Consultant shall create a comprehensive feasibility study regarding the potential extension of Arapahoe Road to Colorado State Highway 7 that considers all potential alternatives to improve local and regional access and better serve residents and the projected population growth in the area. The study shall include potential roadway alignments in the immediate study area, from Vista Parkway to the north, Bonanza Drive to the west, CO 7 to the south, and Coal Creek Boulevard to the east. The study shall assess the Erie Municipal Airport, Coal Creek, the light industrial/commercial properties along Airport Drive and South Main Street, rural residential adjacent to the Airport, the Lafayette Water Reclamation Center, and the solar field just east of the Reclamation Center.

#### Task 1: Project Management

1.1: *Kick-Off Meeting and Site Visit.* Consultant shall schedule a kickoff meeting and site visit with Town staff, which will be in-person to introduce the team, detail the project scope, finalize the project schedule as needed, and establish recurring weekly status meetings with the Town's project manager. Town staff will have the opportunity to lay out their goals and objectives of the study and discuss how the project will achieve them. Consultant shall prepare and distribute meeting notes following the kickoff meeting. On the same day as the kick-off meeting, Consultant shall accompany Town staff and complete a one-day site visit to the project area to observe activities and operations, focusing on traffic movements, airport layout and land uses, adjacent non-airport land uses, and other constraints that would influence the feasibility study.

1.2: *Other Meetings.* Consultant shall schedule and attend additional meetings to occur during the study process and at the completion of the study to provide updates on study progress, review key project deliverables, and present the final study.

#### Task 2: Existing Conditions Analysis

Consultant shall collect and analyze existing data on existing and proposed transportation infrastructure, vehicle volumes, land use, and other key conditions in the study area to establish an understanding of movements today and how the transportation network will be utilized in the future. Consultant shall analyze the following data within Task 2:

- 2024 intersection PM peak counts and traffic forecasts and data

- GIS data relevant to transportation infrastructure, land use, zoning, development activity, and FEMA flood hazard areas
- Development Plans and As-Builts
- DiExSys Safety Screening Information
- Elevate Erie Comprehensive Plan (2024)
- Transportation Mobility Plan and Appendices (2024)
- Erie Municipal Airport Strategic Plan (2016)
- Any relevant documents from Weld, Boulder, and Broomfield Counties
- Other relevant transportation-related studies

### Task 3: FAA Regulations

3.1 Consultant shall provide guidance on FAA regulations with respect to crossing or navigating around the Erie Municipal Airport.

3.2 Consultant shall identify the governing FAA rules and regulations with roadways adjacent to or across/under runways.

3.3 Consultant shall provide input on a concept design for an underpass below the runway.

### Task 4: Identify and Evaluate Alternatives

4.1 Consultant shall evaluate the feasibility of new alternative connections between Arapahoe Road at County Line Road toward CO 7, considering right-of-way requirements, FAA regulations regarding roadway navigating adjacent, through, or under an airport, existing roadway capacities, directness, land use, cost, maintenance, terrain, and impacts on neighborhood character.

4.2 Each viable alternative shall undergo multiple analyses, including an intersection level of service study, an economic benefits analysis, a land use impacts/ benefits analysis, and a cost-benefit comparison.

4.3 Consultant shall examine the economics of potential alternatives connecting Arapahoe Road to CO 7, including the following:

- Economic Benefits Analysis: quantify travel times savings of alternatives using the Statewide Rules for Cost-Benefit Analysis which incorporate measures including the quantification of time saved due to traffic delays, reductions in vehicle operating costs (potentially), potential road safety (fewer crashes), potential health consequences, and other considerations as needed.



- Land Use Impacts/Benefits: examine current zoning, land use and comprehensive plans and supporting documents for the Town. In general, better connections would help facilitate the implementation of the Town's land use plans; examine alternatives from a potential land use benefits perspective (commercial and household potentials, incomes, potential spending, property and sales tax generation) in an agreed-upon radius from each of the alternatives; examine the land use documents in greenfield areas as well as other similar areas within the Town or the region to help provide potential development implementation scenarios in order to quantify potential land use/development impacts as well as potential development timeframes.
- Cost-Benefit Comparison: compare the economic benefits and land use impacts to an estimate of costs for each alternative including initial construction and likely ongoing maintenance costs; examine both benefits and costs over a 30-year period and include a Net Present Value of each alternative, to be input into the selection process for the final alternative.

#### Task 5: Draft and Final Reports

5.1 Based upon the data collected from Tasks 2 through 4, Consultant shall compile and summarize the data collection and most viable alternatives into the Draft Arapahoe Road Extension Feasibility Report, and select the most viable alternatives.

5.2 Consultant shall submit the Draft Report to Town staff for review and comment, and then address comments received, incorporate appropriate updates to the draft report.

5.3 After completion of the Draft Report, Consultant shall present the most viable alternatives to the Town Council for final selection.

5.4 After final selection, Consultant shall update the report to highlight the most viable alternative and deliver the Final Report to the Town.

#### Task 6: Preliminary (15%) Design Services

6.1 Consultant shall prepare a 15% preliminary design for the preferred Arapahoe Road extension alignment.

6.2 Consultant shall create an illustrative plan view of the preferred alternative and one single view visual rendering of the proposed improvements to support understanding of the project.

6.3 The preliminary design effort shall develop initial concepts for the roadway design of the preferred alternative.

6.4 Consultant shall evaluate potential right-of-way impacts resulting from the preferred alternative at a conceptual level using GIS data with parcel boundaries provided by the Town, to identify locations with potential impacts to rights-of-way and provide input to the development of the conceptual cost estimate.

6.5 The 15% preliminary design documents shall define the overall design intent, roadway segment and intersection lane geometry, curb-to-curb and right-of-way widths, and multimodal design improvements.

6.6 Consultant shall present the draft preliminary design package to Town staff for review and comment. Consultant shall also prepare a conceptual level cost estimate for the preferred design concept.