

**CONTRACT FOR CONSULTANT SERVICES BETWEEN
THE CITY OF SALINAS AND ECOLOGY ACTION OF SANTA CRUZ**

THIS CONTRACT, is made and entered into this October 8, 2019, by and between the **City of Salinas**, a municipal corporation, hereinafter called "City," and **Ecology Action of Santa Cruz, a corporation**, hereinafter called "Consultant."

WITNESSETH

WHEREAS, the City needs to obtain certain professional, technical and/or specialized services of an independent contractor to assist the City in the most economical manner; and

WHEREAS, Consultant has the requisite skill, training, qualifications, and experience to render such services called for under this Contract to City.

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THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES.

Consultant shall perform those services as specified in detail in Exhibit "A," entitled "SCOPE OF SERVICES" which is attached hereto and incorporated herein.

SECTION 2. TERM OF CONTRACT.

The term of this Contract shall be from October 1, 2019 to September 30, 2020, inclusive.

SECTION 3. SCHEDULE OF PERFORMANCE.

The services of Consultant are to be completed according to the schedule set out in Exhibit "B," entitled "SCHEDULE OF PERFORMANCE," which is attached hereto and incorporated herein. Consultant will diligently proceed with the agreed Scope of Services and will provide such services in a timely manner in accordance with the "SCHEDULE OF PERFORMANCE."

SECTION 4. COMPENSATION.

The compensation to be paid to Consultant including both payment for professional services and reimbursable expenses as well as the rate and schedule of payment are set out in Exhibit "C" entitled "COMPENSATION," which is attached hereto and incorporated herein.

SECTION 5. METHOD OF PAYMENT.

Except as otherwise provided in Exhibit "C," quarterly, Consultant shall furnish to the City a statement of the work performed for compensation during the preceding quarter. Such statement shall also include a detailed record of the quarter's actual reimbursable expenditures.

SECTION 6. INDEPENDENT CONSULTANT.

It is understood and agreed that Consultant, in the performance of the work and services agreed to be performed by Consultant, shall act as and be an independent Consultant and not an agent or employee of City, and as an independent Consultant, shall obtain no rights to retirement benefits or other benefits which accrue to City's employees, and Consultant hereby expressly waives any claim it may have to any such rights.

SECTION 7. ASSIGNABILITY.

Consultant shall not assign or transfer any interest in this Contract nor the performance of any of Consultant's obligations hereunder, without the prior written consent of City, and any attempt by Consultant to so assign this Contract or any rights, duties or obligations arising hereunder shall be void and of no effect.

SECTION 8. INDEMNIFICATION.

Consultant has the expertise and experience necessary to perform the services and duties agreed to be performed by Consultant under this Contract, and City is relying upon the skill and knowledge of Consultant to perform said services and duties. Consultant shall defend, indemnify and hold harmless City, its officers and employees,

against any loss or liability arising out of or resulting in any way from work performed under this Contract due to the willful or negligent acts (active or passive) or errors or omissions by Consultant or Consultant's officers, employees or agents.

SECTION 9. INSURANCE.

Coverage shall be at least as broad as:

1. Commercial General Liability ("CGL"): Insurance Services Office ("ISO") Form 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 \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO Form CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: ISO Form CA 0001 covering Code 1 (any auto), with limits no less than \$1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation: as required by the State of California, with Statutory Limits, and Employers' Liability insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. Contractors' Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards): with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate, on an annual basis.

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

Self-Insured Retentions

Self-insured retentions must be declared to and approved by the City. At the option of the City, either: the Contractor shall cause the insurer shall to reduce or eliminate such self-insured retentions as respects the City, its officers, officials, employees, and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, 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.

Other Insurance Provisions

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

1. The City, 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 Contractor including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor. General liability coverage can be provided in the form of an endorsement to the Contractor'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).

2. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance coverage at least as broad as ISO 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 Contractor's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall provide that coverage shall not be canceled, except with notice to the City.
4. A copy of the claims reporting requirements must be submitted by Contractor to the City.
5. If the services involve lead-based paint or asbestos identification/remediation, the Contractor's Pollution Liability policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractor's Pollution Liability policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including mold.

Acceptability of Insurers

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best rating of no less than A: VII, unless otherwise acceptable to the City.

Waiver of Subrogation

Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

Verification of Coverage

Contractor shall furnish the City with original Certificates of Insurance including an additional insured endorsement and all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to City before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor'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

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors. For CGL coverage subcontractors shall provide coverage with a form at least as broad as CG 20 38 04 13.

Maintenance of Insurance

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

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.

SECTION 10. NON-DISCRIMINATION.

Consultant shall not discriminate, in any way, against any person on the basis of age, sex, race, color, creed, national origin, or disability in connection with or related to the performance of this Contract.

SECTION 11. TERMINATION.

A. City and Consultant shall have the right to terminate this Contract, without cause, by giving not less than ten (10) days written notice of termination.

B. If Consultant fails to perform any of its material obligations under this Contract, in addition to all other remedies provided by law, City may terminate this Contract immediately upon written notice.

C. The City Manager is empowered to terminate this Contract on behalf of City.

D. In the event of termination, Consultant shall deliver to City copies of all work papers, schedules, reports and other work performed by Consultant and upon receipt thereof, Consultant shall be paid in full for services performed and reimbursable expenses incurred to the date of termination.

SECTION 12. COMPLIANCE WITH LAWS.

Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments. Consultant shall obtain and maintain a City of Salinas business license during the term of this Contract.

SECTION 13. GOVERNING LAW.

City and Consultant agree that the law governing this Contract shall be that of the State of California. Any suit brought by either party against the other arising out of the performance of this Contract shall be filed and maintained in the Municipal or Superior Court of the County of Monterey.

SECTION 14. PRIOR CONTRACTS AND AMENDMENTS.

This Contract represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Contract may only be modified by a written amendment.

SECTION 15. CONFIDENTIAL INFORMATION.

All data, documents, discussions, or other information developed or received by or for Consultant in performance of this Contract are confidential and not to be disclosed to any person except as authorized by the City Manager or his designee, or as required by law.

SECTION 16. OWNERSHIP OF MATERIALS.

All reports, documents or other materials developed or received by Consultant or any other person engaged directly by Consultant to perform the services required hereunder shall be and remain the property of City without restriction or limitation upon their use.

SECTION 17. COVENANT AGAINST CONTINGENT FEES.

The Consultant covenants that Consultant has not employed or retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure the Contract, and that Consultant has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fees, commissions, percentage, brokerage fee, gift, or any other consideration contingent on or resulting from the award or making of this Contract, for breach or violation of this covenant, the City shall have the right to annul this Contract without liability, or in its discretion, to deduct from the contract price or consideration or otherwise recover, the full amount of such fee, commission, percentage fee, gift, or contingency.

SECTION 18. WAIVER.

Consultant agrees that waiver by City or any one or more of the conditions of performance under this Contract shall not be construed as waiver of any other condition of performance under this Contract.

SECTION 19. CONFLICT OF INTEREST.

A. A Consultant shall avoid all conflict of interest or appearance of conflict of interest in performance of this Contract. Consultant shall file a disclosure statement, if required by City Council Resolution, which shall be filed within thirty (30) days from the effective date of this Contract or such Resolution, as applicable.

B. No member, officer, or employee of the City, during their tenure, or for one (1) year thereafter, shall have any interest, direct or indirect, in this Contract or the proceeds thereof and Consultant agrees not to allow, permit, grant, transfer, or otherwise do anything which will result in such member, officer, or employee of the City from having such interest.

SECTION 20. AUDIT BOOKS AND RECORDS.

Consultant shall make available to City, its authorized agents, officers and employees, for examination any and all ledgers and books of account, invoices, vouchers, canceled checks and other records or documents evidencing or related to the expenditures and disbursements charged to the City, and shall furnish to City, its authorized agents and employees, such other evidence or information as City may require with respect to any such expense or disbursement charged by Consultant.

SECTION 21. NOTICES.

All notices shall be personally served or mailed, postage prepaid, to the following addresses, or to such other address as may be designated by written notice by the parties:

CITY

City of Salinas
200 Lincoln Ave.
Salinas, CA 93901
(831) 758-7381

CONSULTANT

Ecology Action of Santa Cruz
877 Cedar Street, Suite 240
Santa Cruz, CA 95060
(831) 426-5925

SECTION 22. EXHIBITS:

- Exhibit A: Scope of Services
- Exhibit B: Schedule of Performance
- Exhibit C: Compensation

WITNESS THE EXECUTION HEREOF, on the day and year first hereinabove written.

CITY

CONSULTANT

CITY OF SALINAS

BY _____
Joe Gunter, Mayor

BY _____
Charles Tremper, Vice President and
General Counsel

ATTEST:

BY _____
Patricia M. Barajas, City Clerk

APPROVED AS TO FORM:

BY _____
Christopher A. Callihan, City Attorney

EXHIBIT "A"

SCOPE OF SERVICES

Consultant shall provide professional consulting services during the term of the agreement. Specific types of services to be provided include, but are not limited to the following:

The Walk Smart Program is a two-part pedestrian safety education training. Part 1 involves an in-class presentation to teach critical safety best practices for young pedestrians. Part 2 involves a Walking Field Trip, in which children are required to walk through a series of exercises including stopping, looking both ways and crossing the street only when it is free of oncoming vehicles. The Walking Field Trip is typically conducted in the neighborhood around the school, although special accommodations can be made to host the training on the school blacktop, at the school's request. The program utilizes bilingual and bicultural staff. Ecology Action staff will coordinate with the Salinas Police Department and provide targeted educational handouts. The training gives students the necessary knowledge and hand-on training and parents the confidence to allow the children to walk and bike to school. *Target: At least thirty-three (33) 2nd Grade Classes (33 pedestrian safety presentations and 33 on-foot pedestrian trainings).*

The Bike Smart Program is also a two-part program, consisting of a 60-minute classroom presentation followed (on a separate day) by a 2-hour rodeo. Bike Smart classroom presentations use a variety of mediums: live demonstrations, animations, videos and discussions, to teach safety behavior to students. Lessons cover the benefits of bicycling, rules of the road, importance and correct use of bicycle helmet, choosing safe routes, safely navigating intersection crossings, being visible and other safe bike-handling topics. The on-bike safety obstacle course is led by bi-lingual, bi-cultural League of American Bicyclists League Certified Instructors. During the safety rodeo, students get the chance to practice the important safety skills they acquired during the presentation by riding a bicycle through a carefully constructed court. The Certified Instructor brings a fleet of bicycles and helmets that can be used by students who are not able to bring their own bicycles, ensuring that everyone can participate. *Target: At least twenty-two (22) 5th Grade Classes (22 classroom presentations and 22 bicycle safety rodeos).*

Adult Focused Outreach at community events such as Ciclovía, Farmer's Markets, National Night Out events, etc. *Target: At least five (5) Community Events.*

Presentations, Workshops, Outreach with an effort to reach adults, parents, homeless, and/or senior citizens. *Target: At least eight (8) presentations, workshops, or outreach events.*

Bicycle Helmets Ecology Action will purchase 290 bicycle helmets to be distributed at schools, community events, and bike/ped safety presentations. *Target: Two Hundred Ninety (290) helmets distributed to community members (including students).*

Bicycle Safety Equipment Ecology Action will purchase 100 pieces of bicycle safety equipment (including lights and reflectors) to be distributed at schools, community events, and bike/ped safety presentations. *Target: One Hundred (100) pieces of safety equipment distributed to community members (including students).*

EXHIBIT "B"

SCHEDULE OF PERFORMANCE

Services shall commence immediately upon execution of this Contract. All services performed under the provisions of this Contract shall be completed during the term of this Contract.

EXHIBIT "C"

COMPENSATION

a. Total Compensation. The total obligation of City under this Contract shall not exceed \$100,000.00.

b. Basis for Payment. Payment(s) to Consultant for services performed under this contract shall be made as follows and shall [not] include payment for reimbursable expenses:

Expenses	Cost
33 Classes for Walk Smart trainings	\$49,500.00
22 Classes Bike Smart trainings	\$38,500.00
5 Adult Focused Outreach Events	\$1,500.00
8 Presentations, Workshops, Outreach Opportunities	\$5,600.00
290 Bicycle Helmets	\$2,900.00
100 Pieces of Bicycle Safety Equipment	\$2,000.00
Total	\$100,000.00

c. Payment Request. Consultant shall submit a request for payment for services on a quarterly basis by letter to Director or said Director's designated representative. Such request for payment shall cover the preceding quarter period during the term hereof, shall note the City's purchase order number for this contract, shall contain a detailed listing of the total number of items or tasks or hours for which payment is requested, the individual dates on which such services were rendered, and invoices for reimbursable expenses, if any. Upon receipt in the Office of Director of said payment request, Director shall cause payment to be initiated to Consultant for appropriate compensation.