

**AGREEMENT — AMENDMENT NO. 1 TO
AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN
R3 CONSULTING GROUP, INC. AND CITY OF SALINAS**

This Amendment No. 1 to the Agreement for Professional Services (the "Amendment") is entered into this 29th day of November 2022, by and between the City of Salinas (the "City") and R3 Consulting Group, Inc. , (the "Contractor") City and Contractor may be individually referred to herein as a "Party" and collectively the City and Contractor may be referred to as the "Parties."

RECITALS

WHEREAS, the City and Contractor first entered into an Agreement for Professional Services effective December 14, 2021, pursuant to which Contractor agreed to act as and provide certain services to the City for compensation (the "Agreement"); and

WHEREAS, the City and Contractor desire to amend the Agreement to reflect a term extension.

NOW, THEREFORE, in mutual consideration of the terms and conditions set forth below, the Parties agree as follows:

TERMS

1. The Agreement, 2. Term; Completion Schedule section, is amended and restated in its entirety as follows:
 2. **Term; Completion Schedule.** This Agreement shall commence on December 14, 2021, and shall terminate June 30, 2024, unless extended in writing by either party upon (30) days written notice. 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.
2. All other covenants, terms, and conditions set forth in the Agreement and not amended by this Amendment shall remain in full force and effect as if fully set forth herein.

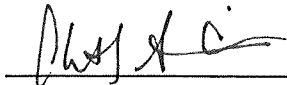
IN WITNESS WHEREOF, the undersigned, as authorized representatives of the City and Contractor have entered into this Agreement as of the date first written above.

CITY OF SALINAS



Steve Carrigan, City Manager

APPROVED AS TO FORM:



- Chris Callihan, City Attorney
 Rhonda Combs, Assistant City Attorney

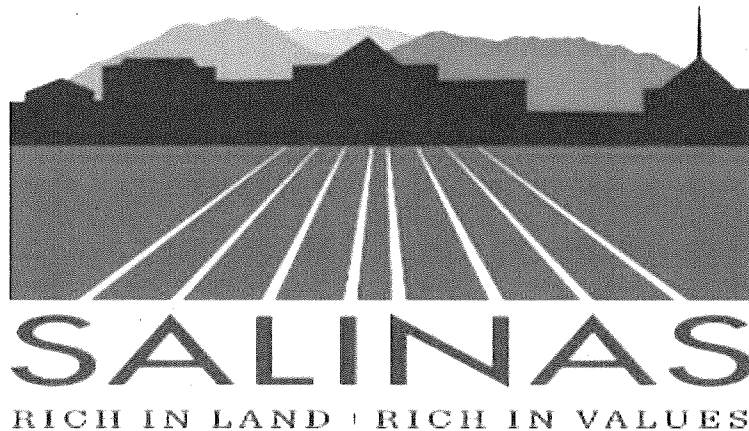
R3 CONSULTING GROUP, INC

Garth Schultz

Digitally signed by Garth Schultz
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email=gschultz@r3cgl.com, c=US
Date: 2022.11.28 16:23:49 -08'00'

Garth Schultz
Principal

AGREEMENT
FOR PROFESSIONAL SERVICES FOR
SOLID WASTE CONSULTANTS/
CONTRACTORS BETWEEN
THE CITY OF SALINAS AND R3
CONSULTING GROUP, INC.



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(E) The Consultant'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 Consultant 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 Consultant until thirty (30) days after a correct and complying invoice has been submitted by Consultant. The City shall process undisputed portion immediately.

5. **Meet and Confer.** Consultant 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 additional copies of reports, or any other material which Consultant is required to furnish as part of the services under this Agreement, Consultant shall provide such additional copies as are requested, and City shall compensate Consultant for the actual costs related to the production of such copies by Consultant.

7. **Responsibility of Consultant.** By executing this Agreement, Consultant 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, Consultant further agrees and represents to City that the Consultant 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 professional skills of Consultant to do and perform Consultant's work. Consultant further agrees and represents that Consultant shall follow the current, generally accepted practices in this area to the profession to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding the projects for which the services are rendered under this Agreement.

8. **Responsibility of City.** To the extent appropriate to the projects to be completed by Consultant pursuant to this Agreement, City shall:

(A) Assist Consultant by placing at its disposal all available information pertinent to the projects, 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) Examine all studies, reports, sketches, drawings, specifications, proposals, and other documents presented by Consultant, and render verbally or in writing as may be appropriate, decisions pertaining thereto within a reasonable time so as not to delay the services of Consultant.

14. 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 for any project to be completed under this Agreement. Consultant shall, upon receipt of said notice, determine the impact on both time and compensation of such change in scope and notify City in writing. Rate of compensation shall be based upon the Consultant's rates shown in **Exhibit B** of this Agreement. Upon agreement between City and Consultant 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 Consultant shall constitute the Consultant's notice to proceed with the changed scope.

15. Ownership of Documents. Title to all final documents, including drawings, specifications, data, reports, summaries, correspondence, photographs, computer software (if purchased on the City's behalf), video and audio tapes, software output, and any other materials with respect to work performed under this Agreement shall vest with City at such time as City has compensated Consultant, as provided herein, for the services rendered by Consultant in connection with which they were prepared. City agrees to hold harmless and indemnify the Consultant against all damages, claims, lawsuits, and losses of any kind including defense costs arising out of any use of said documents, drawings, and/or specifications on any other project without written authorization of the Consultant.

16. Termination.

(A) City shall have the authority to terminate this Agreement, upon written notice to Consultant, as follows:

(1) If in the City's opinion the conduct of the Consultant is such that the interest of the City may be impaired or prejudiced, or

(2) For any reason whatsoever.

(B) Upon termination, Consultant shall be entitled to payment of such amount as fairly compensates Consultant for all work satisfactorily performed up to the date of termination based upon the Consultant's rates shown in **Exhibit B** and/or Section 3 of this Agreement, except that:

(1) In the event of termination by the City for Consultant's default, City shall deduct from the amount due Consultant the total amount of additional expenses incurred by City as a result of such default. Such deduction from amounts due Consultant 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 consultant(s) for such purposes. In the event that such additional expenses shall exceed amounts otherwise due and payable to Consultant hereunder, Consultant shall pay City the full amount of such expense.

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

23. 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:

Ryan Calkins
Project Manager
1512 Eureka Road Suite 220,
Roseville, CA 95661

With a copy to:

Richard Tagore-Erwin
140 Poloke Place
Honolulu, HI 97822

(C) The execution of any such notices by the City Manager shall be effective as to Consultant as if it were by resolution or order of the City Council, and Consultant 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.

24. Nondiscrimination. During the performance of this Agreement, Consultant 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. Consultant shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion,

party outside the terms set forth in this Agreement as an inducement to enter into this Agreement.

33. 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.

34. 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.

35. 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

DocuSigned by:

Steven Carrigan

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Steve Carrigan
City Manager

APPROVED AS TO FORM:

DocuSigned by:

Christopher A. Callihan

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

CONSULTANT

DocuSigned by:

Richard Tagore-Erwin

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By: Richard Tagore-Erwin
Its: Principal

Other Insurance Provisions

- A. The General Liability, Automobile Liability, Contractors Pollution Liability, and/or Asbestos Pollution policies are to contain, or be endorsed to contain, the following provisions:
1. **The City of Salinas, its officers, officials, employees, and volunteers are to be covered as additional insureds** with respect to liability arising out of work or operations performed by or on behalf of the Consultant 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 Consultant's insurance (at least as broad as ISO Forms 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 Consultant's insurance coverage shall be primary insurance** coverage at least as broad as ISO CG 20 01 04 13 as respects the City of Salinas, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
 3. Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City.
- B. The Automobile Liability policy shall be endorsed to include Transportation Pollution Liability insurance, covering materials to be transported by Consultant pursuant to the contract. This coverage may also be provided on the Contractor's PLL policy.
- C. If General Liability, Contractors Pollution Liability and/or Asbestos Pollution Liability and/or Errors & Omissions coverages are written on a claims-made form:
1. The retroactive date must be shown and must be before the date of the contract or the beginning of Agreement of 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 contract effective date, the Consultant must purchase an extended period 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.
 5. If the services involve lead-based paint or asbestos identification / remediation, the Contractor's PLL policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification / remediation, the Contractor's PLL shall not contain a mold exclusion and the definition of "Pollution" shall include microbial matter including mold.

Exhibit B- Scope of Services; Compensation

Scope of Services

Task 1 On-Call, As Needed Assistance

The City may consider directing R3 to provide assistance on various tasks such as:

- » Continued negotiation assistance for City staff regarding Republic Services (Republic) and the new franchise agreement;
- » Continued negotiation assistance for matters pertaining to Republic and Salinas Valley Solid Waste Authority (SVSWA), outside of those in the new franchise agreement;
- » SB 1383 Support;
- » Assisting with on-site “right-sizing” of customer service levels and collection frequency;
- » Reviewing public education materials prepared by Republic;
- » Reviewing Republic’s implementation tasks per the approved operations plan, diversion plan, public education and outreach plan, and customer service plan;
- » Attending public meetings, meetings with Republic, and/or meetings with SVWMA; and
- » Any other task as determined by the City.

Please Note: For this task, R3 will only work on these items with prior authorization by the City.

Task 1 Deliverables:

- » As needed assistance, with prior authorization by the City.

Task 2 Contract Management Training & Support

The City intends to conduct professional contract management of its franchise agreement with Republic. Via this task, R3 will provide training and support to one designated City staff person with responsibility for management and oversight of the Republic franchise agreement.

Using the franchise agreement contract management guide developed by R3 for the City via potential on-call task, R3 will:

- » Prepare a contract management guide to include, but not be limited to the following:
- » Identify all franchise agreement terms and conditions requiring attention in 2022 (including such matters as quarterly and annual reports, diversion reports, franchise and other fee payments reports, outreach and education, etc.);
- » Provide staff with a description and schedule for monitoring the franchise agreement, including reports and other milestones;
- » Support staff in the review of reports, performance metrics, and other documents and communications from Republic;
- » Provide guidance and advice to staff regarding means of monitoring and addressing potential performance issues and Republic non-compliance with franchise agreement terms and conditions; and
- » Provide on-call assistance on contract management issues as requested by the City.

Task 2 Deliverables

R3 has prepared an aggressive schedule to facilitate the adoption of Municipal Code updates by January 1, 2022. However, delays in contract execution, City review timelines, or City Council meeting schedules may delay Municipal Code adoption until the next available City Council meeting in early 2022.

Task 4 Deliverables

- » Draft Municipal Code presenting recommended revisions as tracked changes;
- » Meeting(s) with City staff to review recommendations; and
- » (Optional) Meeting with City Attorney to discuss revisions.