



CONSULTANT SERVICES AGREEMENT

This Agreement (“Agreement”) is made and entered into this 1st day of May, 2023 by and between Sierra Business Council, (“SBC”), and Eastern Sierra Council of Governments (“ESCOG”) (“Consultant”). SBC desires to retain Consultant as an independent contractor to perform Services for SBC in relation to a separate Agreement between SBC and the State of California Employment Development Department (“Project Funder”) under the terms and conditions as defined below. Consultant and SBC may be individually referred to herein as a “party” or collectively as the “parties.”

RECITALS

- A. SBC is a California nonprofit public benefit corporation, exempt from federal tax under Internal Revenue Code (“IRC”) Section 501(c)(3) and corresponding provisions of state law, and is classified as a public charity under IRC Sections 509(a)(1) and 170(b)(1)(A)(vi);
- B. Consultant is a Joint Powers Authority and has expertise in areas relevant to the requested Services of this Agreement;
- C. The parties desire to enter into a contract for the provision of certain services under the terms and conditions stated in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual rights and responsibilities in this Agreement, the parties hereby agree as follows:

1. **Services.** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide the services and deliverables described in Exhibit A and Exhibit B attached hereto (“Services”).
2. **Term.** This Agreement shall commence on May 1, 2023, and shall remain in effect until July 31, 2024, on which date this Agreement will automatically terminate unless terminated earlier pursuant to Sections 14 or 19 of this Agreement.
3. **Fee and Payment.**
 - a. **Fee.** Consultant shall be paid a sum not to exceed **Two Hundred and Fifty Thousand Dollars** (\$250,000.00) for services rendered under this Agreement.
 - b. **Payment.** Consultant shall submit an invoice to SBC within seven (7) days of the end of each month itemizing the dates, number of hours, services performed, and costs associated with the services rendered. Invoices may not be submitted more frequently than once per month. Any invoice submitted without the required itemization will not be authorized for payment. SBC shall submit payment to Consultant within thirty (30) days after receipt of invoice provided that (i) Services rendered are reasonably acceptable to SBC; (ii) Services rendered are in compliance with requested Services and deliverables as described in Exhibit A; **and (iii) SBC has received payment from the Project Funder for the service month payment is being requested.** However, SBC shall not unreasonably withhold payment and, if a dispute exists, the withheld payment shall be proportional only to the item or amount in dispute. SBC is not obligated to pay for any costs incurred by Consultant prior to the Commencement Date of this Agreement.

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- 4. Independent Contractor.** It is the express intention of the parties that Consultant is and shall remain an independent contractor during the term of this Agreement and will (i) comply in all material respects with all laws, rules, ordinances, regulations and restrictions applicable to the Services; and (ii) pay all federal and state taxes applicable to Consultant, whether levied under existing or subsequently enacted laws, rules or regulations.

Consultant acknowledges and agrees and it is the intent of the parties hereto that neither Consultant nor any of its employees will receive any SBC-sponsored benefits from SBC by virtue of this Agreement, including but not limited to, paid vacation, sick leave, health insurance, and retirement plan participation.

This Agreement does not create an employer-employee relationship between the Consultant and SBC and shall not in any way be construed to constitute Consultant as an agent, employee, or representative of SBC. Neither Consultant nor any of its officers, agents, representatives, employees, or volunteers shall, under any circumstances, have the authority to act for or to bind SBC to any contract or obligation, express or implied or to otherwise represent that SBC is in any way responsible for Consultant's acts or omissions.

- 5. Tax Requirements and Responsibilities.** Consultant acknowledges it will be solely responsible for, and will timely file and pay, tax returns and income tax payments required to be filed with, or made to, any federal, state, or local tax authority with respect to the performance of Services and receipt of any remuneration pursuant to this Agreement. No part of any remuneration will be subject to payroll tax withholding and payment by SBC including, but not limited to, federal income tax, state income tax, federal and state employment taxes, federal social security tax, and federal Medicare tax. In the event that it is determined by any taxing authority that SBC improperly failed to withhold and remit any taxes relating to the payment of compensation from SBC to Consultant, Consultant agrees to: (a) indemnify SBC, to the maximum extent permissible by law, for any and all cost(s) and expenses relating to such action, including, but not limited to, attorneys' fees, taxes (except the employer portion of any taxes, for example, FICA), penalties (including any penalties related to the employer portion of any taxes), and interest (including any interest related to the employer portion of any taxes) assessed against SBC by any tax authority, and (b) provide SBC, upon request, with a completed IRS Form 4669, Statement of Payments Received, and a completed EDD Form DE 938P, Claim for Adjustment or Refund of Personal Income Tax, attesting that Consultant reported such compensation received from SBC to the tax authorities. Lastly, Consultant agrees to provide SBC with a completed Form W-9, Request for Taxpayer Identification Number and Certification prior to SBC's first payment to Consultant. SBC shall issue Consultant an IRS Form 1099-NEC each year, as appropriate, in accordance with its regular business practices and applicable law.
- 6. Personnel.** Consultant shall assign only competent personnel to perform Services pursuant to this Agreement. In the event SBC requests Consultant to remove one of its team members for cause, including employees, volunteers, and members of the Project Team, from performing Services pursuant to this Agreement, Consultant shall remove any such person(s) immediately upon receiving written notice from SBC.
- 7. Facilities, Equipment and Other Materials, and Obligations.** Consultant shall, at its sole cost and expense, furnish all facilities, equipment, and other materials necessary and/or required for furnishing services pursuant to this Agreement.
- 8. Licenses and Permits.** Consultant represents and warrants to SBC that (i) Consultant is qualified and competent to provide all Services under this Agreement; and (ii) Consultant and all employees of Consultant hold all necessary and appropriate licenses, permits, qualifications, and approvals legally required for Consultant to practice its profession and fulfill the terms of this Agreement. Consultant shall, at its sole cost and expense, maintain at all times during the term of this Agreement any licenses, permits, qualifications, and approvals required to furnish the Services and shall obtain all necessary releases (both location and personal), and authorizations and/or permits with respect to all intellectual

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property rights including music, stock photos, and footage. Failure to do so shall constitute a material breach of this Agreement.

- 9. Insurance.** Consultant is not insured under SBC's liability insurances and therefore shall maintain in full force and effect throughout the life of this Agreement at its sole cost and expense (i) Commercial General Liability Insurance with limits of no less than one million dollars (\$1,000,000.00) per occurrence, protecting it from claims for personal injury (including bodily injury and death) and property damage which may arise from or in connection with the performance of Consultant's Services hereunder or from or out of any act or omission of Consultant, its officers, directors, agents, subcontractors or employees; (ii) Professional Liability Insurance with limits of no less than one million dollars (\$1,000,000.00) per claim; (iii) Worker's Compensation Insurance as required by law; and (iv) Automobile Liability Insurance including hired and non-owned with limits of no less than one million dollars (\$1,000,000.00) per accident if autos will be used in the performance of Services. These insurance limits are subject to change based on insurance parameters set forth by Project Funder.

Consultant shall name Sierra Business Council and its directors, officers, agents, employees, and volunteers as additional insured on its Commercial General Liability Insurance, Workers Comp, and Automobile insurance policies with respect to claims or suits arising from the Services provided or the relationships created under this Agreement, and a provision that said insurance shall apply as primary and noncontributory.

Within ten (10) days of the execution of this Agreement, Consultant shall provide SBC with a certificate of said insurances and required additional insured endorsements.

SBC shall be provided thirty (30) days prior written notice of any termination of coverage, change in coverage protection, or reduction in coverage limits, below those requirements set forth in this Section 8, with the exception of cancellation for non-payment of premium for which SBC shall be provided ten (10) days prior written notice. If Consultant changes insurance carriers during the term of this Agreement or any extensions hereof, Consultant shall carry prior acts of coverage.

- 10. Representation and Warranty.** Consultant represents and warrants to SBC that it is under no contractual or other restrictions or obligations which are inconsistent with the execution of this Agreement or which will interfere with the performance of the Services.
- 11. Risk.** Consultant shall perform the work at its own risk. SBC will not reimburse Consultant for any expenses incurred by Consultant as a result of Services rendered under this Agreement, including, but not limited to, car-related expenses, and telephone expenses, unless otherwise agreed by SBC in advance.
- 12. Standard of Performance.** All Services provided by Consultant shall conform to the standards or quality normally observed by a person practicing in Consultant's profession and shall be performed with promptness and diligence in a workmanlike manner and at a level of proficiency to be expected of a consultant with the background, experience, and skillset that Consultant has represented it has.
- 13. Time for Performance.** Time is of the essence. Consultant shall devote such time as is reasonably necessary for the satisfactory performance of Consultant's obligations pursuant to this Agreement. Failure of Consultant to perform any Services within the time limits set forth herein shall constitute a material breach of this Agreement subject to provisions of Sections 14 and 19.
- 14. Force Majeure.** Either party shall be excused from any delay or failure in performance required hereunder if performance would be inadvisable, commercially impracticable, illegal, or impossible by reason of any occurrence or contingency beyond its reasonable control, including, but not limited to, acts of God, hurricanes, floods, earthquakes, avalanches, tornadoes, fire, explosions, acts of war, terrorist acts or threats of terrorist acts, insurrection, civil commotion, riots, strikes, lock-outs or other serious labor disputes, transportation shutdowns, measures of any governmental authority or actions, quarantine, disease or epidemics or outbreaks, or other acts of nature, natural catastrophes or natural

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disasters. The obligations and rights of the party so excused shall be extended on a day-to-day basis for the time period equal to the period of such excusable interruption. When such events have abated, the parties' respective obligations hereunder shall resume. In the event the interruption of the excused party's obligations continues for a period in excess of thirty (30) calendar days, either party shall have the right to terminate this Agreement as per Section 19 upon written notice to the other party.

15. **Intellectual Property.** In this Agreement the term "Work Product" shall mean all work products generated, created, or produced by Consultant solely or jointly with others in the performance of the Services, in whatever form or medium, electronic or otherwise, including, but not limited to, any and all information, notes, worksheets, reports, data, materials, drawings, photographs, negatives, images, video footage, recordable media, renderings, plans, records, diagrams, formulae, processes, technology, firmware, software, designs, ideas, discoveries, inventions, improvements, copyrights, trademarks, trade secrets, and any other content and deliverables created and/or delivered to SBC in connection with the Services performed by Consultant. All Work Products developed under this Agreement related to the performance of Services under this Agreement shall become the property of SBC, and Consultant agrees to deliver reproducible copies of such documents to SBC upon completion of the Services hereunder. Consultant will not make use of any of the Work Product(s) in any manner whatsoever without SBC's prior written consent.

Consultant shall not knowingly incorporate into any Work Product material that would infringe on the intellectual property rights of any third party or violate copyright laws.

16. **Proprietary and Confidential Information.** The term "Proprietary and Confidential Information" shall mean the Work Product and any and all information relating to SBC or its Project Funder's business, including, but not limited to, research, developments, product plans, products, services, diagrams, formulae, processes, techniques, technology, firmware, software, designs, ideas, discoveries, inventions, improvements, copyrights, trademarks, trade secrets, customers, suppliers, markets, marketing, and finances disclosed either directly or indirectly in writing, orally or visually, to Consultant.

Consultant understands and acknowledges that SBC and its Project Funder may provide access to proprietary and confidential information that Consultant might not otherwise receive. Unless otherwise agreed to in advance and in writing by SBC, Consultant will not, except as required by law or court order, disclose confidential information to any third party or use SBC's or its Project Funder's Proprietary and Confidential Information for any purpose whatsoever other than to the extent necessary for the performance of the Services hereunder.

In any event, Consultant shall be responsible for any breach of the terms and conditions of this Agreement by it or any of its employees, agents, representatives, and volunteers.

17. **Conflict of Interest.** Consultant acknowledges that no official or employee of SBC nor any business entity in which an official of SBC has an interest, has been employed or retained by Consultant to solicit or aid in the procuring of this Agreement. In addition, the Consultant agrees that no such person will be employed in the performance of this Agreement without immediately notifying SBC.
18. **Indemnity.** Consultant agrees to indemnify, defend, and hold harmless SBC and its directors, officers, agents, employees, and volunteers from and against all taxes, losses, damages, liabilities, demands, costs and expenses, including reasonable attorneys' fees and other legal expenses, arising directly or indirectly in any way from or in connection with this Agreement, except such loss or damage caused by the gross negligence or willful misconduct of SBC or its directors, officers, and employees.
19. **Termination.** Either party may terminate this Agreement for any reason, with or without cause, upon thirty (30) days advance written notice to the other in conformity with the notification provisions pursuant to Section 37.

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SBC may terminate this Agreement immediately and without prior notice if Consultant (i) refuses to perform the Services; or (ii) is in breach of any material provision of this Agreement. In the event SBC shall give notice of termination, Consultant shall immediately cease rendering service upon receipt of such written notice, pursuant to this Agreement.

In the event of termination of this Agreement:

- a. Consultant shall submit all Work Products generated by Consultant as of the date of termination and return any and all Proprietary and Confidential information to SBC including all Writings prepared by it pursuant to this Agreement. The term "Writings" shall be construed to mean and include: handwritten, typewritten, printed, photographed, PDF and JPEG renderings, images and every other means of recording upon any tangible object and any form of communication or representation, including letters, words, pictures, sounds, symbols, digital media, and any and all combinations thereof (collectively "Writings"). SBC shall have full ownership, right, title, and interest of all such Work Products and Writings delivered by Consultant pursuant to this Agreement.
 - b. SBC shall pay Consultant the reasonable value of Services rendered by Consultant to the date of termination pursuant to this Agreement not to exceed the amount documented by Consultant and approved by SBC as work accomplished to date; provided, however, that in no event shall any payment hereunder exceed the amount of the Agreement as specified in Section 3. Consultant shall furnish to SBC such financial information as, in the judgment of SBC, is necessary to determine the reasonable value of the Services rendered by Consultant. Further, SBC shall not be liable for consequential damages, incidental damages or for any lost profits which might have been made by Consultant had Consultant completed the Services required by this Agreement.
20. **Non-Discrimination.** During the performance of this Agreement, Consultant and its officers, employees, agents, and volunteers shall not unlawfully discriminate against, harass, or allow harassment against any employee or applicant for employment on the basis of race, color, national origin, ancestry, ethnic group identification, religious creed, physical disability, mental disability, medical condition, marital status, sex, gender, gender identity, gender expression, sexual orientation, military or veteran status, age or any other prohibited ground in contravention of the California Fair Employment and Housing Act, Government Code section 12900 et seq. or any other applicable law.
21. **Records.** Consultant shall maintain, at all times, complete detailed records with regard to work performed under this Agreement in a form acceptable to SBC, and SBC shall have the right to inspect such records at any reasonable time. Records related to this Agreement shall be retained for a minimum of three (3) years following the final payment by SBC and the final year to which the records pertain.
22. **Non-Solicitation of Employees.** During the Term of this Agreement and for two (2) years following its termination, Consultant shall not directly or indirectly ask, induce, or encourage any employee(s) of SBC for whom or about whom Consultant had Confidential Information to leave their employment with SBC or solicit any employee(s) of SBC for whom or about whom Consultant had Confidential Information for employment or a business relationship. Notwithstanding the foregoing, Consultant may make reasonable contact with SBC's employee(s) to make them aware Consultant is providing Services and to request referral business. Consultant further agrees that Consultant shall make any subsequent consulting relationship or employer aware of this non-solicitation obligation.
23. **Entirety of Agreement.** This Agreement, including the attached exhibits, constitutes the entire Agreement between SBC and the Consultant with respect to the subject matter hereof, and expressly supersedes all prior written and oral agreements and understanding between the parties hereto. No other agreement, statement, or promise made by any party, or to any employee, officer or agent of any party, which is not contained in this Agreement, shall be binding or valid.

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24. **Attorney's Fees.** In any court action at law or equity which is brought by one of the parties to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorney's fees, in addition to any other relief to which that party may be entitled.
25. **Alteration.** No waiver, alteration, modification, or termination of this Agreement shall be valid unless made in writing and signed by all parties, except as expressly provided in Sections 14 and 19.
26. **Assignment.** SBC has specifically contracted for the services of Consultant, and therefore, Consultant may not assign, delegate, or subcontract its obligations under this Agreement, either in whole or in part, without the prior written consent of SBC.
27. **Exhibits.** All exhibits referred to herein shall be attached hereto and by this reference incorporated herein. Any breach by Consultant of any of the terms, conditions, duties and obligations of any exhibit shall be considered a breach of this Agreement.
28. **Severability.** If any provision of this Agreement or the application thereof is held invalid or unenforceable, that invalidity or unenforceability shall not affect or invalidate the remaining provisions or applications of this Agreement, but this Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein. In any event, the remainder of the Agreement will remain in full force and effect.
29. **Waiver.** No term or provision hereof will be considered waived by either party, and no breach is excused or consented to by either party, unless such waiver or consent is in writing and signed on behalf of the party against whom the waiver is asserted. No express or implied consent by either party to, waiver of, or failure of a party to enforce its rights with respect to a breach or default of any provision, term, condition, or covenant of this Agreement shall constitute consent to, or waiver of, any subsequent breach or default by the other party.
30. **Dispute Resolution.** The parties agree that in the event of any dispute by and between them, they shall first attempt to resolve the dispute by way of an informal mediation, and if such efforts do not result in a resolution, they will have the dispute submitted to binding arbitration as set forth below. The mediation shall be held before a neutral attorney or mediator having at least ten (10) years of business experience or a retired judge ("**Qualified Mediator**"). Within ten (10) days of a demand for mediation, the parties shall attempt to mutually agree on a Qualified Mediator. If the parties agree on the selection of a Qualified Mediator, the mutually selected Qualified Mediator shall be appointed for the parties' mediation. If the parties are unable to mutually select a Qualified Mediator, they shall each select a Qualified Mediator and the two (2) Qualified Mediators shall then select a third neutral Qualified Mediator who shall mediate the parties' dispute. Any selected mediator who is unable or unwilling to fulfill his or her duties may be replaced. Subject to the mediator's availability, the parties will make best efforts to have the mediation scheduled and held within fifteen (15) days of a demand. The parties shall split and pay for the fees and costs charged by the mediator equally. Any party who fails to participate in the mediation shall waive their right to collect attorney's fees and costs as provided for in this Agreement. If the parties are unable to resolve their dispute in mediation, the parties shall submit their dispute to binding arbitration. In the event arbitration is necessary, the parties shall attempt to mutually agree upon the selection of a neutral arbitrator who shall be a business attorney or arbitrator having at least ten (10) years of experience, or a retired judge, or the Qualified Mediator previously selected for the parties' mediation, if the parties mutually agree to the continued services of the Qualified Mediator for the binding arbitration ("**Qualified Arbitrator**"). If the parties are unable to mutually agree on the selection of a Qualified Arbitrator, each party shall select a Qualified Arbitrator and the two (2) so selected shall select a third Qualified Arbitrator who shall arbitrate the parties' dispute. The Qualified Arbitrator shall have the power to hear any and all disputes by and between the parties arising from this Agreement or the subject matter of this Agreement, hear discovery disputes, and to award attorney's fees and costs to a prevailing party. Unless otherwise agreed to by the parties, any decision or award as a result of the arbitration proceeding shall be binding upon the parties, in writing, and shall provide an explanation for all conclusions of law and findings of fact and shall include an assessment of costs, expenses, and reasonable attorney's fees and costs. Each of the parties shall

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maintain the confidential nature of any mediation or arbitration proceeding and shall not, without the prior written consent of the other party, disclose to any other persons or entity the fact, existence, substance, contents, or result of the mediation or arbitration, any mediation or arbitration hearing, the award of the mediator or arbitrator, or any other proceeding in connection with the mediation or arbitration, except as may be necessary to enforce, enter, or challenge such award in a court of competent jurisdiction or as otherwise required by applicable law or judicial decision.

31. **Injunctive Relief; Enforcement.** Nothing contained in the mediation and/or arbitration provisions of this Agreement shall be construed to prevent either party from obtaining available provisional injunctive remedies from an appropriate court before mediation or arbitration is commenced, upon the ground that the award to which the applicant may be entitled may be rendered ineffectual without provisional relief. The request for a provisional remedy does not remove the dispute from final resolution by mediation or arbitration. Consultant hereby agrees and acknowledges that money damages or other remedies at law would not be sufficient or adequate remedy for any breach or violation of, or default under this Agreement.
32. **Waiver of Jury Trial.** TO THE EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDINGS ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.
33. **Remedies.** SBC shall have all remedies at law or equity, including the remedy of specific performance. All such remedies of SBC shall be cumulative and the award of one remedy shall not preclude the award of other remedies. SBC shall not be responsible for any consequential or incidental damages to Consultant, regardless of whether foreseeable or not.
34. **Governing Law.** This Agreement is executed and intended to be performed in the State of California, and the laws of that State shall govern its interpretation and effect. The venue for any legal proceedings regarding this Agreement shall be in the County of Nevada, State of California. Consultant hereby expressly waives those provisions in California Code of Civil Procedure §394 that may have allowed it to transfer venue to another jurisdiction.
35. **Ambiguities Not Construed Against Drafter.** The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of the provisions of this Agreement. The parties hereto agree that the rule of contract construction that ambiguities are to be construed against the drafter shall not apply to this Agreement and that this Agreement shall be interpreted as though prepared by both parties.
36. **Survival of Provisions.** The following provisions of this Agreement shall survive the termination of this Agreement: Sections 3, 4, 5, 15, 18, 19, 21-35, 37, and all other provisions of this Agreement that by their nature extend beyond the termination of this Agreement.
37. **Notification.** Any notice or demand desired or required to be given hereunder shall be in writing and addressed to the party being notified at the address set forth in this Agreement or such other address as either party may notify the other of and shall be deemed given upon delivery if personally delivered or five (5) days after being deposited in the mail, postage prepaid, registered or certified mail, return receipt requested.

<u>SBC:</u>	<u>Consultant:</u>
Sierra Business Council Att: Kristin York, Vice President P.O. Box 2428 Truckee, CA 96160 (530) 582-4800	Eastern Sierra Council of Governments Elaine Kabala PO Box 1609 Mammoth Lakes, CA 93546 (760) 878-8800

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38. **Authority**. All individuals executing this Agreement represent and warrant that they have the authority to enter into this Agreement and to perform all acts required by this Agreement.
39. **Electronic Signatures**. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement, by facsimile, portable document format (.pdf) or similar technology signature, and such signature shall constitute an original for all purposes.

[REMAINDER OF THE PAGE LEFT INTENTIONALLY BLANK]

[SIGNATURE PAGE FOLLOWS]

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40. Acknowledgements. The parties agree that they have read and fully understand the terms, conditions, and legal effects of the provisions contained in this Agreement. The parties acknowledge that they have had an opportunity to review this Agreement with independent legal counsel and have exercised those rights to the extent deemed necessary. The parties further acknowledge that they have not relied solely on the advice of counsel in reaching the agreements set forth herein, that the agreements set forth herein are the result of negotiations and careful compromise, and that they enter into this Agreement of their own free will and accord, voluntarily, without coercion, duress, or undue influence from any source. Therefore, for good and valuable consideration, including, without limitation, the mutual promises, conditions, and agreements set forth herein, the parties agree to be bound by the terms of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date stated above.

SIERRA BUSINESS COUNCIL:

By: _____
Name: STEVE FRISCH
Title: PRESIDENT
Date: _____

SIERRA BUSINESS COUNCIL:

By: _____
Name: KRISTIN YORK
Title: VICE PRESIDENT
Date: _____

CONSULTANT:

By: _____
Name: ELAINE KABALA
Title: EXECUTIVE DIRECTOR
Date: _____

Attachment A
Exhibit A: Memorandum of Understanding

**Eastern Sierra Council of Governments (ESCOG)
Joint Powers Authority**

Executive Director: Elaine Kabala

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (Memorandum) is entered into by and between Sierra Business Council (SBC) and the Eastern Sierra Council of Governments (ESCOG) for the purposes of the Community Economic Resilience Fund (CERF).

Commencement Date: May 1, 2023

A. Purpose

CERF is a new state initiative supporting innovative plans and strategies to diversify local economies and develop sustainable industries that create good-paying, broadly-accessible jobs for all Californians.

SBC's goal for the Eastern Sierra CERF Region is to develop a regional economic recovery plan and prioritized investment schedule that will generate sustainable high-road jobs. SBC will build upon the skills and knowledge of local organizations such as ESCOG and ongoing regional processes through an inclusive, equitable, transparent, multi-lingual, data-informed planning process. The planning process will advance equity in the region by focusing on regional stakeholders, with special emphasis on historically marginalized groups in disinvested communities.

Sierra Business Council will be partnering on the implementation of CERF program priorities with the Central Sierra Economic Development District, Mother Lode Job Training Center, Eastern Sierra Council of Governments, and the Eastern Sierra Business Resource Center.

The purposes of this Memorandum of Understanding are:

- To establish a collaborative working relationship with ESCOG focused on achieving the goals outlined in the CERF Scope of Work (below);
- To engage in a process for community outreach in Inyo County, Mono County, City of Bishop and Town of Mammoth Lakes to conduct joint data aggregation, fact-finding, policy analysis, and public education, in order to increase agency and public understanding about economic development issues;
- To explore potential investment projects consistent with CERF guidelines and explore opportunities for obtaining funding from public and private sources, including state and federal programs and granting agencies, to implement projects; and
- To communicate project updates to the public and invite real-time feedback.

B. Authority

Participants and agencies are not bound by any decisions made as a result of this Memorandum. By signing this agreement, the participants recognize that each is first bound to their agency or entity, and operates within their organization or entity's constraints, bringing what resources they can to the effort. Signatories do not assume liability for any other member's actions, obligations, or liabilities, or any third-party claims that arise out of this initiative.

C. Timeframe

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This Memorandum is intended to be in effect from the final date of approval by both parties and to be in effect until July 31, 2024.

Timeline – First deliverable is due August 31, 2023

Second deliverable is due June 30, 2024

D. Fee and Payment

- Fee. Consultant shall be paid a sum not to exceed Two Hundred and Fifty Thousand Dollars (\$250,000.00) for services rendered under this Agreement. Consultant shall invoice SBC at a customary rate of \$75 per hour.
- Payment. Consultant shall submit an invoice to SBC within seven (7) days of the end of each month itemizing the dates, number of hours, services performed, and costs associated with the services rendered. Invoices may not be submitted more frequently than once per month. Any invoice submitted without the required itemization will not be authorized for payment. SBC shall submit payment to Consultant within thirty (30) days after receipt of invoice provided that (i) Services rendered are reasonably acceptable to SBC; (ii) Services rendered are in compliance with requested Services and deliverables as described in Exhibit A; and (iii) SBC has received payment from the Project Funder for the service month payment is being requested. However, SBC shall not unreasonably withhold payment and, if a dispute exists, the withheld payment shall be proportional only to the item in dispute. SBC is not obligated to pay for any costs incurred by Consultant prior to the Commencement Date of this Agreement.

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Exhibit B: Scope of Work

SCOPE OF WORK
Roles and Responsibilities

1. ESCOG will act as a community engagement partner and assist with providing a snapshot of the historically active stakeholders and historically disinvested or marginalized groups that can influence creating a High Road economy in the CERF Region and/or benefit from it.
 - Participate in HRTC meetings and subcommittee meetings.
 - Identify community stakeholders and provide necessary data to support CERF efforts.
 - Create and show a network of existing partners and their existing regional and subregional plans, strategies, and related reports to demonstrate synergies, potentials, and challenges.
 - Clarify opportunities for collaborations and partnerships.
 - Engage with groups on the Eastside including but not limited to local governments and special districts.
 - Provide an overview of the state of disinvested communities in the region. Discuss how and in which areas these communities face economic barriers. Include a snapshot of the plan to outreach to organizations that represent these communities and how the HRTC intends to ensure their active participation.
 - Provide a list of organizations, entities and key contacts and discuss their potential role in developing the plan and engaging in the Implementation Phase.
 - These stakeholders may include but are not limited to employers, businesses, community-based organizations, community members and residents, government and economic development agencies, federal land agencies, labor organizations, philanthropic organizations, academic institutions, education and training providers, workforce entities, and industries.

2. ESCOG will assist with capturing snapshots of labor and workforce dynamics in the region, including an overview of major employers, occupations, and wages, the impacts of the recent trends, changes, and forces on the labor market, and projected labor trends in existing key industries.

The analysis must also identify the following:

 - Industry-specific labor standards that meet high-road priorities.
 - Barriers that limit access to high-quality jobs.
 - Relevant training programs, apprenticeships, or high road training partnerships in the region

3. ESCOG will assist the SBC team with capturing snapshots of current major industries as well as industry trends and projections.

The data capture and analysis must also:

 - Include an in-depth analysis of potential growth clusters based on the Eastside's comparative advantages, market trends, workforce, infrastructure assets, policy trends, aligned state/federal investments, supply chain, and innovation ecosystem.
 - Conduct measurements of potential for job growth within industries.
 - Identify workers and sectors at risk of displacement due to identified trends and analyses.
 - Identify how CERF initiatives overlap with CEDs efforts, and how they can support one another.

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4. ESCOG will assist with the in-depth analysis of Eastside's Strengths, Weaknesses, Opportunities, and Threats (i.e., SWOT), especially as it relates to equitable economic resilience and growth of sustainable industry clusters. The SWOT analysis will draw from data and components through conducting the above analyses.