

# REQUEST FOR PROPOSALS

## Town of Erie AIRPORT ECONOMIC DEVELOPMENT STUDY

Administration RFP # 2009-02



Town of Erie  
Administration Department  
645 Holbrook Street  
P. O. Box 750  
Erie, Colorado 80516

Issued: **May 13, 2009**

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## **INVITATION TO SUBMIT PROPOSALS**

The Town of Erie, Colorado is soliciting suitably qualified and experienced Consultants for developing the Town of Erie Airport Economic Development Study. The selected firm should have experience in economic development and land use planning for general aviation airports; development and execution strategies to attract and retain airport activity and tenants; working closely with airport owners and stakeholders to establish objectives and performance measures; and providing recommendations for implementation and tracking results.

This Request for Proposals (RFP) is being released on **May 13, 2009**.

Sealed proposals in response to this RFP shall be clearly marked on the envelope as follows:

**Administration RFP # 2009-02  
Airport Economic Development Study**

Sealed proposals will be received until **3:00pm, MDT, Friday, May 29, 2009** at:

**Town of Erie  
Town Clerk's Office  
645 Holbrook Street  
PO Box 750  
Erie, Colorado, 80516**

Proposals received after the date and time indicated above and/or proposals which are not prepared and filed in accordance with the terms and conditions of this RFP will not be considered for evaluation and will be returned to the Respondent unopened.

## I. PROJECT BACKGROUND AND DESCRIPTION

### The Town of Erie Airport Economic Development Study

The Town is seeking to construct an Erie Airport Economic Development Study (“Study”) that outlines opportunities for business development and employment opportunities as outlined in Action 30 of the Town of Erie [Economic Development Plan](#) (See Reference List) approved by the Board of Trustees and as developed by the Economic Development Plan Working Group (EDPWG) whose membership consists of the Town of Erie, the Erie Economic Development Council, the Erie Chamber of Commerce and Upstate Colorado Economic Development. The Erie Airport Advisory Board and Friends of Erie Airport are identified as stakeholders in Action 30, and as such, have been invited by the EDPWG to participate in the Study.

### Town of Erie Economic Development Plan Background

In early 2007, the Erie Board of Trustees authorized a contract with [Upstate Colorado Economic Development](#) to construct a plan for economic development, and appointed an ad hoc committee to work with Upstate to develop a plan that was sensitive to the economic realities and political desires as expressed in the Town’s [Comprehensive Plan](#). In November 2007, the Board accepted the Town of Erie Economic Development Plan which includes 32 Actions and defines the roles of the EDPWG membership. Select the link to view the complete Town of Erie [Economic Development Plan](#) or visit [www.erieco.gov](http://www.erieco.gov).

### The Town of Erie

The Town of Erie is located 25 minutes northwest of downtown Denver and 20 minutes east of Boulder, between I-25 and US 287. Today, the incorporated area covers 17.5 square miles while Erie’s planning area is 48 square miles. The 2009 population (17,500) is growing at an average of 14% per year, with a median age of 32.5 and a median household income of more than \$87K. By 2015, Erie is expected to be home to 25,650 residents.

### Erie Municipal Airport

[Erie Municipal Airport](#) (EIK) is owned and operated by the Town of Erie, and is strategically located in the Denver-Boulder metropolitan area on Colorado Highway 7, a little over three miles west of Interstate 25. The Erie Municipal Airport is served by an FAA approved instrument approach. The main runway is concrete paved and 4,700 feet long.

Vector Air operates as the Airport’s anchor Fixed Based Operator (FBO), providing services including aircraft maintenance and repair, flight instruction, aircraft rental, maintaining fueling and tie-downs. The Airport also has made a number of improvements to its facilities including new runway end identifier lights, a new automated weather system (AWOS), new fuel pumps, and drainage improvements on the airport property.

### Erie Airport Economic Development Study Area

The Erie Airport Economic Development Study Area (“Study Area”) encompasses the land generally located between Vista Parkway on the east and north; County Line Road 1 on the west; and State Highway 7 on the south. The entire Study Area is located in the Town’s

Airport Overlay District (also known as the Airport Influence Zone) and includes Erie Municipal Airport and both public and private land currently within Approach Surface Zones and Runway Protection Zones reserved for a potential Runway 9/27. Erie Municipal Airport includes Runway 15/33, various airport and airport compatible businesses, and an area

reserved for a potential Runway 9/27 which is closed (See Reference List). The Study Area contains the following zoning districts which support airport and airport compatible uses and which may or may not be affected by changes proposed in the Study: Airport, Residential, Industrial and Commercial. The Study Area is approximately 1,380 acres in size including approximately 90 acres of Airport property.

The current Town of Erie Airport Master Plan (See Reference List) identifies numerous alternatives that show common features of airport economic development such as hangars, ramp, and related areas.

#### FAA Grant Assurances and Part 77

The terms, conditions and assurances of the Town's Grant Agreements with the FAA shall remain in full force and effect. In the performance of the Study, consultant shall review and comply with all appropriate federal and state agencies and all thirty-nine (39) FAA Grant Assurances (See Reference List) including but not limited to those related to airport self-sustainability, airport development, and airport planning.

## **II. PROJECT COORDINATION AND ADMINISTRATION**

The Project Manager for this project is:

Fred Diehl  
Assistant to the Town Administrator  
645 Holbrook Street  
P. O. Box 750  
Erie, CO 80516  
303.926.2764 (phone)  
303.926.2706 (fax)  
[fdiehl@erieco.gov](mailto:fdiehl@erieco.gov)

## **III. QUESTIONS**

Questions in relation to this RFP may be submitted in writing by email to [fdiehl@erieco.gov](mailto:fdiehl@erieco.gov), fax to 303-926-2706, or mail to Fred Diehl, Town of Erie, 645 Holbrook Street, P. O. Box 750, Erie, CO 80516. Questions must be received no later than **three (3) business days prior to the proposal due date**.

#### IV. SCOPE OF WORK

##### GOAL

The purpose of this RFP is to:

- A. Evaluate the economic development feasibility of the Study Area and to;
- B. Define what is required to operate the Airport Enterprise Fund in a self-sustaining manner.

##### PROJECTS:

- A. Conduct an assessment of airport property with regard to what types of development it will support with:
  - 1. Current level of infrastructure.
  - 2. Additional infrastructure, including improvements outlined in the Commercial Area Water and Wastewater Facility Requirements Study
- B. Conduct an assessment of current and proposed surrounding compatible land uses within the Study Area to determine what types of development could be supported by:
  - 1. Current level of infrastructure
  - 2. Additional infrastructure, including improvements outlined in the Commercial Area Water and Wastewater Facility Requirements Study
- C. Assess the feasibility of using private / public funding mechanisms including CDBG funding to expand infrastructure to open more of the property for development.

Evaluation should focus on the long term sustainability of the airport; maximizing the economic development potential of the Study Area; demonstrable increased economic development benefits to the entire town; and include a business plan with cost benefit analysis.

##### PROJECT REQUIREMENTS

The selected firm will be required to provide the Town of Erie Airport Economic Development Study concisely detailing the opportunities for business development and employment opportunities within the defined Study Area. The suitability of uses within the environs of the Study Area shall be determined according to land use compatibility guidelines (See Reference List). Details of the Study should include but are not limited to the actions described below.

##### RESEARCH

- A. Assist the EDPWG with developing an overall project schedule within the parameters of project commencement in **June, 2009** and completion no later than **September 30, 2009**.
- B. Review attached Reference List.

- C. Community Coordination: Review existing information from EDPWG efforts. Conduct interviews with stakeholders (see Suggested Stakeholder/Public Input Schedule below) and facilitate work session discussions with stakeholders including the General Public, Board of Trustees, Airport Advisory Board, Homeowner's Associations, Town staff, Erie Economic Development Council (EEDC) Erie Chamber of Commerce, Colorado National Golf Club and friends/supporters of the Erie Airport.

## DEVELOPMENT

It is assumed several evaluations/scenarios will be required to fully explore the options available to the Town. The successful consultant should develop a ranking method to prioritize economic development opportunities within the Study Area, considering all factors and objectives in the Town of Erie Economic Development Plan.

- A. Preferred (or most appropriate) business categories that would find the Study Area an effective business location. Such categories will be aligned to NAICS codes.
- B. How the preferred business categories identified in (a) will be complementary to, or augment existing businesses in the Study Area and the Town. An expectation is that the evaluation(s) will show if preferred businesses will be either customers of, or suppliers to existing businesses.
- C. How the potential development shall ensure compatible use and community safety.
- D. Study the land that is currently the closed 9/27 Runway. Study should include but not be limited to the following:
  - 1. Rehabilitate runway to useable condition
  - 2. Develop land for other uses
  - 3. Reserve land for future opportunities
  - 4. Continue use for helicopter operations

Each evaluation will provide a most likely cost and revenue estimate, with a high and low estimate for both costs and revenues. All costs and revenues will be presented in a common timeframe to allow simple comparison between different scenarios. The net impact of the scenario shall be calculated. Each scenario presented shall include:

- A. How the airport facility is a self-sustaining entity (i.e. providing sufficient Town revenue to cover Town costs) within the operating constraints of the Airport Enterprise Fund. Self-sustainability can be achieved via additional usage, increases in fees or other means
- B. Costs and revenues for areas outside of the airport facility to the Town. This element need not be cost neutral.
- C. Number of primary jobs created.

The consultant will review with the EDPWG its proposed evaluations/scenarios and obtain concurrence before moving forward with detailed analysis.

## DELIVERABLES

- A. Description of evaluations and scenarios to be performed.
- B. Detailed summary of each development scenario evaluated with supporting information, calculations and assumptions.
- C. Executive Summary describing any critical issues identified during the research and development of the Study and the consultants' due diligence. Provide a synopsis of the prior sections, recommendations for actions, and a prioritized implementation agenda, schedule and budget.
- D. Erie Airport Economic Development Study recommendation(s).
- E. Financial Feasibility Analysis and Business Plan. Based on above analyses and recommended alternative, develop a 10-year forecast of airport revenues, expenses, and capital costs to determine the likely net income of the airport demonstrating long term airport sustainability and ensure community safety
- F. Description of available private/public funding opportunities to expand infrastructure to open more of the property for development. Such sources should include CDBG and other state and federal programs oriented to promoting economic development.
- G. Maintain permanent project files and provide the Town with originals or copies of relevant documentation as requested for its official files.
- H. Provide annual cost estimates to implement plan and recommend roles and timing.
- I. Define measures and metrics necessary to understand the success of the Study efforts. Goal: To measure the Town's Return on Investment (ROI) in such a way that the Town is able to articulate progress, including cost benefit analysis, without an onerous data gathering effort.
- J. Develop strategies to determine if the techniques were effective.

#### SUGGESTED STAKEHOLDER/PUBLIC INPUT SCHEDULE

- A. Consultant and EDPWG to conduct (4) meetings over the course of the project.
  - 1. To introduce the consultants to the EDPWG and discuss project goals/objectives and obtain initial input; following this initial meeting, the consultant will submit written questions for EDPWG responses (EDPWG may add additional information by deadlines as needed);
  - 2. To review various elements and provide direction to consultant;
  - 3. To deliver draft Study and request written comments from EDPWG prior to preparation of draft that will go to the Board of Trustees;
  - 4. And to prepare final Study presentation.
- B. Open Houses –Two (2) to elicit input from public and stakeholders.
- C. Board of Trustees meetings (agenda item) – One (1) interim meetings over the course of the project to provide progress updates.
- D. Referral of the draft Study to the Board of Trustees (agenda item) – One (1) meeting.
- E. Final Report and Presentation.

#### ASSUMPTIONS

- A. Revenues and expenses related to land acquisition, construction, maintenance, and operation of the Erie Municipal Airport are accounted for in the Airport Enterprise Fund.
- B. Certain aircraft parts are exempt from state sales and use taxes.
- C. The Town of Erie General Operations Mill Levy is 7.288.
- D. The EDPWG may choose to conduct meetings with various interest groups outside of the Suggested Stakeholder/Public Input Schedule.
- E. Town financed improvements are at a public debt interest rate. Commercially financed improvements are at a commercially available rate. Interest rates to be validated with the Town's Finance Director.
- F. Restrictions on business development necessitated by compatible land use considerations around runways and associated protection zones must be identified. Sources of such restrictions can be found in Town zoning and planning documents, Federal regulatory documents, and State guidelines and regulations. A partial list of such sources is included in the attached Reference List.
- G. Time frame for the cost/revenue evaluation shall be 10 years.
- H. 15/33 facility includes the runway and associated public and private taxiways necessary to access the runway. Some taxiways are existing; some are identified for future construction.

**V. SUBMITTAL REQUIREMENTS AND EVALUATION CRITERIA**

In order to simplify the review process and obtain the maximum degree of comparability, the proposal must follow the outline described below, and at a minimum, contain the required information. Respondents are encouraged to include additional relevant information. Respondents must also include a signature page with company name, address, phone number, contact name, authorized signature and date.

- A. Qualifications: 25 Points
  - 1. Firm capability - Company resources
  - 2. Project Team - Key project staff assigned to this project (include resumes for each); identify any sub-consultants and their proposed roles (include resumes for each)
  - 3. Letter from Principal certifying the availability and commitment of staff assigned to this project
  - 4. Ability to complete project within anticipated time frame
  - 5. Work location
- B. Experience: 25 Points
  - 1. Relevant recent experience with comparable projects
  - 2. List of clients (2-5) for whom similar work has been done. Include contact name and phone number for each.
- C. Project Goals, Concept and Critical Issues: 20 Points
  - 1. Detailed description of the firm's understanding of the project outlined in the Scope of Work.
  - 2. Description of the firm's approach to this project.
  - 3. Description on how the firm will obtain input from identified stakeholders.

4. Identify the potential key challenges presented by this project and the firm's approach to meeting them.
  5. Propose additional tasks that may add value to achieving the best possible project outcomes. List the required resources and cost for each of these separately in the cost proposal.
- D. Cost Proposal: 15 Points
1. Itemized cost proposal that includes separate price for all necessary work to complete the services outlined in RESEARCH, DEVELOPMENT, and Deliverables
  2. Itemize all anticipated reimbursable items and include as a separate item in the cost proposal
  3. Include an hourly rate fee schedule listing each member of the project team
- E. Quality Control: 10 Points
1. Detailed description of the firm's approach to ensuring quality control of the project.
- F. Standard Agreement Exceptions: 5 Points
1. The Town's standard Consulting Agreement will be used for this project (refer to the attached Agreement). Any exceptions to the standard agreement must be submitted in writing with the proposal. Exceptions to the Agreement may lead to a Proposal being rejected.

## VI. SELECTION PROCESS

- A. Representatives from the EDPWG will review all responses to this RFP that meet requirements and are received prior to the designated closing date and time.
- B. After reviewing the qualified proposals, the EDPWG may request interviews with the highest ranking Respondents. Respondents selected for interviews will be notified no later than **Noon (12:00pm) Wednesday, June 3<sup>rd</sup>, 2009**. Interviews will be conducted between **8:30am and Noon (12:00pm) on Friday, June 5<sup>th</sup>, 2009**.
- C. After review and interviews of the qualified Respondents, the EDPWG will provide recommendations to the Town of Erie Board of Trustees as outlined in the Selection and Performance Schedule below.
- D. The Town will have sole determination of which proposal, if any, is in the Town's best interest and will select the proposal which best reflects the Town's needs and requirements.
- E. Following review of the proposals and interviews (if any), the highest-ranking Respondent will be notified and, if necessary, negotiations will commence.
- F. If a satisfactory agreement with the Respondent cannot be reached at a price that is determined by the Town to be fair and reasonable, negotiations with that Respondent shall be formally terminated. The Town may then undertake negotiations with the second ranked Respondent or re-issue the RFP at its discretion.

## VII. SELECTION AND PERFORMANCE SCHEDULE

Following is the anticipated schedule of events for the RFP process:

Request for Proposal Available	May 13, 2009
<b>Proposals Due</b>	<b>May 29, 2009 – 3:00pm</b>
Working Group Reviews Proposals	June 3, 2009
Interviews (Tentative)	June 5, 2009 – 8:30 to 12:30
Recommendation Due to Town	June 5, 2009
Board of Trustees Meeting	June 9, 2009
Anticipated Notice of Award	June 10, 2009
Project Completion	September 30, 2009

## VIII. TERMS AND CONDITIONS OF PROPOSAL

All firms interested in submitting a proposal should note the terms and conditions set forth below:

- A. An **original and ten (10) copies** of the proposal must be submitted.
- B. No reimbursement will be made by the Town of Erie for any proposal preparation or delivery costs incurred.
- C. Proposals received after the date and time specified will be returned unopened. Proposals which are not prepared and filed in accordance with the terms and conditions of this Request for Proposal will not be considered for evaluation or award. Proposals may be withdrawn at any time up to the due date and time.
- D. The Town of Erie reserves the right to reject any or all proposals or any part thereof, or to accept any proposal, or any part thereof, or to withhold any award and to waive or decline to waive irregularities in any proposal when determined that it is in the Town's best interest to do so. The Town also reserves the right to hold all proposals for a period of sixty (60) days after the opening date and the right to accept a proposal not withdrawn before the scheduled proposal opening date.
- E. All information included in any proposal that is of a proprietary nature must be clearly marked as such. The Town of Erie shall be held harmless from any claims arising from the release of proprietary information not clearly designated as such by the Respondent. In general, it is not acceptable to the Town to mark information other than financial data proprietary without the Town's written authorization. Failure to adhere to this restriction could result in rejection of the entire proposal.
- F. Conditional proposals may be rejected as non-responsive.
- G. Any person, firm, corporation or association submitting a proposal shall be deemed to have read and understood all the terms, conditions, and requirements in this document. All proposals must include a signature page with the name and title of the individual printed or typed and signed by an individual authorized to issue binding proposals for that firm. Failure to include a signed signature page may cause a proposal to be rejected and returned. If said failure is believed to be an oversight and not a deliberate omission, the proposal may be evaluated, if deemed to be in the Town's best interest to do so.
- H. All responses and accompanying documentation will become the property of the Town of Erie at the time the proposals are opened. All original documents and copies will be retained by the Town and not returned to the Respondents.

- I. All questions must be sent in writing to: Fred Diehl, Assistant to the Town Administrator, fax 303-926-2706, email [fdiehl@erieco.gov](mailto:fdiehl@erieco.gov), or mail 645 Holbrook Street, P. O. Box 750, Erie, CO 80516 . Written requests must be received **no later than three (3) calendar days prior to the proposal due date.**
- J. The successful firm shall, during the course of the contract and until completion thereof, provide and maintain the minimum coverages identified in the attached Insurance Requirements and provide Certificates of Insurance listing the Town of Erie as additional insured.
- K. No right or interest of any Agreement reached as a result of this RFP shall be assigned, or any obligation delegated, by the successful Respondent without the written permission of the Town.
- L. Any Agreement issued as a result of this RFP shall be governed by and construed in accordance with the laws of the State of Colorado.
- M. The attached Consulting Agreement will be used by the Town as the contract document for the work. By submitting a proposal, Respondents accept the terms of this Agreement as stated unless exceptions are provided in writing as part of the proposal.
- N. Any interpretation, correction or change of the RFP will be made by formal Addendum. Interpretations, corrections and changes of the RFP made in any other manner will not be binding, and a Respondent shall not rely upon such interpretations, corrections and changes. The Town's Representative will not be responsible for oral clarification.

**IX. INSURANCE REQUIREMENTS**

Standard Workers' Compensation & Employers' Liability Including Occupations Disease Coverage	Statutory in conformance with the compensation laws of the State of Colorado
Comprehensive General Liability Insurance	\$1,000,000 each occurrence; \$1,000,000 aggregate
Comprehensive Automobile	\$1,000,000 each occurrence \$1,000,000 aggregate
Professional Liability	\$1,000,000 each occurrence \$1,000,000 aggregate

The successful Respondent shall affect the insurance policies in a company or companies and in a form satisfactory to the Owner. Before commencing any performance relating to this project, successful Respondent shall deliver, to the Town, Certificates of Insurance issued by the insurance company, and/or its duly authorized agents pertaining to the aforementioned insurance, and certifying that the policies stipulated above are in full force and effect.

All policies and/or Certificates of Insurance shall include the Town of Erie and the Town of Erie's officers, volunteers, and employees as additional named insureds.

Nothing herein shall be deemed or construed as a waiver of any of the protections to which the Town may be entitled pursuant to the Colorado Governmental Immunity Act, sections

24-10-101, C.R.S., as amended.

## CONSULTING AGREEMENT

**THIS CONSULTING AGREEMENT** (“Consulting Agreement” or “Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, a Colorado Corporation, whose address is \_\_\_\_\_ (hereinafter referred to as “Consultant”) and the **TOWN OF ERIE, COLORADO**, a Colorado municipal corporation, whose address is 645 Holbrook Street, P.O. Box 750, Erie, Colorado 80516 (hereinafter referred to as “Town” or “Erie”).

### WITNESSETH

**WHEREAS**, the Town desires to engage the Consultant to render the professional services described in this Consulting Agreement and the Consultant is qualified and willing to perform such services in accordance with, and subject to the provisions of this Consulting Agreement; and,

**WHEREAS**, legal authority exists to engage the Consultant and sufficient funds have been budgeted and are available for the work to be performed by the Consultant under this Agreement, and other necessary approvals have been obtained.

**NOW, THEREFORE**, in consideration of the mutual promises, covenants and obligations of the parties hereto, the terms, covenants and conditions hereof, and intending to be legally bound, the Town and the Consultant agree as follows:

1. The Project. The Consultant's services are engaged under this Consulting Agreement for the following project: \_\_\_\_\_ (“Project”).

2. Consultant’s Services. The Consultant shall, during the term of this Agreement, provide the services to the Town as set forth in Exhibit “A”, attached hereto and incorporated herein by this reference (the “Services”). The Consultant shall perform the Services competently, efficiently, and in accordance with the highest standards of its profession. The Consultant shall perform the Services meeting all industry safety standards.

3. Additional Services. The Town may request the Consultant to perform additional work or phases of the Project in addition to the Services. The Consultant agrees to perform the additional work or phases of the Project if the Town so requests, either pursuant to an amendment to this Consulting Agreement or a new agreement in which the Town and the Consultant shall define the scope of, and additional payment for, the additional work or phases of the Project.

4. Compensation. In consideration for the performance of the Services, the Town shall pay to the Consultant a fee in the total amount of \$\_\_\_\_\_, and payable in accordance with the payment schedule, as set forth in Exhibit “B”, attached hereto and incorporated herein by this reference.

5. Reimbursable Expenses. The Town agrees to reimburse the Consultant for the reimbursable expenses incurred by the Consultant in connection with the Services, such expenses to be described in detail in Exhibit “C”. Travel expenses between the Town and the Consultant's office shall not be considered reimbursable expenses. The Consultant shall maintain an accurate record of all such expenses and provide itemized records and copies of receipts when submitting such expenses to the Town for reimbursement. The maximum amount reimbursable by the Town to the Consultant under this Consulting Agreement shall be set forth on Exhibit “C”. Such expenses not described on Exhibit “C”, shall not be reimbursed by the Town.

6. Commencement and Completion of Services. The Consultant understands and agrees that time is an essential requirement of this Consulting Agreement. The term of this Consulting Agreement shall commence on \_\_\_\_\_, 20\_\_\_\_ and shall end on \_\_\_\_\_, 20 \_\_\_\_\_. The Services shall be completed as soon as good practice and due diligence will permit.

7. Termination.

A. This Consulting Agreement may be terminated by either party upon Ten (10) days prior

written notice to the other party in the event of a substantial failure by the other party to fulfill its obligations under this Consulting Agreement through no fault of the terminating party.

B. This Consulting Agreement may be terminated by the Town in its sole discretion upon Ten (10) days prior written notice to the Consultant.

C. In the event of termination as provided for in this paragraph, the Town shall pay the Consultant in full for Services performed to the date of notice of termination plus any Services the Town deems necessary during the notice period. Said compensation shall be paid upon the Consultant's delivering or otherwise making available to the Town all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the Consultant in performing the Services included in this Consulting Agreement, whether completed or in progress.

8. Insurance.

8.1 Consultant shall procure and maintain, and shall cause any subcontractor of Consultant to procure and maintain, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the Town. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by Consultant pursuant to paragraph 17 of this Consulting Agreement. In case of any claims made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

A. Workmen's Compensation Insurance and Employer's Liability Insurance to cover obligations imposed by applicable laws for any employee of Consultant or a subcontractor engaged in the performance of work under this Consulting Agreement.

B. General liability insurance with minimum combined single limits of One Million Dollars (\$1,000,000) each occurrence and One Million Dollars (\$1,000,000) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employees' acts), blanket contractual, products, and completed operations. The policy shall contain a severability of interests provision.

C. Comprehensive Automobile Liability insurance within single limits for bodily injury and property damage of not less than One Million Dollars (\$1,000,000) each occurrence and One Million Dollars (\$1,000,000) aggregate with respect to each of Consultant's owned, hired or non-owned vehicles assigned to or used in the performance of this Consulting Agreement. The policy shall contain a severability of interests provision.

D. Professional Liability insurance within minimum single limits of not less than One Million Dollars (\$1,000,000) each occurrence and One Million Dollars (\$1,000,000) aggregate.

8.2 The policies required by subparagraphs B and C, above shall be endorsed to include the Town and the Town's officers and employees as additional insureds. Every policy required above shall be primary insurance, and any insurance carried by the Town, its officers, or its employees, or carried by or provided through any insurance pool of the Town, shall be excess and not contributory insurance to that provided by the Consultant. The Consultant shall be solely responsible for any deductible losses under any policy require above.

8.3 A certificate of insurance shall be completed by the Consultant's insurance agent and provided to the Town as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be reviewed and approved by the Town prior to commencement of the Consulting Agreement. The certificate shall identify this Consulting Agreement and shall provide that the coverages afforded under the policies shall not be cancelled until at least thirty (30) days prior written notice has been given to the Town. Consultant shall notify the Town within ten (10) days if the coverages afforded under the policies are materially changed. The completed Certificate of Insurance shall be sent to: Town Clerk, Town of Erie, PO Box 750, Erie, CO 80516

8.4 Notwithstanding any other portion of this Consulting Agreement, failure on the part of Consultant to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of this Consulting Agreement for which the Town may immediately terminate this Consulting Agreement, or, at its discretion, the Town may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all money so

paid by the Town shall be repaid by the Consultant to the Town upon demand, or the Town may offset the cost of the premiums against any money due to the Consultant from the Town.

8.5 The parties hereto understand and agree that the Town is relying on, and does not waive or intend to waive by any provision of this Consulting Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., as from time to time amended, or any other law, protection or limitation otherwise available to the Town, its officers, or its employees.

9. Payment of Subcontractors. Consultant shall contract with and pay any and all subcontractors used by Consultant in the performance of the Project. The Town shall in no event have any liability to any subconsultant, and Consultant shall hold the Town harmless with respect to any payments alleged to be due to Consultant's subcontractors.

10. Compliance with Applicable Laws. In connection with the execution of this Consulting Agreement, the Consultant shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or disability. Such actions shall include, but not be limited to the following: employment; upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Consultant shall comply with the Americans with Disabilities Act (Public Law 101-336), and all applicable regulations and rules promulgated by the Equal Employment Opportunity Commission and the Colorado Civil Rights Commission. At all times during the performance of the Agreement, Consultant shall strictly adhere to all applicable federal, state and Town laws that have been or may hereafter be established. This shall include, without limitation, the United States Department of Labor standards. As used in this paragraph, and hereafter, the term "laws" shall include, without limitation, all federal, state and Town codes, charters, ordinances, laws, standards, rules and regulations. The indemnification and termination provisions of this Consulting Agreement shall apply with respect to Consultant's failure to comply with all applicable laws or regulations.

11. Prohibited Interest.

A. The Consultant agrees that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its Services hereunder. The Consultant further agrees that in the performance of the Consulting Agreement, no person having any such interest shall be employed.

B. No official or employee of the Town shall have any interest, direct or indirect, in the Consultant, this Consulting Agreement or the proceeds therefrom.

12. Independent Contractor. The Consultant shall perform all Services as an independent contractor, and nothing in this Consulting Agreement is intended to or shall create a relationship of employer-employee, joint venturers, or partners, between the parties. The Consultant shall be solely responsible for all federal and state income taxes attributable to the monies payable to the Consultant for the Services.

13. Books and Records. The Consultant's books and records with respect to the Services and reimbursable costs shall be kept in accordance with generally accepted accounting principles and practices, consistently applied, and will be made available for the Town's inspection at all reasonable times at the places where the same may be kept. The Consultant shall not be required to retain such books and records for more than three (3) years after completion of the services.

14. Obligation of Non-Disclosure. The Consultant agrees to keep confidential any and all drawings, reports, documents, memoranda, research, plans, analysis, maps, photographs, designs, information and work product either provided by the Town or generated by the Consultant pursuant to this Consulting Agreement, or provided to the Consultant by other consultants. Consultant shall make use of the information or items set forth hereinabove for any purpose, including public hearings of the Town, as expressly directed by the Town, for the Town's benefit. Consultant shall not use the information or items set forth hereinabove for its own account, or another's account, or in any manner detrimental to the Town. The Town acknowledges the need to share said information and items referred to hereinabove with the Consultant's subconsultants under this Consulting Agreement, and hereby approves such sharing and use.

15. Acknowledgement of Ownership. Consultant acknowledges that all drawings documents, information and materials relating to the Services performed and the Project for which the Services are performed, as well as those items described in paragraph 14, are or shall become, upon termination of this

Consulting Agreement, the exclusive property of the Town.

16. Return of Information. Promptly upon the Town's request, and in any event upon the termination of this Consulting Agreement for any reason, all documents, materials and writings, as well as those items described in paragraph 14, and all copies thereof provided by the Town to the Consultant, directly or indirectly, shall be returned by the Consultant to the Town.

17. Professional Liability. The Consultant shall exercise in its performance of the Services hereunder the standard of care required by Colorado law. The Consultant shall be liable to the Town for any loss, damages, or costs incurred by the Town for the repair, replacement or correction of any part of the Project which is deficient or defective as a result of any failure of the Consultant to comply with this standard.

18. Communications. All communications relating to the day-to-day Services for the Project shall be exchanged between the respective Project representatives of the Town and the Consultant who will be designated by the parties promptly upon commencement of the Services.

19. Indemnification. Consultant agrees to indemnify and save harmless the Town against any and all claims, debts, demands, damages or obligations which may be asserted against the Town arising by reason of, or in connection with, any alleged act or omission of Consultant or any person claiming under, by or through Consultant, at Consultant's own expense using those attorneys that the Town deems appropriate. If, however, it becomes necessary for the Town to defend any action arising by reason of, or in connection with, any alleged act or omission of Consultant or any person claiming under, by or through Consultant seeking to impose liability for such claim or demand, Consultant shall pay all court costs, witness fees, expert witness fees, and attorney's fees, incurred by the Town in effecting such defense in addition to any other sums which the Town may be called upon to pay by reason of the entry of any judgment, assessment, bond, writ or levy against the Town in the litigation in which such claims are asserted. Consultant shall be subrogated to any and all amounts paid by it on behalf of the Town to any claims that the Town may have as a result of said payments to any person or third persons which are the reason or cause of said payments.

20. No Assignment. Consultant's duties and obligations pursuant to this Consulting Agreement require a particular expertise and skill, and may not be assigned to any third party or agency without the express written consent of the Town, which consent may be withheld at the sole discretion of the Town.

21. Notices. Any notices required or permitted hereunder shall be sufficient if personally delivered or if sent by certified mail, return receipt requested, addressed as follows:

If to the Town: Assistant to the Town Administrator  
Town of Erie  
P.O. Box 750  
Erie, Colorado 80516

With a copy (which shall not constitute notice) to: Mark R. Shapiro  
Mark R. Shapiro, P.C.  
1650 38th Street, Suite 103  
Boulder, Colorado 80301

If to the Consultant: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With a copy (which shall not constitute notice) to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Notices personally delivered shall be effective upon delivery. Mailed notices shall be effective three (3) business days after mailing.

22. Agreement Subject to Annual Appropriation.

A. The parties hereto understand and agree that the amount of \$\_\_\_\_\_ has been budgeted for compensation for work done pursuant to this Consulting Agreement for the current fiscal year ending December 31, 20\_\_\_\_. This is a full and lawful appropriation as required by appropriate statute for this project. In the event that the Town fails to appropriate sufficient funds to cover any compensation which may become due for the fiscal year beginning January 1, 20\_\_\_\_, then, and in that event, this Consulting Agreement shall immediately terminate as of December 31, 20\_\_\_\_, without further action of any party. The Town shall provide notice to Consultant prior to December 31, 20\_\_\_\_, as to whether an appropriation has been made for further work anticipated following December 31, 20\_\_\_\_.

B. The amount of money appropriated by the Town is equal to or in excess of the Consulting Agreement amounts due herein for the current fiscal year.

C. The Town shall be prohibited from issuing any change order or other form of order or directive requiring additional compensable work to be performed, which work causes the aggregate amount payable under this Consulting Agreement to exceed the amount appropriated for the original Consulting Agreement, unless Consultant is given written assurance by the Town that lawful appropriations to cover the cost of the additional work have been made or unless such work is covered under a remedy-granting provision in this Consulting Agreement.

23. Prohibition Against Employment of Illegal Aliens.

A. By its signature on this Agreement, Consultant certifies that, as of the time of its signature, it does not knowingly employ or contract with an illegal alien and that, in order to verify that it does not employ any illegal aliens, the Consultant will participate in the E-Verify Program created in Public Law 104-208, as amended, and expanded in Public Law 108-156, as amended, administered by the United States Department of Homeland Security and the Social Security Administration.

B. Consultant agrees that it shall not knowingly employ or contract with an illegal alien to perform work under this Agreement; and that it shall not enter into a contract with a subcontractor that fails to certify to the Consultant that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.

C. Consultant has verified through participation in the E-Verify Program that the Consultant does not employ any illegal aliens.

D. Consultant shall not use the E-Verify Program procedures to undertake preemployment screening of job applicants while work under this Agreement is being performed.

E. If Consultant obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, the Consultant shall: (1) notify the subcontractor and the Town within three days that the Consultant has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and (2) terminate the subcontract with the subcontractor if, within three days of receiving the notice required herein, the subcontractor does not stop employing or contracting with the illegal alien; except that the Consultant shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

F. The Consultant shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. section 8-17.5-101(5).

G. If Consultant violates a provision of this Illegal Alien section, the Town may terminate this Agreement for breach of contract. If the Agreement is so terminated, the Consultant shall be liable for actual and consequential damages to the Town. Consultant understands that, in the event of such a termination, Town is required to notify the office of the Colorado Secretary of State.

24. Attorney's Fees; Interest. In any action brought to enforce the provision(s) of this Consulting Agreement, the prevailing party shall be entitled to an award of all reasonable attorney's fees and costs,

including expert witness' fees, expended or incurred, to be recovered as part of the costs therein. Any fees and expenses not paid to Consultant by the Town when due shall earn interest at the rate of twelve percent (12%) per annum.

25. Waiver. Failure to insist upon strict compliance with any of the terms, covenants, and/or conditions hereof shall not be deemed a waiver of such terms, covenants or conditions, nor shall any waiver or relinquishment of any right or power hereunder at any one time or more times be deemed a waiver or relinquishment of such right or power at any other time or times.

26. Amendments to Agreement. No changes, alterations or modifications to any of the provisions hereof shall be effective unless contained in a written agreement signed by both parties.

27. Entire Agreement. This Consulting Agreement shall constitute the entire agreement between the parties hereto and shall supersede all prior contracts, proposals, representations, negotiations and letters of intent, whether written or oral, pertaining to the Services.

28. Situs, Venue and Severability. The laws of the State of Colorado shall govern the interpretation, validity, performance and enforcement of this Consulting Agreement. For the resolution of any dispute arising hereunder, venue shall be in the Courts of the County of Weld, State of Colorado. If any provision of this Consulting Agreement shall be held to be invalid or unenforceable, the validity and enforceability of the remaining provisions of this Consulting Agreement shall not be affected thereby.

29. Paragraph Headings. Paragraph headings are inserted for convenience only and in no way limit or define the interpretation to be placed upon this Consulting Agreement.

30. Binding Agreement. This Consulting Agreement shall be binding upon and for the benefit of the parties hereto, their successors and assigns.

31. Compliance with Article XXVIII of the Colorado Constitution. If and only to the extent this Consulting Agreement constitutes a “sole source government contract” within the meaning of Article XXVIII of the Colorado Constitution (“Article XXVIII”), then the provisions of Sections 15 through 17 of Article XXVIII (“Amendment 54”) are hereby incorporated into this Consulting Agreement and the parties hereto shall comply with the provisions of Amendment 54. In such a case, for purposes of this Consulting Agreement, Consultant shall constitute a “contract holder” for purposes of Amendment 54, as shall any additional persons, officers, directors or trustees related to Consultant who qualify as “contract holders” pursuant to the definition set forth in Article XXVIII. In addition, if and only to the extent this Consulting Agreement constitutes a “sole source government contract,” the Consultant hereby certifies that it is not ineligible to hold any “sole source government contract” pursuant to Amendment 54 or any contract thereunder, and the Consultant hereby agrees to notify the Town immediately if, at any point during the term of this Consulting Agreement, the Consultant shall become ineligible to hold any “sole source government contract” pursuant to Amendment 54 or any contract thereunder. If any provision or provisions of Amendment 54 are held to be unconstitutional or otherwise invalid by a court of competent jurisdiction in a non-appealable action, have been repealed retroactively or otherwise do not apply to this Consulting Agreement, such provision or provisions shall no longer be incorporated into this Consulting Agreement and the parties hereto shall have no obligations under such provision or provisions.

**[signatures on following page]**

**IN WITNESS WHEREOF**, the parties hereto have executed this Consulting Agreement as of the day and year first-above written.

**TOWN:**

**TOWN OF ERIE,**  
**a Colorado municipal corporation**

By: \_\_\_\_\_  
Andrew J. Moore, Mayor

**ATTEST:**

By: \_\_\_\_\_  
Nancy J. Parker, Town Clerk

**CONSULTANT:**

\_\_\_\_\_, **INC.**,  
**a Colorado corporation**

By: \_\_\_\_\_  
\_\_\_\_\_, President

**ATTEST:**

By: \_\_\_\_\_  
\_\_\_\_\_, Secretary

**EXHIBIT "A"**

(Services to be provided by Consultant)

**EXHIBIT "B"**

(Payment Schedule and reimbursable expenses description and limit)

## REFERENCE LIST

- A. Erie Economic Development Plan (select hyperlink or visit [www.erieco.gov](http://www.erieco.gov) )
- B. Erie Airport Economic Development Study Area Map
- C. Review of FAA Criteria for Runway 9/27 – Carter Burgess
- D. Erie Airport Master Plan (select hyperlink or visit [www.erieco.gov](http://www.erieco.gov) )
- E. Airport Planning and Economic Alternatives Report – 2/24/09
- F. FAA Grant Assurances
- G. FAA Part 77
- H. Erie Municipal Code Title 10.2.7
- I. Town of Erie Comprehensive Land Use Map
- J. Town of Erie Zoning Map
- K. Erie Airport Development Plan
- L. Commercial Area Water and Wastewater Facility Requirements Study
- M. Denver Regional Council of Governments (DRCOG) Airport Compatible Land Use Design Handbook
- N. Open Space and Trail Advisory Board South Coal Creek Greenway and Regional Trail Recommendation (April, 14, 2009)