SEVEN COUNTY INFRASTRUCTURE COALITION
December 20, 2019

Resolution No. 2019-12E

RESOLUTION AMENDING LEGAL RETAINER WITH ERIC JOHNSON AND THE LAW FIRM ETJLAW, INC. AND RELATED MATTERS.

WHEREAS, in August 2018, the Coalition selected Eric Johnson and his law firm ETJLAW, Inc. as its attorneys, (collectively, the “Contractor”) after publishing a Request for Qualifications for a qualified attorney or law firm to provide legal services and act as general counsel to the Coalition at the rate of $13,000 per month for the first 75 hours of legal services for an effective hourly rate of approximately $175 per hour and $290 per hour thereafter; and

WHEREAS, the next lowest responsive bid for providing legal services was $370 per hour; and

WHEREAS, in April 2019, to save money, the Coalition and ETJLAW, Inc. agreed to modify its agreement with Mr. Johnson and his law firm and approved a fixed monthly retainer in the amount of $14,583.33 for amounts reimbursed to the Coalition by the Utah Permanent Community Impact Fund Board, which at that time all legal services were so reimbursed; and

WHEREAS, the Coalition has legal work, other than legal work reimbursed by the Utah Permanent Community Impact Fund Board and desires to amend its agreement with the Contractor to enable additional legal work on such other matters:

NOW, THEREFORE, be it resolved by the Governing Board of the Seven County Infrastructure Coalition, Utah as follows:

1. The Governing Board hereby approves a subcommittee to work out an agreement with Contractor (Mr. Johnson and ETJLAW, Inc.) as an independent contractor with a fixed monthly retainer for amounts reimbursed by the Utah Permanent Community Impact Fund Board and additional legal work potentially as set forth therein in substantially final form as attached hereto as Exhibit A.

2. The Governing Board authorizes the Executive Director to execute the independent contractor agreement with Mr. Johnson and his law firm ETJLAW, Inc. and to take all other actions to enter into the agreement as proposed in substantially final form.

3. All parts of this Resolution are severable, and if any section, clause or provision of this Resolution shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, clause or provision shall not affect the remaining sections, clauses or provisions of this Resolution.
4. All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed and this Resolution shall be in full force and effect immediately upon its approval and adoption.

APPROVED AND ADOPTED this December 20, 2019.

Motion by Hope and Seconded by Gravelyes.

SEVEN COUNTY INFRASTRUCTURE COALITION VOTING:

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Co-Chair, Brad Horrocks
Co-Chair, Lynn Sitterud

ATTEST:

Eric Johnson
EXHIBIT A

Retainer Agreement with Mr. Eric Johnson

Seven County Infrastructure Coalition
Independent Contractor Agreement

THIS AGREEMENT by and between the Seven County Infrastructure Coalition, an independent Utah political subdivision, hereinafter referred to as “Coalition”, and Eric Todd Johnson and ETJLaw, Inc., hereinafter referred to as “Contractor”.

THIS AGREEMENT shall be made effective as of December 1, 2019, and shall be effective until August 10, 2023, in compliance with a previous RFQ for legal services, approved by the Coalition Board. The scope of work shall be for legal and technical services, and other related work as assigned by the Coalition, but shall exclude administrative duties and services.

RECITALS

A. Contractor is willing to contract with Coalition and Coalition is willing to contract with Contractor on the terms, covenants and conditions set forth in this Agreement.

B. All work performed by Contractor shall be under the direction of the Executive Director and the Coalition Board. Any work performed that is not within the provisions of this contract shall not be recognized as reimbursable expense. All work must also be in compliance with the Contracts that the Coalition has with state agencies related to reimbursement for various projects and the Coalition shall not be liable to pay Contractor for any legal services or work that a state agency deems is not reimbursable.

C. For the reasons set forth above, and in consideration of the mutual promises and agreements set forth in this Agreement, Contractor and Coalition agree as follows:

SECTION ONE – Scope of Services

A. COALITION hereby contracts with, engages, and retains Contractor to perform services on a non-exclusive basis. It is recognized, however, that the Contractor’s primary work will be with the Coalition. Contractor services will include, but not be limited to:

1. Attends board meetings of the Coalition, and provides and supervises all legal advice and counsel regarding matters considered and approved.

2. Apprises the Coalition regarding various legal issues related to statutes, ordinances, policies and practices.

3. Drafts resolutions and ordinances for consideration by the Coalition.

4. Participates in major policy decisions as requested by the Coalition and provides direct legal advice as needed.

5. Assists in developing and soliciting procurement services for the Coalition.
6. Investigates and provides opinion as to the validity of claims that may arise against the Coalition.

7. Advises on legal issues pertaining to the Coalition.

8. Performs research and analysis of law sources such as statutes, recorded judicial decisions, legal articles, treaties, constitutions and legal codes to prepare opinions of various legal matters for the Coalition.

9. Prepares and litigates cases that may arise out of Coalition activities.

10. Represents Coalition in administrative, non-judicial and quasi-judicial hearings related to civil matters.

11. Provides legal representation in court for and on behalf of the Coalition in all civil and regulatory matters and oversees and coordinates with outside counsel engaged to represent the Coalition’s interests.

12. Provides expertise and advice to the Coalition pertaining to public-private partnerships.

13. Prepares legal documents such as contracts, leases, deeds, rights-of-way, policies, procedures, etc.

14. Provides expertise and performs other job-related duties as assigned by the Executive Director.

15. Provides legal services related to infrastructure and other projects being contemplated or executed by the Coalition.

16. Coordinates and directs licensing, certification and other regulatory and industry standards for projects, such as the San Rafael Energy Research Center, etc.

17. Ensures compliance with all procurement policies, practices, and law.

18. Other related duties as assigned.

B. Contractor hereby accepts and agrees to such engagement and contract subject to the general supervision and pursuant to the orders, advice and direction of the Executive Director, and of the Coalition Board. Contractor further accepts and agrees to comply with all requirements in agreements between the Coalition and state agencies and understands that it will not be paid for any legal work or services that a state agency deems or determines is not reimbursable.
SECTION TWO - BEST EFFORT OF CONTRACTOR

Contractor agrees that he will at all times faithfully, and to the best of his ability, experience, and talents, perform all of the duties that may be required of and from him pursuant to the express and implicit terms of this Agreement, to the reasonable satisfaction of Coalition.

SECTION THREE - TERM OF THE CONTRACT

Contractor shall be an independent contractor with an effective start date of December 1, 2019. Contractor acknowledges that he is not an employee of the Coalition. Invoice of hours worked shall be submitted monthly, by the first Friday of each month and shall be submitted to both the Executive Director and also the Finance Director. Contractor will be issued a 1099 for income tax reporting purposes.

SECTION FOUR - COMPENSATION OF CONTRACTOR

Coalition shall pay Contractor, and Contractor shall accept from Coalition, in full payment for contractor’s services under this Agreement, compensation as follows:

1. Legal fees shall be set and capped at $14,583.33 monthly, or $175,000.00 annually on all matters for amounts reimbursed by or through the Utah Permanent Community Impact Fund Board. Contractor agrees to provide no less than 84 hours of legal services so reimbursed in a month. For legal services above and beyond those so reimbursed, the Coalition agrees to pay Contractor $175 per hour for time worked by Mr. Johnson. Other attorneys will be invoiced at a lower rate. Paralegal will be invoiced at the rate of $110 per hour. Contractor shall provide hours and general description of work performed each month to the Coalition. Payments shall be made to the company ETJLaw, Inc. of which Mr. Johnson is President.

2. Contractor’s travel for Coalition activities will be reimbursed at applicable State standard rates.

3. The Coalition is not responsible for office space. Office space shall be provided by Contractor. However, direct office expenses such as postage, paper, and ink, etc. shall be reimbursed.

Coalition shall reimburse Contractor for aforementioned expenses related to its services, such as travel and office expenses, provided Contractor provide the Coalition with receipts or other credible evidence of such expenses.

SECTION FIVE - TERMINATION OF CONTRACT

This Agreement may be terminated at any time for any or no reasons by the Coalition with or without advance notice in the sole, unfettered discretion of the Coalition. Contractor does not have any property interest in the continuation of this contract and it may be terminated without any form of due process or right of appeal. The Coalition or Contractor may terminate this contract at any time in writing for any reason.

SECTION SIX - RETURN OF EQUIPMENT ON TERMINATION OF CONTRACT

Upon termination of this Agreement by either party, any and all Coalition property, including documents and work product in possession or control of the Contractor shall be promptly returned to the Coalition by Contractor.
SECTION SEVEN – BENEFITS

Contractor shall have no right to and shall not be provided any benefits. Contractor shall be responsible to provide his/her own workers compensation insurance, business license, tools or equipment, and all other materials necessary to carry out this Agreement.

SECTION EIGHT - MODIFICATION OF AGREEMENT

Any modification of this Agreement or additional obligation(s) assumed by either party in connection with this Agreement shall be binding only if evidenced in writing and signed by each party or an authorized representative of each party.

CONTRACTOR
ETJLaw, Inc.

__________________________________________
Eric Todd Johnson
Printed Name

__________________________________________
Date Signed
Tax I.D. No.

ATTESTED

__________________________________________
(SE A L)

(SEVEN COUNTY INFRASTRUCTURE COALITION)

__________________________________________
Executive Director
Date Signed

ATTESTED

__________________________________________
(SE A L)