

AGREEMENT  
FOR PROFESSIONAL SERVICES  
BETWEEN  
THE CITY OF SALINAS AND  
SERCO, INC.



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## **AGREEMENT FOR SERVICES BETWEEN THE CITY OF SALINAS AND SERCO, INC.**

This Agreement for Professional Services (the “Agreement” and/or “Contract”) is made and entered into this 27th day of October, 2020, between the **City of Salinas**, a California Charter city and municipal corporation (hereinafter “City”), and **Serco, Inc., a New Jersey corporation** (hereinafter “Serco”).

### **RECITALS**

**WHEREAS**, Serco represents that it is specially trained, experienced, and competent to perform the parking enforcement services required by this Agreement; and

**WHEREAS**, Serco has provided said parking enforcement services in the city of Salinas since October 3, 2016; and

**WHEREAS**, Serco is willing to continue rendering such services, as hereinafter defined, on the following terms and conditions.

**NOW, THEREFORE**, City and Serco agree as follows:

### **TERMS**

1. **Scope of Service.** The project contemplated and the scope of Serco’s services are described in **Exhibit B**, attached hereto and incorporated herein by reference.
2. **Term; Completion Schedule.** This Agreement shall commence on January 1, 2021, and shall terminate on December 31, 2023. This Agreement may be extended only upon mutual written consent of the parties and may be terminated only pursuant to the terms of this Agreement.
3. **Compensation.** City hereby agrees to pay Serco for services rendered the City pursuant to this Agreement on a time and materials basis as set forth in **Exhibit B**. The total amount of compensation to be paid under this Agreement shall not exceed **\$607,676 per year**. If pursuant to Section 2, “Term”, this Agreement is extended, the rate of compensation shall be adjusted to reflect a 3% increase in compensation.
4. **Billing.** Serco shall submit to City an itemized invoice, prepared in a form satisfactory to City, describing its services and costs for the period covered by the invoice. Except as specifically authorized by City, Serco shall not bill City for duplicate services performed by more than one person. Serco’s bills shall include the following information to which such services cost or pertain:

- (A) A brief description of services performed;
- (B) The date the services were performed;
- (C) The number of hours spent and by whom;
- (D) A brief description of any costs incurred; and
- (E) The Serco's signature.

Any such invoices shall be in full accord with any and all applicable provisions of this Agreement.

City shall make payment on each such invoice within thirty (30) days of receipt; provided, however, that if Serco submits an invoice which is incorrect, incomplete, or not in accord with the provisions of this Agreement, City shall not be obligated to process any payment to Serco until thirty (30) days after a correct and complying invoice has been submitted by Serco. The City shall process undisputed portion immediately.

**5. Meet & Confer.** Serco agrees to meet and confer with City or its agents or employees with regard to services as set forth herein as may be required by the City to ensure timely and adequate performance of the Agreement.

**6. Additional Copies.** If City requires copies of reports, or any other material related to Serco's performance under this Agreement, Serco shall provide such additional copies as are requested.

**7. Responsibility of Serco.** By executing this Agreement, Serco agrees that the services to be provided and work to be performed under this Agreement shall be performed in a fully competent manner. By executing this Agreement, Serco further agrees and represents to City that the Serco possesses, or shall arrange to secure from others, all of the necessary professional capabilities, experience, resources, and facilities necessary to provide the City the services contemplated under this Agreement and that City relies upon the skills of Serco and its employees and representatives to do and perform Serco's work.

**8. Responsibility of City.** To the extent appropriate the City shall:

(A) Assist Serco by placing at its disposal all available information pertinent to the providing parking enforcement services, including but not limited to, previous reports and any other data relative to the projects. Nothing contained herein shall obligate City to incur any expense in connection with completion of studies or acquisition of information not otherwise in the possession of City.

(B) The City Manager, or his designee, shall act as City's representative with respect to this Agreement. Such person shall have the complete authority to transmit instructions, receive information, interpret and define City's policies and decisions with respect to materials,

equipment, elements, and systems pertinent to Serco's services. City may unilaterally change its representative upon written notice to Serco.

**(D)** Give prompt written notice to Serco whenever City observes or otherwise becomes aware of any defect in services provided.

**9. Indemnification and Hold Harmless.**

Serco shall indemnify, defend, and hold City and its officers, employees, and agents harmless from and against any and all liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to any property, or violation of any relevant federal, state or municipal law or ordinance, or other cause in connection with the negligent, reckless or intentional acts or omission of Serco, its employees, subcontractors or agents, or on account of the performance or character of the work, except for any such claim arising from the negligence or willful misconduct of the City, its officers, employees or agents. Acceptance of insurance certificates and endorsements required under this Agreement does not relieve Serco from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

**10. Insurance.** Serco shall procure and maintain for the duration of this Agreement insurance meeting the requirements specified in **Exhibit A** hereto.

**11. Access to Records.** Serco shall maintain all records relating to work performed for the City under this Agreement on file for at least three (3) years following the date of final payment to Serco by City. Any duly authorized representative(s) of City shall have access to such records for the purpose of inspection, audit, and copying at reasonable times during Serco's usual and customary business hours. Serco shall provide proper facilities to City's representative(s) for such access and inspection.

**12. Non-Assignability.** It is recognized by the parties hereto that a substantial inducement to City for entering into this Agreement was, and is, the professional reputation and competence of Serco. This Agreement is personal to Serco and shall not be assigned by it without express written approval of the City.

**13. Changes to Scope of Work.** City may at any time, and upon a minimum of ten (10) days written notice, seek to modify the scope of services to be provided by Serco under this Agreement. Serco shall, upon receipt of said notice, determine the impact on both time and compensation of such change in scope and notify City in writing. Upon agreement between City and Serco as to the extent of said impacts to time and compensation, an amendment to this Agreement shall be prepared describing such changes. Execution of the amendment by City and Serco shall constitute the Serco's notice to proceed with the changed scope.

**14. Termination.**

**(A)** City shall have the authority to terminate this Agreement, upon ten days written notice to Serco, as follows:

- (1) If in the City's opinion the conduct of the Serco is such that the interest of the City may be impaired or prejudiced, or
- (2) For any reason whatsoever.

**(B)** Upon termination, Serco shall be entitled to payment of such amount as fairly compensates Serco for all work satisfactorily performed up to the date of termination based upon the Consultant's scope of services shown in **Exhibit B** of this Agreement, except that:

(1) In the event of termination by the City for Serco's default, City shall deduct from the amount due Serco the total amount of additional expenses incurred by City as a result of such default. Such deduction from amounts due Serco are made to compensate City for its actual additional costs incurred in securing satisfactory performance of the terms of this Agreement, including but not limited to, costs of engaging another entity for such purposes. In the event that such additional expenses shall exceed amounts otherwise due and payable to Serco hereunder, Serco shall pay City the full amount of such expense.

**(C)** In the event that this Agreement is terminated by City for any reason, Serco shall:

- (1) Upon receipt of written notice of such termination promptly cease all services, unless otherwise directed by City.

**15. Compliance with Laws, Rules, and Regulations.** Services performed by Serco pursuant to this Agreement shall be performed in accordance and full compliance with all applicable federal, state, and City laws and any rules or regulations promulgated thereunder.

**16. Exhibits Incorporated.** All exhibits referred to in this Agreement and attached to it are hereby incorporated in it by this reference. In the event there is a conflict between any of the terms of this Agreement and any of the terms of any exhibit to the Agreement, the terms of the Agreement shall control the respective duties and liabilities of the parties.

**17. Independent Contractor.** It is expressly understood and agreed by both parties that Serco, while engaged in carrying out and complying with any of the terms and conditions of this Agreement, is an independent contractor and not an employee of the City. Serco expressly warrants not to represent, at any time or in any manner, that Serco is an employee or servant of the City.

**18. Integration and Entire Agreement.** This Agreement represents the entire understanding of City and Serco as to those matters contained herein. No prior oral or written

understanding shall be of any force or effect with respect to those matters contained herein. This Agreement may not be modified or altered except by amendment in writing signed by both parties.

**19. Jurisdiction and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of California, County of Monterey, and City of Salinas. Jurisdiction of litigation arising from this Agreement shall be in the State of California, in the County of Monterey or in the appropriate federal court with jurisdiction over the matter.

**20. Severability.** If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of the Agreement shall continue to be in full force and effect.

**21. Notices.**

**(A)** Written notices to the City hereunder shall, until further notice by City, be addressed to:

City Manager  
City of Salinas  
200 Lincoln Avenue  
Salinas, California 93901

With a copy to:

City Attorney  
City of Salinas  
200 Lincoln Avenue  
Salinas, California 93901

**(B)** Written notices to the Consultant shall, until further notice by the Consultant, be addressed to:

Muhammad Mansoor,  
Director Transportation and Infrastructure  
Serco, Inc.  
8235 Santa Monica Blvd., Suite 320  
West Hollywood, CA 90046

**(C)** The execution of any such notices by the City Manager shall be effective as to Serco as if it were by resolution or order of the City Council, and Serco shall not question the authority of the City Manager to execute any such notice.

**(D)** All such notices shall either be delivered personally to the other party's designee named above, or shall be deposited in the United States Mail, properly addressed as aforesaid, postage fully prepaid, and shall be effective the day following such deposit in the mail.

**22. Nondiscrimination.** During the performance of this Agreement, Serco shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, creed, sex, national origin, familial status, sexual orientation, age (over 40 years) or disability. Serco shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, ancestry, creed, sex, national origin, familial status, sexual orientation, age (over 40 years) or disability.

**23. Conflict of Interest.** Serco warrants and declares that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, in any manner or degree which will render the services required under the provisions of this Agreement a violation of any applicable local, state or federal law. Serco further declares that, in the performance of this Agreement, no subcontractor or person having such an interest shall be employed. In the event that any conflict of interest should nevertheless hereinafter arise, Serco shall promptly notify City of the existence of such conflict of interest so that City may determine whether to terminate this Agreement. Serco further warrants its compliance with the Political Reform Act (Government Code section 81000 et seq.) and Salinas City Code Chapter 2A that apply to Serco as the result of Serco's performance of the work or services pursuant to the terms of this Agreement.

**24. Headings.** The section headings appearing herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning or intent of the provisions of this Agreement.

**25. Attorneys' Fees.** In case suit shall be brought to interpret or to enforce this Agreement, or because of the breach of any other covenant or provision herein contained, the prevailing party in such action shall be entitled to recover their reasonable attorneys' fees in addition to such costs as may be allowed by the Court. City's attorneys' fees, if awarded, shall be calculated at the market rate.

**26. Non-Exclusive Agreement.** This Agreement is non-exclusive and both City and Serco expressly reserves the right to contract with other entities for the same or similar services.

**27. Rights and Obligations Under Agreement.** By entering into this Agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

**28. Licenses.** If a license of any kind, which term is intended to include evidence of registration, is required of Serco, its representatives, agents or subcontractors by federal, state or local law, Serco warrants that such license has been obtained, is valid and in good standing, and that any applicable bond posted in accordance with applicable laws and regulations.

**29. Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute a single agreement.

**30. Legal Representation.** Each party affirms that it has been represented, if it so chose, by legal counsel of its own choosing regarding the preparation and the negotiation of this Agreement and the matters and claims set forth herein, and that each of them has read this Agreement and is fully aware of its contents and its legal effect. Neither party is relying on any statement of the other party outside the terms set forth in this Agreement as an inducement to enter into this Agreement.

**31. Joint Representation.** The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any party. No presumptions or rules of interpretation based upon the identity of the party preparing or drafting the Agreement, or any part thereof, shall be applicable or invoked.

**32. Warranty of Authority.** Each party represents and warrants that it has the right, power, and authority to enter into this Agreement. Each party further represents and warrants that it has given any and all notices, and obtained any and all consents, powers, and authorities, necessary to permit it, and the persons entering into this Agreement for it, to enter into this Agreement.

**33. No Waiver of Rights.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement. The failure to provide notice of any breach of this Agreement or failure to comply with any of the terms of this Agreement shall not constitute a waiver thereof. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision. A waiver by the City of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have made and executed this Agreement on the date first written above.

**CITY OF SALINAS**

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City Manager

APPROVED AS TO FORM:

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Christopher A. Callihan, City Attorney, or  
Rhonda Combs, Assistant City Attorney

**SERCO**

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By (Printed Name): \_\_\_\_\_  
Its (Title): \_\_\_\_\_

## **Exhibit A**

### **Insurance Requirements**

Consultant shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Consultant, his agents, representatives, employees, or subcontractors. With respect to General Liability and Professional Liability, coverage should be maintained for a minimum of five (5) years after Agreement completion.

### **MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as:

- (A) Commercial General Liability (“CGL”):** Insurance Services Office Form (“ISO”) CG 00 01 covering CGL on an occurrence basis, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
- (B) Automobile Liability:** ISO Form CA 0001 covering any auto, or if Serco has no owned autos, hired and non-owned, with limits no less than **\$1,000,000** per accident for bodily injury and property damage.
- (C) Workers’ Compensation** insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with a limit of no less than **\$1,000,000** per accident for bodily injury or disease.
- (D) Professional Liability** (also known as Errors and Omissions) insurance appropriate to the work being performed, with limits no less than **\$1,000,000** per occurrence or claim, **\$2,000,000** aggregate per policy period of one year.

If the Serco maintains broader coverage and/or higher limits than the minimums shown above, the City of Salinas requires and shall be entitled to the broader coverage and/or higher limits maintained by the Serco. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

### **OTHER INSURANCE PROVISIONS**

**The insurance policies are to contain, or be endorsed to contain, the following provisions:**

#### ***Additional Insured Status***

**The City of Salinas, its officers, officials, employees, and volunteers are to be covered as additional insureds** on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Serco including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Serco’s insurance (at least as broad as ISO Form CG 20 10, CG 11 85, or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used).

#### ***Primary Coverage***

For any claims related to this Agreement or the project described within this Agreement, the **Serco's insurance coverage shall be primary coverage** at least as broad as ISO Form CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Serco's insurance and shall not contribute with it.

#### ***Notice of Cancellation***

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City.

#### ***Waiver of Subrogation***

Serco hereby grants to City a waiver of any right to subrogation which any insurer of said Serco may acquire against the City by virtue of the payment of any loss under such insurance. Serco agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City of Salinas for all work performed by the Serco, its employees, agents, and subcontractors.

#### ***Self-Insured Retentions***

Self-insured retentions must be declared by Serco to and approved by the City. At the option of the City, Serco shall provide coverage to reduce or eliminate such self-insured retentions as respects the City, its officers, officials, employees, and volunteers; or the Serco shall provide evidence satisfactory to the City guaranteeing payment of losses and related investigations, claim administrations, and defense expenses. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

#### ***Acceptability of Insurers***

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

#### ***Claims Made Policies***

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of this Agreement or the beginning of Agreement work.
2. Insurance must be maintained and evidence of insurance must be provided *for at least five (5) years after completion of the Agreement of work.*
3. If coverage is canceled or non-renewed, and not *replaced with another claims-made policy form with a Retroactive Date* prior to the Agreement effective date, the Serco must purchase "extended reporting" coverage for a minimum of *five (5)* years after completion of Agreement work.
4. A copy of the claims reporting requirements must be submitted to the City for review.

#### ***Verification of Coverage***

Serco shall furnish the City with original certificates and amendatory endorsements or copies of the applicable insurance language effecting coverage required by this Agreement. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Serco's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

***Subcontractors***

Serco shall require and verify that all sub-consultants and/or subcontractors maintain insurance meeting all the requirements stated herein, and Serco shall ensure that Entity is an additional insured on insurance required from such sub-consultants and/or subcontractors.

***Special Risks or Circumstances***

City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

***Maintenance of Insurance***

Maintenance of insurance by Serco as specified shall in no way be interpreted as relieving Serco of its indemnification obligations or any responsibility whatsoever and the Serco may carry, at its own expense, such additional insurance as it deems necessary.

**Exhibit B**

**[Scope of Service; Compensation]**