

***AGREEMENT BY AND BETWEEN THE TOWN OF SOUTH CLE ELUM,  
WASHINGTON AND SAFE BUILT, LLC, A WASHINGTON LIMITED  
LIABILITY CORPORATION, FOR BUILDING DEPARTMENT SERVICES***

This Agreement By And Between the Town of South Cle Elum, Washington And Safe Built, LLC, A Washington Limited Liability Corporation, For Services ("Agreement") is made effective as of 10/1/17, by and between Town of South Cle Elum ("Town") of 523 Lincoln Ave, PO Box 160 South Cle Elum, WA, and Safe Built, LLC, a Washington limited liability corporation ("Safe Built") of PO Box 401, Ellensburg, Washington 98926.

WHEREAS, THE Town wishes to engage Safe Built to provide services for, among others, any and all building and zoning code enforcement services and other miscellaneous services as provided by this Agreement.

WHEREAS, Safe Built wishes to provide such services; and,

WHEREAS, in order to clearly set forth the scope of services, responsibilities, powers, agreements, and rights of the parties, the Town and Safe Built enter into this Agreement;

NOW THEREFORE, in consideration of the recital, promises, and covenants herein set forth, and other good and valuable consideration, the sufficiency of which the parties acknowledge, the parties agree as follows:

**1. DESCRIPTION OF SERVICES.** Beginning on 10/1/17, Safe Built will provide to the Town of South Cle Elum the services described in Attachment A at the rates or charges set forth in Attachment B.

The Town authorizes the Safe Built to perform all required enforcement and inspections, for the purposes of code enforcement of buildings and structures within the incorporated boundaries of the Town based upon the Washington State Building Codes, and all applicable Federal, State or Town laws, statutes, ordinances, codes or regulations now enacted or as hereafter amended (collectively "Codes"), related to building construction or land development/improvement, and Safe Built agrees to perform the services in accordance with said Codes.

The services to be provided by SAFE BUILT to the Town are listed in "Attachment A - List of Services Provided by SAFE BUILT for the Town of South Cle Elum." Services may be added, deleted, or modified from time to time if jointly agreed upon by both parties in a written addendum to this Agreement. The parties further agree that the fees listed in "Attachment B - Fee Schedule for services provided by SAFE BUILT" may be modified in written addendum to this Agreement in the event services provided by SAFE BUILT to the Town are added, deleted or modified from those stated in Attachment A after time this Agreement is made effective by the date above.

SAFE BUILT shall utilize the International, Federal, State and Local Codes as its governing criteria in all code enforcement investigations and inspections performed by SAFE BUILT.

SAFE BUILT shall, from time to time, at the request of the Town or as deemed appropriate by SAFE BUILT, make recommendations for improvements, updates, additions, or deletions to the Town's Codes to maintain the standards desired by the Town of South Cle Elum.

SAFE BUILT shall investigate complaints of Code violations, when directed by an administrative officer of the Town. Following such investigation, SAFE BUILT shall report to the Town's Chief Administrative Officer and, when instructed to do so, shall provide a written summary of such Investigation to the Chief Administrative Officer. All investigations and reporting shall be performed by SAFE BUILT at no cost or expense to the Town; provided that SAFE BUILT may charge a standard investigation fee to the owner as stated in Attachment B, to be passed through the Town as charges incurred on behalf of the Town to implement enforcement actions on the property owner. At the request of the Town and upon approval of SAFE BUILT, and subject to payment at the hourly rate identified on "Attachment B" for such services, SAFE BUILT shall assist the Town in pursuing administrative, criminal, and/or civil remedies against any violator of any Codes including but not limited to, providing testimony by Safe Built inspectors in any proceedings regarding the violation.

SAFE BUILT is and shall be an independent contractor and not an agent of the Town. Any provisions in this Agreement that may appear to give the Town the right to direct SAFE BUILT as to details of doing work or to exercise a measure of control over the work mean that SAFE BUILT shall follow the direction of the Town as to end results of the work only. As an independent contractor, Safe Built LLC and anyone employed by Safe Built LLC is not entitled to workers' compensation benefits except as provided by SAFE BUILT nor to unemployment insurance benefits unless unemployment compensation coverage is provided by SAFE BUILT or some other entity. The Town shall not be liable for the direct payment of any salaries, wages, payroll taxes, unemployment benefits, or any and all other forms or types of compensation or benefit to any personnel performing inspection services herein for said The Town. SAFE BUILT acknowledges that neither it nor its employees are covered by the Town's Workers' Compensation policy. Accordingly, SAFE BUILT acknowledges and agrees that SAFE BUILT is statutorily required to have in place, make available, and provide Workers' Compensation insurance for all its employees.

The compensation set forth in Attachment B shall be inclusive of all costs of any nature associated with the Contractor's efforts, including but not limited to salaries, benefits, expenses, overhead, administration, profits, expenses and outside consultant or subcontractor fees. As the Contractor is an independent contractor, the Town shall have no liability or responsibility for any direct payment of any salaries, wages, payroll taxes, or any and all other forms or types of compensation or benefits to any personnel performing inspection services for the Town under this Agreement.

### **Insurance**

Safe Built LLC agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by SAFE

BUILT pursuant to this Agreement. Such insurance shall be in addition to any other insurance requirements imposed by law.

At a minimum, SAFE BUILT shall procure and maintain, and shall cause any subcontractor of SAFE BUILT to procure and maintain, the minimum insurance coverage listed below. Such coverage shall be procured and maintained with forms and insurers acceptable to the Town. In the case of any claims made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

Worker's compensation insurance to cover obligations imposed by applicable law for any employee engaged in the performance of work under this Agreement, and Employer's Liability insurance with minimum limits of one hundred thousand dollars (\$100,000) each accident, one hundred thousand dollars (\$100,000) disease - policy limit, and one hundred thousand dollars (\$100,000) disease - each employee. Evidence of qualified self-insured status may be substituted for the worker's compensation requirements of this paragraph.

Commercial general liability insurance with minimum combined single limits of one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent Safe Built's, products, and completed operations. The policy shall contain a severability of interest provision, and shall be endorsed to include the Town and the Town's officers, employees, and consultants as additional insured's. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.

Professional liability insurance with minimum limits of one million dollars (\$1,000,000) each claim and one million dollars (\$1,000,000) general aggregate.

Not less than thirty days after the effective date of this agreement, SAFE BUILT will provide to the Town a Certificate of Coverage from said insurer demonstrating proof of said coverage and endorsements as set forth above.

SAFE BUILT agrees to indemnify and hold harmless the Town, its officers and employees from and against all liability, claims and demands on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss, or damage to the extent caused by the negligent act, omission, or error of Safe Built, or any officer, employee, representative or agent of SAFE BUILT.

The Town shall indemnify SAFE BUILT for claims against SAFE BUILT arising from the proper enforcement of any Codes, which are determined by a court of competent jurisdiction to be unconstitutional or otherwise invalid.

SAFE BUILT or its employees shall not be deemed to assume any liability for intentional or negligent acts of the Town or any of its officers, agents, or employees. The Town agrees to indemnify and hold harmless SAFE BUILT from any and all claims arising from such acts. The

Town further agrees to investigate, handle, respond to and to provide defense for and defend against or at the Town's option to pay the attorney's fees for defense counsel of the Town's choice for, any such liability, claims, or demands.

SAFE BUILT agrees to procure and maintain, at its own cost a policy or policies of insurance sufficient to ensure against all liability, claims, demand, and other obligations assumed by SAFE BUILT pursuant to the provisions set forth above. Such coverage shall be procured and maintained with forms and insurers acceptable to the Town.

If the Town ordinances or Codes do not specify when a Code enforcement action or proceeding expires, SAFE BUILT will remove from active status (expire) all case files that have been inactive for a period greater than 180 calendar days. Inactive files are those where work has been suspended, abandoned, or no inspections, research or additional action have been requested; and the violator has not requested an extension during any consecutive 180 calendar day period.

Either party may terminate this Agreement upon written notice of at least five (30) business days. In the event of termination, SAFE BUILT will be compensated up through the last day of work actually performed in accordance with the terms of this Agreement

**2. INVOICING AND PAYMENT.** For all services rendered, SAFE BUILT shall prepare an invoice for said services that specifies the dates services are rendered, identification of the specific services in accordance with those set forth in Attachment B, reference to the project for which services are rendered, the hours spent and/or permit fee used to calculate the costs of services, and any other information the Town may reasonably require for its own accounting or auditing purposes.

Payment shall be made to Safe Built LLC, Ellensburg, Washington 98926. The Town agrees to pay Safe Built within (30) days of receipt of invoice

In consideration of SAFE BUILT providing such services, the Town shall pay SAFE BUILT for the services performed on each code enforcement action in accordance with the fee schedule included herein as "Attachment B - Fee Schedule for Building Department Services Provided by SAFE BUILT. All service fees will be billed and submitted by SAFE BUILT to the Town on a semi-monthly basis. The Town will use its best efforts and diligence in paying all bills and invoices received by the Town and, where the bill or invoice is complete and accurate, the Town shall pay such bill or invoice within thirty (30) days of receipt by the Town, provided that nothing in this provision shall be construed as a waiver and the Town reserves any and all rights to, among others, request supporting documentation, inspect records, or otherwise question the invoiced work per the terms of this Agreement.

**3. TERM.** This Contract may be terminated by either party upon (30) day's prior written notice to the other party as provided herein.

This Agreement shall be effective upon execution and remain in effect for a period of 1 year, unless terminated sooner in accordance with the provisions of this Agreement. Thereafter, this agreement will automatically continue until either party provides five (30) days written notice of termination to the other party.

The Town and its duly authorized representatives shall have access to any books, documents, papers and records of SAFE BUILT that are related to this Agreement for the purposes of audit or examination, other than SAFE BUILT's financial records not otherwise related to this Agreement, and may make excerpts and transcriptions of the same.

**4. CONFIDENTIALITY AND PUBLIC RECORD KEEPING.** SAFE BUILT, and its employees, agents, or representatives will not at any time or in any manner, either directly or indirectly, use for the personal benefit of Safe Built, or divulge, disclose, or communicate in any manner, any information that is proprietary to the Town. SAFE BUILT and its employees, agents, and representatives will protect such information and treat it as strictly confidential. This provision will continue to be effective after the termination of this Contract. Any oral or written waiver by the Town of these confidentiality obligations which allows Safe Built to disclose the Town's confidential information to a third party will be limited to a single occurrence tied to the specific information disclosed to the specific third party, and the confidentiality clause will continue to be in effect for all other occurrences.

All building inspection records, documents, notes, data and other materials (collectively "records") required for or resulting from the performance of the services hereunder are public records and shall not be used by SAFE BUILT for any purpose other than the performance of the services hereunder without the express prior written consent of the Town. SAFE BUILT shall at all times maintain, produce and release all records in accordance with applicable federal and state public records laws and regulations as currently enacted and hereafter amended that provide for the retention and disclosure of said records provided that said records are in SAFE BUILT's possession and control and have not previously been provided to the Town. Upon termination of this Contract, Safe Built will return to the Town all records, notes, documentation and other items that were used, created, or controlled by SAFE BUILT during the term of this Contract, if any, that were not previously provided to the Town.

**5. WARRANTY.** SAFE BUILT shall provide its services and meet its obligations under this Contract in a timely and workmanlike manner, using knowledge and recommendations for performing the services which meet generally acceptable standards in SAFE BUILT's community and region, and will provide a standard of care equal to, or superior to, care used by service providers similar to SAFE BUILT on similar projects.

SAFE BUILT shall comply with the appropriate provisions of the Americans with Disabilities Act (the "ADA"), and any other applicable federal or state laws or regulations, as enacted and as from time to time amended related to disabilities or discrimination. A signed certificate

confirming compliance with the ADA may be requested by the Town at any time during the term of this Agreement.

SAFE BUILT shall perform its services with reasonable care, skill and diligence required of other entities providing similar services under similar conditions at the same time.

SAFE BUILT will not discriminate against any employee, applicant for employment, or person requesting or applying for services because of race, creed, color, national origin, sex, honorably discharged veteran or military status, sexual orientation, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. SAFE BUILT agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal and/or state government setting forth the provisions of the Equal Opportunity laws.

SAFE BUILT, by signature to this agreement certifies that SAFE BUILT is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this agreement by any Federal department or agency from participating in the transactions (Debarred). SAFE BUILT also agrees to include all above requirements if any and all Subcontracts into which it enters. SAFE BUILT shall immediately notify the Town if, during the term of this Agreement, SAFE BUILT becomes debarred. The Town may immediately terminate this Agreement by providing SAFE BUILT written notice if SAFE BUILT becomes debarred during the term of this Agreement.

SAFE BUILT shall not knowingly employ or contract with an illegal alien to perform work under this contract. SAFE BUILT shall not enter into a contract with a subcontractor that fails to certify to SAFE BUILT that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.

Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail, addressed as follows:

If to the Town:

Town of South Cle Elum  
523 Lincoln Ave  
PO Box 160  
South Cle Elum, WA 98943  
Telephone: (509) 674-4322  
Fax: (509) 674-5942  
Email: [sce@inlandnet.com](mailto:sce@inlandnet.com)

If to Safe Built:

Safe Built LLC.  
PO Box 401  
Ellensburg, WA. 98926  
Telephone: (509) 607-0725  
Fax: 1-866-964-7499

**6. DEFAULT.** The occurrence of any of the following shall constitute a material default under this Contract:

- a. The failure to make a required payment when due.
- b. The insolvency or bankruptcy of either party.
- c. The subjection of any of either party's property to any levy, seizure, general assignment for the benefit of creditors, application or sale for or by any creditor or government agency.
- d. The failure to make available or deliver the Services in the time and manner provided for in this Contract.

**7. REMEDIES.** In addition to any and all other rights a party may have available according to law, if a party defaults by failing to substantially perform any provision, term or condition of this Agreement (including without limitation the failure to make a monetary payment when due), the other party may terminate the Contract by providing written notice to the defaulting party. This notice shall describe with sufficient detail the nature of the default. The party receiving such notice shall have 10 days from the effective date of such notice to cure the default(s). Unless waived in writing by a party providing notice, the failure to cure the default(s) within such time period shall result in the automatic termination of this Contract.

**8. FORCE MAJEURE.** If performance of this Agreement or any obligation under this Agreement is prevented, restricted, or interfered with by causes beyond either party's reasonable control ("Force Majeure"), and if the party unable to carry out its obligations gives the other party prompt written notice of such event, then the obligations of the party invoking this provision shall be suspended to the extent necessary by such event. The term Force Majeure shall include, without limitation, acts of God, fire, explosion, vandalism, storm or other similar occurrence, orders or acts of military or civil authority, or by national emergencies, insurrections, riots, or wars, or strikes, lock-outs, work stoppages. The excused party shall use reasonable efforts under the circumstances to avoid or remove such causes of non-performance and shall proceed to perform with reasonable dispatch whenever such causes are removed or ceased. An act or omission shall be deemed within the reasonable control of a party if committed, omitted, or caused by such party, or its employees, officers, agents, or affiliates.

**9. DISPUTE RESOLUTION.** The parties will first attempt to resolve any dispute out of or relating to this Agreement through good faith negotiations amongst the parties. If the matter is not resolved by negotiation, the parties agree to attempt to mediate their dispute through the use of a non-binding, third-party mediator selected by the parties.

If mediation does not successfully resolve the dispute, the parties may initiate legal action in a court of competent jurisdiction or arbitrate the dispute if arbitration is required by law or court rule.

**10. ENTIRE AGREEMENT.** This Contract contains the entire agreement of the parties, and there are no other promises or conditions in any other agreement whether oral or written concerning the subject matter of this Contract. This Contract supersedes any prior written or oral agreements between the parties.

**11. SEVERABILITY.** If any provision of this Contract will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

**12. AMENDMENT.** This Contract may not be modified except by a written amendment executed by both parties.

**13. GOVERNING LAW AND VENUE.** This Agreement shall be construed and enforced in accordance with the provisions of Washington law and the Codes related to the services covered herein. Venue shall be in Kittitas County.

**14. NOTICE.** Any notice or communication required or permitted under this Contract shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the address set forth in the opening paragraph or to such other address as one party may have furnished to the other in writing.

**15. WAIVER OF CONTRACTUAL RIGHT.** The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.


**16. ATTORNEY'S FEES TO PREVAILING PARTY.** In any action arising hereunder brought to enforce this Agreement, the prevailing party shall be awarded reasonable attorney's fees and costs, both in the trial court and on appeal; provided, each party shall bear its own costs and fees incurred and associated with mediation of any dispute.

**17. CONSTRUCTION AND INTERPRETATION.** The rule requiring construction or interpretation against the drafter is waived. The document shall be deemed as if it were drafted by both parties in a mutual effort.



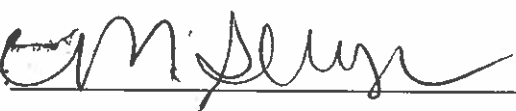
IN WITNESS WHEREOF, the Town, by resolution duly adopted by its governing body, caused this Agreement to be signed by the Mayor for the Town of South Cle Elum. Likewise, the officers of SAFE BUILT LLC. Have subscribed to this Agreement by affixing their signatures all on the day and year first above written.

*Town of South Cle Elum, WA*

By:  Date: 10/17/17  
James De Vere, Mayor

Attest:   
By:  Date: 10/30/17  
Dora Bannister, Town Clerk

*Safe Built LLC.:*

By:  Date: 10/30/17  
Michelle Geiger, Manager

**ATTACHMENT A  
CONTRACT FEE SCHEDULE**

List of Services to be Provided by Safe Built LLC for the Town of South Cle Elum

Safe Built LLC Services Agreement dated 10/11, 2017

Services Start date of 10/11, 2017

Note: This list of services can be updated and amended as necessary to ensure the Town's needs are being met and that the services provided satisfy the Town, its property owners, and the community.

Investigation and research for Code Enforcement, Building and Zoning within the Town of South Cle Elum will be performed on all requested properties within the Town limits as directed by the Town. These include, but are not limited to, single-family residential, new commercial buildings, decks, porches, carports, and garages, pole barns and agricultural buildings, and existing residential and commercial upgrades and remodels. These services will also include tenant improvement, zoning and fire-life safety.

In addition, to the above listed scope additional items may be provided at the request of the City

Other services being provided as part of this contract

On site meetings and consultations with homeowners, builders, and contractors

Meetings and review on projects of major scope and size

Available upon request for council, staff and other special meetings

Pick up and drop off documents as required

Recommendation of codes for adoption and/or amendment

Safe Built LLC will fulfill the functions and responsibilities of the following positions: Code Enforcement Officer for Building and Zoning regulations

*Town of South Cle Elum, WA*

By: 

Mayor, James DeVere

Date: 10/17/17

*Attest:*

By: 

Town Clerk, Dora Bannister

Date: 10/30/17

*Safe Built LLC.:*

By: 

Michelle Geiger, Manager

Date: 10/30/17

**ATTACHMENT B**

List of Services to be provided by Safe Built LLC for the Town of South Cle Elum

Safe Built LLC Services Agreement dated 10/11, 2017

Services Start date of 10/11, 2017

**Code Enforcement Fees:**

Code Enforcement Research, Reports and Summaries	\$75.00/ hr (minimum of 1 hour billed)
Code Enforcement Inspections outside Normal Business Hours	Available upon request with no additional charge if part of a standard issued permit. Emergency inspections or those issued outside of a standard permit will be charged at 100% of South Cle Elum fee/minimum of \$75.00 per hour
Inspections for which no fee is specifically indicated	75% of South Cle Elum fee/minimum of \$75.00/hr (minimum of 1 hour billed)
Consultation and or meetings with property Owner and or Town Staff	100% of South Cle Elum fee/minimum of \$75.00/hr (minimum of 1 hour billed)
Investigative services and testimony	75% of South Cle Elum fee/minimum of \$75.00/hr (minimum of 1 hour billed)
Other misc. as requested	\$75.00/hr