

**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, 2016 (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, 2017, 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 \$125,000 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 in Exhibit A.
- 2.6 **Reimbursable Expenses.** Reimbursable expenses are included in the full-day and half-day rate as expressed in Exhibit C. Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.
- 2.7 **Payment of Taxes.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes. Contractor represents and warrants that Contractor is a resident of the State of California in accordance with California Revenue & Taxation Code Section 18662, as may be amended, and is exempt from withholding. Contractor accepts sole responsible for verifying the residency status of any subcontractors and withhold taxes from non-California subcontractors as required by law.
- 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 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. 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 LaTanya Bellow ("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:

Du-All Safety
45950 Hotchkiss Street
Fremont, CA 94539
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 **Professional Seal.** Where applicable in the determination of the contract administrator, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation. The stamp/seal shall be in a block entitled "Seal and Signature of Registered Professional with report/design responsibility," as in the following example.

Seal and Signature of Registered Professional with
report/design responsibility.

- 10.12 **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.

10.13 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

10.14 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


City Manager

Consultants


Mike Connelly
DU-ALL SAFETY

Attest:


Krista Martineill, City Clerk

Approved as to Form:


City Attorney

2051688.4

**EXHIBIT A
SCOPE OF SERVICES**



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 103 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.

45950 HOTCHKISS STREET • FREMONT, CA 94539 • TEL: (510) 651-8289 • FAX: (510) 651-8937
<http://www.du-all.com> • E-mail: safety@du-all.com

- b) Assist with the following safety recordkeeping requirements:
- Accident Investigations
 - Required Posting
 - Inspections & Assessments
 - Safety Training Records
 - Industrial Hygiene Surveys
 - CAL/OSHA 300 Log
 - Employee Communications
 - Safety Committee Meeting Minutes
 - Medical Surveillance
- c) Provide assessments of, development of, or updates to, written environmental health programs and related permits. The environmental services and written programs that are available include:
- Air Quality Management District Air Permits, *Local Regulation*.
 - Hazardous Materials Business Plan, *CH&SC 25500*.
 - Hazardous Waste Management, *22 CCR 66261 – 66280*.
 - Medical Waste Management, *CH&SC 117935 & 117960*.
 - Spill Prevention and Countermeasures Plan, *40 CFR 112*
 - Storm Water Pollution Prevention Program, *Order 97-03-DWQ*.
 - Underground Storage Tank Management, *23 CCR 2600 -2715*.
- d) Assist with the following environmental health recordkeeping requirements:
- Chemical Inventory
 - Spill Response Systems
 - CFC-12 & HFC-134 compliance
 - MSDS Procurement
 - Facility Mapping
 - Hazardous Material Placarding
- e) Perform risk assessments and job hazard analysis (JHA) of hazardous operations as required.
- f) Conduct periodic facility EH&S inspections. Inspection findings of the hazards observed are provided in a checklist format with recommended corrective actions. Reports are sent to the client within a week of the inspection.
- g) Provide regular on-site training at the direction of the client. Topics include:
- | | | |
|------------------------------------|---------------------------------------|---|
| • ATD Standard ^{1,2} | • Fall Protection ¹ | • Lane Closure ¹ |
| • Automotive Lift Safety | • Fire Extinguisher ^{1,2} | • Lead Handling ¹ |
| • Asbestos ^{1,2} | • First Aid/CPR/AED ¹ | • Lockout /Tagout ^{1,2} |
| • Back Safety | • First Responder ^{1,2} | • Machine Tools ¹ |
| • Bloodborne Pathogen ² | • Forklift Certification ¹ | • Utility Location ^{1,2} |
| • Bug bites & Animals | • Hazard Communication ¹ | • PPE ¹ |
| • Confined Spaces ¹ | • Hazardous Waste ^{1,2} | • Lawn Mowers ¹ |
| • DOT Requirements ¹ | • HAZWOPER ^{1,2} | • Respiratory Protection ^{1,2} |
| • Driver Safety | • Heat Illness ¹ | • Rigging |
| • OSHA 10/30 hour | • Hearing Conservation ^{1,2} | • Scaffolding Safety ^{1,2} |
| • Electrical Safety ¹ | • Hot Work ¹ | • Spill Response |
| • Emergency Response | • Injury & Illness Prev. ¹ | • Trenching & Shoring ¹ |
| • Ergonomics | • Ladder Safety ¹ | • Workplace Violence |
- ¹ Indicates required training.
- ² 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) 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.
- k) 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.
- l) 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.
 - Assist with any regulatory agency inspection (i.e. EPA, CUPA, County Health Dept., Fire Dept., Cal/OSHA, BAAQMD, DTSC, USACE, etc.).
 - Du-All Safety consultants will be available for special meetings with managers /supervisors to support the EH&S compliance progress.
 - Conduct ergonomic workstation evaluations.
 - Prepare a monthly status report of the above activities.

III. Terms and Conditions

Billing Procedure:

- a) Client agrees to pay a total monthly cost of \$10,302 for services as requested from the services summary.
- b) Additionally requested monthly service hours beyond on hundred and three (103) will be charged at the preferred client rate of: \$100. per hour.
- c) All safety equipment, medical surveillance, and other compliance items are the Client's responsibility to purchase. These items, however, can be purchased and/or coordinated through Du-All Safety.
- d) All time is charged at one hourly rate. This includes correspondence, preparation, report writing, training, travel, etc.
- e) Payment for all services and equipment will be remitted by Client to *Du-All Safety* upon receipt of any services or merchandise.
- f) Cancellation of any schedule service requires minimum of 72 hours notice.
- g) All invoices are due net 30 days from receipt.

- h) Any *additions* to this memorandum of agreement will be attached to the back of the agreement. Initial here if additions are so attached: _____

(Client initials)

IV. **Duration**

- a) Both parties are bound to this agreement for no less than one (1) year.
- b) Client may request a one (1) year extension of this contract, at the current contracted rate, if requested on or before April 1st, 2017.

V. **Integrated Contract**

This written agreement is the complete and entire understanding between the parties and supersedes any oral agreements made prior to the signing of this agreement. Any changes to this agreement can only be made with the consent of both parties.

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. **Inducing Employees to Leave Du-All Safety or Attempt to Hire Employees of Du-All Safety**

Any attempt on the part of Client or former Client to induce employees to leave Du-All Safety's employ, or any effort by Client or former Client to interfere with Du-All Safety's relationship with its employees would be harmful and damaging to Du-All Safety. Client agrees that during the term of employment and for a period of three (3) years thereafter, Client or former Client will not in any way, directly or indirectly (i) induce or attempt to induce any employee of Du-All Safety to quit employment with Du-all Safety; (ii) otherwise interfere with or disrupt Du-All Safety's relationship with its employees; (iii) solicit, entice, or hire away an Employee of Du-All Safety; or (iv) hire or engage any employee of Du-all Safety or any former employee of Du-all Safety whose employment with Du-All Safety ceased less than one year before the date of such hiring or engagement.

V. **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.

EXHIBIT B

INSURANCE CERTIFICATES

0171

COMMERCIAL GENERAL LIABILITY

NAMED INSURED ENDORSEMENT EFFECTIVE POLICY NUMBER

DU ALL SAFETY LLC 01-12-16 49-57878-05

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization: CITY OF SOUTH SAN FRANCISCO

400 GRAND AVE

SOUTH SAN FRANCISCO, CA 94080

(CERT #0171)

The following is added to Paragraph 8. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US 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 ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

CG 24 04 05 09

Copyright Insurance Services Offices, Inc., 1992

DU 49-57878-05 40 151

06-06-16

PAGE 001

#21

0171

WORKERS' COMPENSATION AND EMPLOYERS LIABILITY INSURANCE POLICY

POLICY NUMBER: 49-57878-03 00 151

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

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.)

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

Schedule

CITY OF SOUTH SAN FRANCISCO

400 GRAND AVE

SOUTH SAN FRANCISCO, CA 94080

(CERT #0171)

WC 00 03 13 (Ed. 04-84)

Copyright 1983 National Council on Compensation Insurance.

DU 49-57878-03 00 151 DU ALL SAFETY LLC

06-06-16

PAGE 001

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

THIS FIRST AMENDMENT TO THE CONSULTING SERVICES AGREEMENT is made at South San Francisco, California, as of JULY 2, 2017 by and between THE CITY OF SOUTH SAN FRANCISCO ("City"), a municipal corporation, and DU-ALL SAFETY ("Consultant"), (sometimes referred together as the "Parties") who agree as follows:

RECITALS

A. On July 1, 2016, City and Contractor entered that certain Consultant Services Agreement ("Agreement") whereby Consultant agreed to provide the City with safety services as defined in scope of work. A true and correct copy of the Agreement and its exhibits is attached as Exhibit A.

B. City and Consultant 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 Consultant 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, 2017 end date for the term of services identified in Section 1 of the Agreement is hereby replaced with July 1, 2018.
3. Section 2: Compensation. Section 2 of the Agreement shall be extended such that the City agrees to pay Consultant a sum not to exceed \$250,000, for a second year of service, with the understanding that up to \$117,554 has already been paid to Consultant for the first year of service.

Consultant 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. Scope of Services. The Scope of services is amended and attached as Exhibit B to this Amendment.

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.

[SIGNATURES ON THE FOLLOWING PAGE]

Dated: _____

CITY OF SOUTH SAN FRANCISCO

CONSULTANT

By: _____
City Manager

By: _____
DU-ALL SAFETY

Approved as to Form:

By: _____
City Attorney

EXHIBIT A

RESOLUTION NO. 30-2016

CITY COUNCIL, CITY OF SOUTH SAN FRANCISCO, STATE OF CALIFORNIA

**A RESOLUTION APPROVING THE MID-YEAR 2015-16
BUDGET AMENDMENT CHANGES, AMENDING THE
CITY'S 2015-16 OPERATING BUDGET IN ORDER TO
ADJUST REVENUES AND EXPENDITURES AT MID-YEAR.**

WHEREAS, staff has presented the South San Francisco City Council ("City Council") with a review of the City of South San Francisco's ("City") finances for the Mid-Year of fiscal year 2015-16; and

WHEREAS, it is recommended that the City Council review the 2015-16 Mid-Year Financial Report and approve the Mid-Year 2015-16 Budget Amendment Changes as shown in the Mid-Year 2015-16 Budget Update Summary, attached hereto as "Attachment A" and incorporated into this Resolution by reference; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of South San Francisco that the City Council hereby takes the following actions:

- 1. Approves the Mid-Year 2015-16 Budget Amendment Changes as shown in the Budget Update Summary, attached hereto as "Attachment A," and incorporated into this Resolution by reference; and**
- 2. Amends the City's 2015-16 Operating Budget consistent with the Mid-Year Budget Update Summary, attached hereto as "Attachment A" and incorporated into this Resolution by reference; and**

* * * * *

I hereby certify that the foregoing Resolution was regularly introduced and adopted by the City Council of the City of South San Francisco at a regular meeting held on the 24th day of February, 2016 by the following vote:

AYES: Councilmembers Karyl Matsumoto, Richard A. Garbarino, and Liza Normandy

Vice Mayor Pradeep Gupta and Mayor Mark N. Addiego

NOES: None

ABSTAIN: None

ABSENT: None

ATTEST:


Krista Martinelli, City Clerk

EXHIBIT B

City of South San Francisco

Safety Plan of Action

July 2017-June 2018

Rev. 7.13.2017



Month	Topic
July 2017	<ul style="list-style-type: none">• Finalize Bloodborne Pathogens Programs• Finalize Aerosol Transmissible Diseases Program• Finalize Heat Illness Program• Safety Committee Meeting• Conduct Field Crew Assessments
August 2017	<ul style="list-style-type: none">• Conduct Confined Space Assessments• Conduct Confined Space training• Finalize Fall Protection Program• Conduct Accident Investigation training• Conduct IIPP training• Conduct Field Crew Assessments
September 2017	<ul style="list-style-type: none">• Develop Emergency Action Plans• Develop Confined Space Program• Develop Hazard Communication Program• Conduct ATD training• Safety Committee Meeting• Conduct Field Crew Assessments
October 2017	<ul style="list-style-type: none">• Conduct Noise Measurements• Develop Emergency Action Plans• Develop Hearing Conservation Program• Conduct Field Crew Assessments
November 2017	<ul style="list-style-type: none">• Conduct Hazard Communication training• Conduct Hearing Conservation training• Conduct Hearing Tests• Develop Personal Protective Equipment Program• Safety Committee Meeting

	<ul style="list-style-type: none"> • Conduct Field Crew Assessments
December 2017	<ul style="list-style-type: none"> • Conduct Emergency Action Plan training • Start Respiratory Protection Program • Conduct Field Crew Assessments
January 2018	<ul style="list-style-type: none"> • Finalize Respiratory Protection Program • Conduct Personal Protective Equipment training • Safety Committee Meeting • Facility Inspections • Conduct Field Crew Assessments
February 2018	<ul style="list-style-type: none"> • Conduct Respiratory Protection training • Conduct FIT tests • Develop Equipment Specific Lockout/Tagout Procedures • Facility Inspections • Conduct Field Crew Assessments
March 2018	<ul style="list-style-type: none"> • Develop Hotwork Program • Develop Code of Safe Practices • Develop Equipment Specific Lockout/Tagout Procedures • Safety Committee Meeting • Conduct Field Crew Assessments
April 2018	<ul style="list-style-type: none"> • Conduct Evacuation Drills • Conduct Hotwork training • Develop Code of Safe Practices • Develop Equipment Specific Lockout/Tagout Procedures • Conduct Field Crew Assessments
May 2018	<ul style="list-style-type: none"> • Conduct Hazardous Waste Management classes • Conduct Hazardous Waste Operations Emergency Response (HazWoper) • Safety Committee Meeting • Conduct Field Crew Assessments
June 2018	<ul style="list-style-type: none"> • Develop Code of Safe Practices • Develop Equipment Specific Lockout/Tagout Procedures • Conduct Field Crew Assessments

SECOND AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF SOUTH SAN FRANCISCO AND DU-ALL SAFETY

THIS SECOND AMENDMENT TO THE CONSULTING SERVICES AGREEMENT is made at South San Francisco, California, as of July 1, 2018 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 17, 2016, 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. On September 6, 2017, City and Contractor amended the Consulting Services Agreement ("First Amendment") to provide for an additional year of Consultant services. A true and correct copy of the First Amendment and its exhibits is attached as Exhibit B.

C. 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, 2018 end date for the term of services identified in Section 1 of the Agreement is hereby replaced with July 1, 2019.
3. Section 2. Section 2 of the Agreement shall be amended such that the City agrees to pay Contractor a sum not to exceed \$375,000, with the understanding that up to \$238,964 has already been paid to 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. Scope of Services. The Scope of services is amended and attached as Exhibit C to this Amendment.

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.

[SIGNATURES ON THE FOLLOWING PAGE]

EXHIBIT C

City of South San Francisco

DU-ALL

Safety Scope of Work

July 2018 – June 2019

Action Item	Timeframe
Safety Committee Meetings	Every two months
Conduct Facility Inspections	Monthly
Continue regular and periodic inspections of field crews and work areas	Monthly
Conduct Hotwork Training Conduct Portable Ladder Training Develop Emergency Action Plan for FD	August 2018
Finalize Written lockout/tagout procedures Conduct Lockout/Tagout Training Finalize Facility Specific Emergency Action Plans	September, 2018
Conduct ATD, BBP and Respiratory Protection Training for PD and FD Develop Hotwork Plan	October, 2018
Develop Spill Prevention Control and Countermeasures Plan (SPCC) Conduct ATD, BBP and Respiratory Protection Training for PD and FD	November, 2018
Conduct Fire Extinguisher Training Develop Respiratory Protection Plan	December, 2018

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[SIGNATURES ON THE FOLLOWING PAGE]

EXHIBIT C

City of South San Francisco

DU-ALL

Safety Scope of Work

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