

## **FIRST AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF SOUTH SAN FRANCISCO AND DU-ALL SAFETY**

THIS FIRST AMENDMENT TO THE CONSULTING SERVICES AGREEMENT is made at South San Francisco, California, as of July 1, 2022 by and between THE CITY OF SOUTH SAN FRANCISCO ("City"), a municipal corporation, and DU-ALL SAFETY ("Contractor"), (sometimes referred together as the "Parties") who agree as follows:

### RECITALS

A. On July 1, 2021, City and Contractor entered that certain Consulting Services Agreement ("Agreement") whereby Contractor agreed to provide safety consulting services and training for the City. A true and correct copy of the Agreement and its exhibits is attached as Exhibit A.

B. City and Contractor now desire to amend the Agreement.

NOW, THEREFORE, for and in consideration of the promises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Contractor hereby agree as follows:

1. All terms which are defined in the Agreement shall have the same meaning when used in this Amendment, unless specifically provided herein to the contrary.
2. Section 1. The July 1, 2022 end date for the term of services identified in Section 1 of the Agreement is hereby replaced with June 30, 2023.
3. Section 2. Section 2 of the Agreement shall be amended such that the City agrees to pay Contractor a sum not to exceed \$175,000, with the understanding that \$99,669 has already been paid to the Contractor.

Contractor agrees this is the City's total contribution for payment of costs under the Agreement unless additional payments are authorized in accordance with the terms of the Agreement and said terms of payment are mutually agreed to by and between the parties in writing.

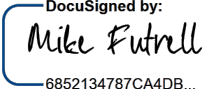
4. Section 2. Section 2 of the Agreement shall be amended such that the updated fee schedule reflecting current compensation rates is attached as Exhibit B.

All other terms, conditions and provisions in the Agreement remain in full force and effect. If there is a conflict between the terms of this Amendment and the Agreement, the terms of the Agreement will control unless specifically modified by this Amendment.

October 17, 2022 | 4:41:35 PM PDT

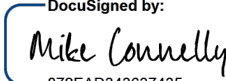
Dated: \_\_\_\_\_

CITY OF SOUTH SAN FRANCISCO

By:   
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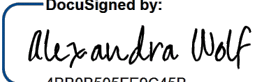
City Manager

CONTRACTOR


By:   
872EAD343637435...

Du-All Safety  
DU-ALL SAFETY

Approved as to Form:

By:   
4BB0B505FE9C45B...

City Attorney

ATTEST:   
5908B15FF63F418...

CITY CLERK



## Exhibit A

### CONSULTING SERVICES AGREEMENT BETWEEN THE CITY OF SOUTH SAN FRANCISCO AND DU-ALL SAFETY

THIS AGREEMENT for consulting services is made by and between the City of South San Francisco ("City") and Du-All Safety ("Consultant") (together sometimes referred to as the "Parties") as of July 1, 2021 (the "Effective Date").

**Section 1. SERVICES.** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as **Exhibit A**, attached hereto and incorporated herein, at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and **Exhibit A**, the Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on July 1, 2022 the date of completion specified in **Exhibit A**, and Consultant shall complete the work described in **Exhibit A** prior to that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as provided for in Section 8.
- 1.2 **Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession. Consultant shall prepare all work products required by this Agreement in a substantial, first-class manner and shall conform to the standards of quality normally observed by a person practicing in Consultant's profession.
- 1.3 **Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 **Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Sections 1.1 and 1.2 above and to satisfy Consultant's obligations hereunder.

**Section 2. COMPENSATION.** City hereby agrees to pay Consultant a sum not to exceed \$100,000, notwithstanding any contrary indications that may be contained in Consultant's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant's proposal, attached as **Exhibit A**, regarding the amount of compensation, the Agreement shall prevail. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City

in the manner specified herein. Except as specifically authorized by City, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

**2.1 Invoices.** Consultant shall submit invoices, not more often than once per month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- Serial identifications of progress bills (i.e., Progress Bill No. 1 for the first invoice, etc.);
- The beginning and ending dates of the billing period;
- A task summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
- At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder, as well as a separate notice when the total number of hours of work by Consultant and any individual employee, agent, or subcontractor of Consultant reaches or exceeds eight hundred (800) hours, which shall include an estimate of the time necessary to complete the work described in **Exhibit A**;
- The amount and purpose of actual expenditures for which reimbursement is sought;
- The Consultant's signature.

**2.2 Monthly Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Consultant. City shall have no obligation to pay invoices submitted ninety (90) days past the performance of work or incurrence of cost.

**2.3 Final Payment.** City shall pay the last ten percent (10%) of the total sum due pursuant to this Agreement within sixty (60) days after completion of the services and submittal to City of a final invoice, if all services required have been satisfactorily performed.



- 2.4 Total Payment.** City shall pay for the services to be rendered by Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

- 2.5 Hourly Fees.** Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the compensation schedule attached hereto and incorporated herein as Exhibit B.

- 2.6 Reimbursable Expenses.** Reimbursable expenses are included in the full-day and half-day rate as expressed in Exhibit B. Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.

- 2.7 Payment of Taxes, Tax Withholding.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes. To be exempt from tax withholding, Consultant must provide City with a valid California Franchise Tax Board form 590 ("Form 590"), as may be amended and such Form 590 shall be attached hereto and incorporated herein as Exhibit D. Unless Consultant provides City with a valid Form 590 or other valid, written evidence of an exemption or waiver from withholding, City may withhold California taxes from payments to Consultant as required by law. Consultant shall obtain, and maintain on file for three (3) years after the termination of this Agreement, Form 590s (or other written evidence of exemptions or waivers) from all subcontractors. Consultant accepts sole responsibility for withholding taxes from any non-California resident subcontractor and shall submit written documentation of compliance with Consultant's withholding duty to City upon request.

- 2.8 Payment upon Termination.** In the event that the City or Consultant terminates this Agreement pursuant to Section 8, the City shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets in order to verify costs incurred to that date.

- 2.9 Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

**Section 3. FACILITIES AND EQUIPMENT.** Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by

this Agreement. City shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City. In no event shall City be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

**Section 4. INSURANCE REQUIREMENTS.** Before beginning any work under this Agreement, Consultant, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Consultant shall provide Certificates of Insurance, attached hereto and incorporated herein as **Exhibit B**, indicating that Consultant has obtained or currently maintains insurance that meets the requirements of this section and under forms of insurance satisfactory, in all respects, to the City. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's bid. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s).

**4.1 Workers' Compensation.** Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than ONE MILLION DOLLARS (\$1,000,000) per accident. In the alternative, Consultant may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator (as defined in Section 10.9). The insurer, if insurance is provided, or the Consultant, if a program of self-insurance is provided, shall waive all rights of subrogation against the City and its officers, officials, employees, and volunteers for loss arising from work performed under this Agreement.

**4.2 Commercial General and Automobile Liability Insurance.**

**4.2.1 General requirements.** Consultant, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required

occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting there from, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

**4.2.2 Minimum scope of coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 or GL 0002 (most recent editions) covering comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (ed. 12/90) Code 8 and 9. No endorsement shall be attached limiting the coverage.

**4.2.3 Additional requirements.** Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. Any failure of Consultant to comply with reporting provisions of the policy shall not affect coverage provided to City and its officers, employees, agents, and volunteers.

#### **4.3 Professional Liability Insurance.**

**4.3.1 General requirements.** Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall not exceed ONE HUNDRED FIFTY THOUSAND DOLLARS \$150,000 per claim.

**4.3.2 Claims-made limitations.** The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant must provide extended reporting coverage for

a minimum of five (5) years after completion of the Agreement or the work. The City shall have the right to exercise, at the Consultant's sole cost and expense, any extended reporting provisions of the policy, if the Consultant cancels or does not renew the coverage.

- d. A copy of the claim reporting requirements must be submitted to the City prior to the commencement of any work under this Agreement.

#### **4.4 All Policies Requirements.**

**4.4.1 Acceptability of insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

**4.4.2 Verification of coverage.** Prior to beginning any work under this Agreement, Consultant shall furnish City with complete copies of all policies delivered to Consultant by the insurer, including complete copies of all endorsements attached to those policies. All copies of policies and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If the City does not receive the required insurance documents prior to the Consultant beginning work, it shall not waive the Consultant's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies at any time.

**4.4.3 Notice of Reduction in or Cancellation of Coverage.** A certified endorsement shall be attached to all insurance obtained pursuant to this Agreement stating that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City. In the event that any coverage required by this section is reduced, limited, cancelled, or materially affected in any other manner, Consultant shall provide written notice to City at Consultant's earliest possible opportunity and in no case later than ten (10) working days after Consultant is notified of the change in coverage.

**4.4.4 Additional insured; primary insurance.** City and its officers, employees, agents, and volunteers shall be covered as additional insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Consultant, including the insured's general supervision of Consultant; products and completed operations of Consultant, as applicable; premises owned, occupied, or used by Consultant; and automobiles owned, leased, or used by the Consultant in the course of providing services pursuant to this Agreement. The coverage shall contain no special limitations on the scope of protection afforded to City or its officers, employees, agents, or volunteers.

A certified endorsement must be attached to all policies stating that coverage is primary insurance with respect to the City and its officers, officials, employees and

volunteers, and that no insurance or self-insurance maintained by the City shall be called upon to contribute to a loss under the coverage.

- 4.4.5 Deductibles and Self-Insured Retentions.** Consultant shall disclose to and obtain the approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. Further, if the Consultant's insurance policy includes a self-insured retention that must be paid by a named insured as a precondition of the insurer's liability, or which has the effect of providing that payments of the self-insured retention by others, including additional insureds or insurers do not serve to satisfy the self-insured retention, such provisions must be modified by special endorsement so as to not apply to the additional insured coverage required by this agreement so as to not prevent any of the parties to this agreement from satisfying or paying the self-insured retention required to be paid as a precondition to the insurer's liability. Additionally, the certificates of insurance must note whether the policy does or does not include any self-insured retention and also must disclose the deductible.

During the period covered by this Agreement, only upon the prior express written authorization of Contract Administrator, Consultant may increase such deductibles or self-insured retentions with respect to City, its officers, employees, agents, and volunteers. The Contract Administrator may condition approval of an increase in deductible or self-insured retention levels with a requirement that Consultant procure a bond, guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

- 4.4.6 Subcontractors.** Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.
- 4.4.7 Wasting Policy.** No insurance policy required by Section 4 shall include a "wasting" policy limit.
- 4.4.8 Variation.** The City may approve a variation in the foregoing insurance requirements, upon a determination that the coverage, scope, limits, and forms of such insurance are either not commercially available, or that the City's interests are otherwise fully protected.

- 4.5 Remedies.** In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

- a. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- b. Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- c. Terminate this Agreement.

**Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.** To the fullest extent permitted by law, Consultant shall indemnify, defend with counsel selected by the City, and hold harmless the City and its officials, officers, employees, agents, and volunteers from and against any and all losses, liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct or negligent acts or omissions of Consultant or its employees, subcontractors, or agents, by acts for which they could be held strictly liable, or by the quality or character of their work. The foregoing obligation of Consultant shall not apply when (1) the injury, loss of life, damage to property, or violation of law arises wholly from the gross negligence or willful misconduct of the City or its officers, employees, agents, or volunteers and (2) the actions of Consultant or its employees, subcontractor, or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law. It is understood that the duty of Consultant to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

**Section 6. STATUS OF CONSULTANT.**

- 6.1 **Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant

and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

- 6.2 **Consultant No Agent.** Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent or to bind City to any obligation whatsoever.

## **Section 7. LEGAL REQUIREMENTS.**

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 **Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.
- 7.4 **Licenses and Permits.** Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals, including from City, of what-so-ever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.
- 7.5 **Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

## **Section 8. TERMINATION AND MODIFICATION.**

- 8.1 Termination.** City may cancel this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement for cause upon 30 days' written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Consultant shall be entitled to compensation for services performed to the date of notice of termination; City, however, may condition payment of such compensation upon Consultant delivering to City all materials described in Section 9.1.

- 8.2 Extension.** City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.
- 8.3 Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.
- 8.4 Assignment and Subcontracting.** City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not assign or subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 8.5 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination of this Agreement.
- 8.6 Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, the following:



- 8.6.1 Immediately terminate the Agreement;
- 8.6.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
- 8.6.3 Retain a different consultant to complete the work described in **Exhibit A** not finished by Consultant; or
- 8.6.4 Charge Consultant the difference between the cost to complete the work described in **Exhibit A** that is unfinished at the time of breach and the amount that City would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

## **Section 9. KEEPING AND STATUS OF RECORDS.**

- 9.1 **Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Consultant agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both parties unless required by law.
- 9.2 **Consultant's Books and Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.
- 9.3 **Inspection and Audit of Records.** Any records or documents that Section 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of three (3) years after final payment under the Agreement.
- 9.4 **Records Submitted in Response to an Invitation to Bid or Request for Proposals.** All responses to a Request for Proposals (RFP) or invitation to bid issued by the City become the exclusive property of the City. At such time as the City selects a bid, all proposals

received become a matter of public record, and shall be regarded as public records, with the exception of those elements in each proposal that are defined by Consultant and plainly marked as "Confidential," "Business Secret" or "Trade Secret."

The City shall not be liable or in any way responsible for the disclosure of any such proposal or portions thereof, if Consultant has not plainly marked it as a "Trade Secret" or "Business Secret," or if disclosure is required under the Public Records Act.

Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the City may not be in a position to establish that the information that a prospective bidder submits is a trade secret. If a request is made for information marked "Trade Secret" or "Business Secret," and the requester takes legal action seeking release of the materials it believes does not constitute trade secret information, by submitting a proposal, Consultant agrees to indemnify, defend and hold harmless the City, its agents and employees, from any judgment, fines, penalties, and award of attorneys fees awarded against the City in favor of the party requesting the information, and any and all costs connected with that defense. This obligation to indemnify survives the City's award of the contract. Consultant agrees that this indemnification survives as long as the trade secret information is in the City's possession, which includes a minimum retention period for such documents.

## **Section 10 MISCELLANEOUS PROVISIONS.**

- 10.1 Attorneys' Fees.** If a party to this Agreement brings any action, including arbitration or an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County San Mateo or in the United States District Court for the Northern District of California.
- 10.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

- 10.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 10.6 Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.7 Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of the City in the previous twelve (12) months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

- 10.8 Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.
- 10.9 Contract Administration.** This Agreement shall be administered by Leah Lockhart ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.
- 10.10 Notices.** All notices and other communications which are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given (i) when received if personally delivered; (ii) when received if transmitted by telecopy, if received during normal business hours on a business day (or if not, the next business day after delivery) provided that such facsimile is legible and that at the time such facsimile is sent the sending Party receives written confirmation of receipt; (iii) if sent for next day delivery to a domestic address by recognized overnight delivery service (e.g., Federal Express); and (iv) upon receipt, if sent by certified or registered mail, return receipt requested. In each case notice shall be sent to the respective Parties as follows:

Consultant:

Du-All Safety  
45950 Hotchkiss Street  
Fremont, CA 94539  
[safety@du-all.com](mailto:safety@du-all.com) / (510) 651-8289

City:

City Clerk  
City of South San Francisco  
400 Grand Avenue  
South San Francisco, CA 94080

- 10.11 Integration.** This Agreement, including all Exhibits attached hereto, and incorporated herein, represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral pertaining to the matters herein.
- 10.12 Counterparts.** This Agreement may be executed in counterparts and/or by facsimile or other electronic means, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterpart, shall constitute one Agreement, which shall be binding upon and effective as to all Parties..
- 10.13 Construction.** The headings in this Agreement are for the purpose of reference only and shall not limit or otherwise affect any of the terms of this Agreement. The parties have had an equal opportunity to participate in the drafting of this Agreement; therefore any construction as against the drafting party shall not apply to this Agreement.

The Parties have executed this Agreement as of the Effective Date.

CITY OF SOUTH SAN FRANCISCO

DocuSigned by:

*Mike Putrell*

6852134787CA4DB...

City Manager

Consultants

DocuSigned by:

*Mike Connelly - Du All*

872EAD343637436...

Mike Connelly  
Chief Operating Officer

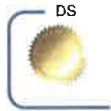
Attest:

DocuSigned by:

*Rosa Govea Acosta*

5908B15FF63F418...

City Clerk



Approved as to Form:

DocuSigned by:

*Sky Woodruff*

D47F525AE463483...

City Attorney

2729962.1

## **EXHIBIT A**

### **SCOPE OF SERVICES**

See Insert – DU-ALL Memorandum of Agreement for Environmental Health & Safety Maintenance



## **MEMORANDUM of AGREEMENT**

for

### ***Environmental Health & Safety Maintenance***

This Agreement is entered into by and between The City of South San Francisco, with its principal offices at 400 Grand Ave., So. San Francisco CA (Client) and Du-All Safety, LLC, located at 45950 Hotchkiss St, Fremont, CA (Du-All Safety) for the purpose of providing environmental health and safety consultation. The undersigned party (hereafter referred to as "Client") hereby agrees to the development and implementation of safety programs, employee training and compliance services by *Du-All Safety*, not to exceed 64 hours per month, as directed by the Client, based on Services Summary below:

#### **I. Services Summary:**

The following service summary is a menu of support services available to be provided, as requested by the client:

- a) Provide assessments of, development of, or updates to, written safety programs, policies, and procedures. Including, but not limited to:
  - Aerosol Transmissible Diseases (ATD), 8 CCR 5199.
  - Asbestos, 8 CCR 1529.
  - Bloodborne Pathogen, 8 CCR 5193.
  - Chemical Hygiene Plan, 8 CCR 5191
  - Codes of Safe Practices, 8 CCR 1509
  - Confined Space, 8 CCR 5157.
  - Emergency Action Plan, 8 CCR 3220.
  - Ergonomics, 8 CCR 5110.
  - Electrical Safety, NFPA 70E.
  - Fall Protection, 8 CCR 1669.
  - Fire Prevention Plan, 8 CCR 3221
  - Hazard Communication, 8 CCR 5194.
  - Heat Illness Prevention, 8 CCR 3395.
  - Hearing Conservation, 8 CCR 5099.
  - Hotwork, 8 CCR 4848.
  - Injury & Illness Prevention, 8 CCR 3203.
  - Lockout & Tagout, 8 CCR 3314.
  - Personal Protective Equipment (PPE), 8 CCR 3380.
  - Respiratory Protection, 8 CCR 5144.
  - Rigging, 8 CCR 4999
  - Workplace Violence, 8 CCR 3203.



- OSHA 10/30 hour
- Electrical Safety <sup>1</sup>
- Emergency Response
- Ergonomics
- Hearing Conservation <sup>1,2</sup>
- Hot Work <sup>1</sup>
- Injury & Illness Prev.<sup>1</sup>
- Ladder Safety <sup>1</sup>
- Scaffolding Safety <sup>1,2</sup>
- Spill Response
- Trenching & Shoring <sup>1</sup>
- Workplace Violence

<sup>1</sup> Indicates required training.

<sup>2</sup> Indicates *annual* training requirement.

72 hours advanced notice is required to cancel any scheduled training.

Client has an irrevocable license to reproduce all Du-All Safety copy written materials, including training materials developed by Du-All Safety, for the Client's internal use only.

- h) Required signs, labels, tags, placards, certificates, licenses, posting, etc. are provided at a reduced rate during the course of this agreement.
- i) Online safety training will be available at the preferred client maintenance rate during the course of this agreement.
- j) Recorded webinar trainings can be arranged and made available to Client at a cost of \$300 per topic, per calendar month, with no limit to the number of students. Certificates will not be issued for recorded sessions.
- k) Open enrollment classes held regularly at Du-All Safety, LLC in Fremont, CA will be provided at the reduced client maintenance rate, most classes are 50% off the standard rate.
- l) The Du-All Safety electronic newsletter, the Buzz on Safety will be provided at no additional charge during the course of this agreement to keep client up-to-date with the changes to EH&S laws that affect them.
- m) Provide the following general EH&S consultation services upon request and direction by the client:
  - Develop and maintain a EH&S training matrix that identifies each employee group and the required training and refresher frequency for each subject.
  - Develop and maintain an annual EH&S plan of action that identifies the compliance tasks targeted for each month.
  - Run or assist with regular scheduled safety committee meetings and/or tailgate meetings.
  - Conduct JSA's and/or AHA's.
  - Conduct and evaluate emergency drills.
  - Maintain copies of all training records.
  - Prepare safety training outlines, materials and schedule for client approval.
  - Prepare materials and have specialists available to assist at special management meetings as needed.





#### VI. Bankruptcy

In the event that either party shall cease conducting business in the normal course, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or assets or shall avail itself of, or become subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or the protection of rights or creditors, then at the option of the other party, this Agreement shall terminate and be of no further force and effect, and any property or rights of such other party, tangible or intangible, shall forthwith be returned to it.

#### III. Responsibility

Client accepts full responsibility for the environmental health and safety (EH&S) of their employees and facilities. Du-All Safety will provide best efforts to provide consultation services to assist the Client in achieving and maintaining EH&S compliance.

#### IV. Acceptance

I accept the terms of this agreement. I hereby authorize *Du-All Safety* to perform the work stated and I further agree to remit the amounts stated for any services performed by, or equipment provided by *Du-All Safety*, in a timely manner. This proposal is valid for 30 days.

#### Client Acceptance

Signature: Leah Lockhart  
Printed Name: Leah Lockhart  
Title: Human Resources Director  
Dated: 1/11/21  
Purchase order number: \_\_\_\_\_

#### Du-All Safety Approval

Signature: Mike Connelly - Du All  
872EAD343637435...  
Printed Name: Leah Lockhart  
Title: HR Director  
Dated: \_\_\_\_\_

**EXHIBIT B**

**INSURANCE CERTIFICATES**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/02/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION** IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b>		<b>CONTACT NAME:</b> Christine Emmons	
Ferguson-Leavitt Insurance		<b>PHONE (A/C, No, Ext):</b> (775) 782-5489	<b>FAX (A/C, No):</b> (775) 782-3630
1662 US Highway 395 N.		<b>E-MAIL ADDRESS:</b> christine-emmons@leavitt.com	
Suite 101		<b>INSURER(S) AFFORDING COVERAGE</b>	
Minden NV 89423		<b>INSURER A:</b> Homeland Insurance Company of New York	<b>NAIC #</b> 34452
		<b>INSURER B:</b> James River Insurance Company	12203
		<b>INSURER C:</b> Employers Compensation Insurance Company	11512
		<b>INSURER D:</b> Underwriters at Lloyds of London	15792
		<b>INSURER E:</b>	
		<b>INSURER F:</b>	

<b>COVERAGES</b>	<b>CERTIFICATE NUMBER:</b> 21-22 Master	<b>REVISION NUMBER:</b>
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THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y	Y	7930115470000	11/01/2021	11/01/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000 POLLUTION LIABILITY \$ 1,000,000 COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$	
B	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			CA4360117202	11/01/2021	11/01/2022	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 PER STATUTE <input checked="" type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000 EACH OCCURRENCE \$ 2,000,000 GENERAL AGGREGATE \$ 2,000,000	
A	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$ <input type="checkbox"/>			7930115480000	11/01/2021	11/01/2022	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 PER STATUTE <input checked="" type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000 EACH OCCURRENCE \$ 2,000,000 GENERAL AGGREGATE \$ 2,000,000	
C	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	Y	EIG240384805	11/01/2021	11/01/2022	E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000 EACH OCCURRENCE \$ 2,000,000 GENERAL AGGREGATE \$ 2,000,000
D	<b>PROFESSIONAL LIABILITY</b> RETRO 3 APR 2013				B0621PDUAL000721	11/01/2021	11/01/2022	EACH OCCURRENCE \$ 2,000,000 GENERAL AGGREGATE \$ 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of South San Francisco, its officers, employees, agents and volunteers are included as Additional Insured with respect to General Liability, insurance is Primary and Noncontributory, and Waiver of Subrogation applies, when required in written contract per policy provisions, conditions, and exclusions. Waiver of Subrogation further applies to Work Comp when required in written contract per policy provisions, conditions, and exclusions.

## CERTIFICATE HOLDER

City of South San Francisco  
400 Grand Ave

Soth San Francisco

CA 94080

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

*Christine Emmons*

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**WORKERS COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY**

**WC 04 03 06**  
(Ed. 4-84)

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT-CALIFORNIA**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 2 % of the California workers' compensation premium otherwise due on such remuneration.

**Schedule**

**Person or Organization**

**Job Description**

With respect to all employees subject to the workers' compensation laws of the state of California, any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

**This policy is subject to a minimum charge of \$250 for the issuance of waivers of subrogation**

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.  
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

This endorsement, effective 11/01/2021 at 12:01 AM standard time, forms a part of

Policy No. EIG 2403848 05

Of the EMPLOYERS PREFERRED INS. CO.

Carrier Code 00920

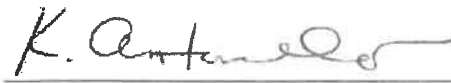
Issued to DU-ALL SAFETY LLC

Endorsement No.

Premium

Countersigned at \_\_\_\_\_ on \_\_\_\_\_

By:



Authorized Representative

**WC 04 03 06**

(Ed. 4-84)

© 1998 by the Workers' Compensation Insurance Rating Bureau of California. All rights reserved.

Policy Number: 793-01-15-47-0000

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION**

This endorsement modifies coverage provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
CONTRACTORS ENVIRONMENTAL LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

**Primary And Noncontributory Insurance**

This insurance is primary to, and will not seek contribution from, any other insurance available to an additional insured under this policy provided that:

- a. The additional insured is a named insured under such other insurance; and
- b. The **Named Insured** has agreed in writing in a contract or agreement that this insurance would:
  - (1) Act primary to any other insurance available to the additional insured; and
  - (2) Would not seek contribution from any other insurance available to the additional insured.

All other terms and conditions remain the same.

Policy Number: 793-01-15-47-0000

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST  
OTHERS TO US**

This endorsement modifies coverage provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
CONTRACTORS ENVIRONMENTAL LIABILITY COVERAGE PART

**SCHEDULE**

**Name Of Person Or Organization:**

Any person or organization that the "Named Insured" agreed to waive its rights of recovery against in a fully executed written contract.

The following is added to the **Transfer Of Rights Of Recovery Against Others To Us** condition of **SECTION IV – CONDITIONS**:

We waive any right of recovery we may have against the person or organization shown in the SCHEDULE above because of payments we make for injury or damage arising out of your negligence during:

1. Your ongoing operations; or
2. Your work;

performed under a written contract with such person or organization and included in the **products-completed operations hazard**. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such person(s) or organization(s) in the written contract prior to loss. This waiver applies only to the person or organization shown in the SCHEDULE above.

All other terms and conditions remain the same.

Policy Number: 793-01-15-47-0000

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS –  
SCHEDULED PERSON OR ORGANIZATION – FORM III**

This endorsement modifies coverage provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
CONTRACTORS ENVIRONMENTAL LIABILITY COVERAGE PART

**SCHEDULE**

<b>Name Of Additional Insured Person(s) Or Organization(s)</b>	<b>Location(s) Of Covered Operations</b>
Any person or organization that the Named Insured agreed to add as an additional insured in a written contract or written agreement that was fully executed by the Named Insured prior to the performance of the Named Insured's work that is the subject of such written contract or written agreement.	Any location, and completed operations at such location, where required by the written contract or written agreement in which the Named Insured agreed to add the person or organization qualifying as an additional insured under this endorsement.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**A. SECTION II – WHO IS AN INSURED** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for **bodily injury, property damage, environmental damage or personal and advertising injury** caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:**

This insurance does not apply to **bodily injury, property damage or environmental damage** occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or

2. That portion of **your work** out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

**C. With respect to the insurance afforded to these additional insureds, the following is added to SECTION III – LIMITS OF INSURANCE:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

All other terms and conditions remain the same.



Policy Number: 793-01-15-47-0000

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS –  
COMPLETED OPERATIONS**

This endorsement modifies coverage provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
CONTRACTORS ENVIRONMENTAL LIABILITY COVERAGE PART

**SCHEDULE**

**Name Of Additional Insured Person(s) Or Organization(s):**

Any person or organization that the Named Insured agreed to add as an additional insured in a written contract or written agreement that was fully executed by the Named Insured prior to the performance of the Named Insured's work that is the subject of such written contract or written agreement.

**Location And Description Of Completed Operations:**

Any location, and completed operations at such location, where required by the written contract or written agreement in which the Named Insured agreed to add the person or organization qualifying as an additional insured under this endorsement.

- A. SECTION II – WHO IS AN INSURED is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for **bodily injury, property damage or environmental damage** caused, in whole or in part, by **your work** at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the **products-completed operations hazard**.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

- B. With respect to the insurance afforded to these additional insureds, the following is added to 1. **Limits of Insurance** in SECTION III – LIMITS OF INSURANCE AND DEDUCTIBLE:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

All other terms and conditions remain the same.



## **Service Price List**

### **Monthly EH&S Maintenance Service Pricing Levels**

- ❖ Level A – 60+ hours per month- \$155/hr  
*(\*Loyalty pricing for CSSF of \$130/hr for 60+ hours of monthly environmental health and safety maintenance services)*
- ❖ Level B – 40 hours per month- \$165/hr
- ❖ Level C – 24 hours per month- \$180/hr
- ❖ Level D – 8 to 24 hours per month- \$195/hr

Support Clients are not charged for copies, certificates, mileage, postage, labels, postings, cards, etc.

The above pricing levels are based on an annual service agreement with minimum time required each month. **À la**

### **Carte Project Rates for Non-Maintenance Service Client:**

- ❖ \$1,975 Full- Day Rate
- ❖ \$1,075 Half- Day Rate

### **Webcast Recording and Web Hosting Fees**

- ❖ \$200\* Per Class per Month for EH&S Maintenance Clients
  - ❖ \$300\* Per Class per Month for Non- EH&S Maintenance Clients
- \*Does not include time to tailor presentation

### **Online Course Fees:**

- ❖ \$21 Basic OSHA Safety Course for EH&S Maintenance Clients
- ❖ \$31 Basic OSHA Safety Course for non- EH&S Maintenance Clients
- ❖ \$75 OSHA 10-hour Construction Safety Course
- ❖ \$145 OSHA 30-hour Construction Safety Course

### **COVID-19 Support Service Prices:**

- ❖ \$650 One-Time Set-up Fee (Includes custom-made QR forms, building entrance posters, visitor instructions), plus service fee (includes daily reports) dependent on number and size of locations.

### **Equipment**

- ❖ Du-All Safety sells equipment and PPE. Please call for pricing.