

TOWER CRANE RESCUE SERVICES AGREEMENT

THIS Agreement is made as of the day of , 2021

BETWEEN:

THE CORPORATION OF THE CITY OF VICTORIA

1 Centennial Square

Victoria, B.C.

V8W 1P6

(Hereinafter called "Victoria")

OF THE FIRST PART

AND:

(Hereinafter called "XXXXXX")

OF THE SECOND PART

WHEREAS Victoria has established within their Fire Department, specialized units for the provision of Tower Crane Rescue Services and those units are capable of servicing the Greater Victoria Area;

AND WHEREAS XXXXXX has requested Victoria provide Tower Crane Rescue Services on a fee for services basis;

AND WHEREAS under the *Community Charter* a municipality may provide a service in another municipality provided it first obtains the consent of the Council of that municipality;

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the mutual promises exchanged herein, and for other good and valuable consideration, the parties agree as follows:

1.0 DEFINITIONS

1.1 In this Agreement:

- (a) **“Tower Crane”** means a crane equipped with a boom mounted on a tower.
- (b) **“Tower Crane Rescue Service”** means provision of emergency assistance to Tower Crane operators.
- (c) **“Service”** means the services described in paragraph 3.1 of this Agreement.

2.0 TERM

2.1 This Agreement shall be for a term commencing May 1, 2021 and terminating on XXXXXX subject to earlier termination in accordance with this Agreement.

3.0 SERVICE

3.1 Victoria agrees to provide, in accordance with the terms of this Agreement, the following service within the territorial boundaries of XXXXX:

- (a) Inspection of Tower Cranes and construction sites to establish Tower Crane rescue pre-plans;
- (b) Tower Crane Rescue Services.

3.2 Victoria will provide service in accordance with the standards the Victoria Fire Department employs for the services within its own jurisdiction, unless a variance of such standards is agreed upon between the parties.

3.3 Victoria will provide all equipment and personnel necessary for the provision of services under this Agreement and will ensure that all personnel engaged in provision of the services are trained in the provision of Tower Crane Rescue Services.

3.4 Requests for service will be submitted in accordance with the Operating Guidelines of the British Columbia Construction Safety Alliance and by selecting “The Victoria Fire Department” as the service provider.

3.5 Victoria will provide all equipment and personnel necessary for the provision of services only and will charge XXXXXX the cost of carrying out the service less any reimbursements due to Victoria from the BCCSA for the provision of the service as follows:

Inspection Survey

- (a) Personnel Charge (two members for surveys): each member performing the survey will be compensated in accordance with the Overtime Article of the Collective Agreement in effect at the time the service is provided.
- (b) Reimbursements due to Victoria from the British Columbia Construction Safety Alliance for completion of the survey will be applied to, and subtracted from, the total amount owing.

Rescue Services

- (a) Personnel Charge: in the event Victoria is required to back fill their station so on duty personnel may perform a tower crane rescue in XXXXX, those members “called back” to duty will be compensated in accordance with the Overtime Article of the Collective Agreement in effect at the time of the rescue.
- (b) Any reimbursements due to Victoria from the British Columbia Construction Safety Alliance for completion of the survey will be applied to, and subtracted from, the total amount owing.

3.6 XXXXX shall promptly pay to Victoria all charges invoiced under section 3.5 of this Agreement.

4.0 INDEMNITY

4.1 XXXXX agrees that it will indemnify and save harmless Victoria from and against any claims, suits, actions, causes of actions, costs, damages or expenses of any kind that arise or result from, or relate in any way to:

- (a) the negligence of Victoria or its employees, officers, elected officials, contractors, or agents in the provision of Services under this Agreement; or
- (b) a breach of this Agreement by Victoria

4.2 Victoria agrees that it will indemnify and save harmless XXXXX from and against any claims, suits, actions, causes of actions, costs, damages or expenses of any kind that arise or result from, or relate in any way to:

- (a) the negligence of XXXXX or its employees, officers, elected officials, contractors or agents in the provision of Services under this Agreement; or
- (b) a breach of this Agreement by Sidney

5.0 DEFAULT AND EARLY TERMINATION

5.1 If either party is in breach of this Agreement, or the breach is not corrected within

30 days after notice of the breach is provided to that party, the party not in breach may terminate this Agreement.

5.2 By notice in writing delivered to each other party to this Agreement not later than June 30th in any of the years preceding its expiration, either party may elect to terminate this Agreement for the remainder of the term, in which case the arrangement for services provided hereunder shall be terminated effective January 1st of any such subsequent calendar year.

5.4 In the event funding for the regional tower crane rescue service from the British Columbia Construction Safety Alliance Technical High Angle Rope Rescue Program and WorkSafe BC is reduced or discontinued, Victoria may, by delivering notice in writing to **XXXXXX**, terminate this Agreement effective upon the date such funding is discontinued.

6.0 CONSENT

6.1 **XXXXXX** does hereby consent to the provision of services as provided under this Agreement by Victoria within the respective territorial areas of **XXXXXX**.

7.0 GENERAL PROVISIONS

7.1 Notice

It is hereby mutually agreed that any notice required to be given under this Agreement will be deemed to be sufficiently given if:

- (a) delivered at the time of delivery; and
- (b) mailed from any government post office in the Province of British Columbia by prepaid registered mail addressed as follows:

If to Victoria:

1 Centennial Square
Victoria, B.C. V8W 1P6
Attention: Corporate Administrator

If to **XXXXXX**:

Attention: Municipal Clerk

Unless otherwise specified herein, any notice required to be given under this Agreement by any party will be deemed to have been given if mailed by prepaid registered mail, or sent by facsimile transmission, or delivered to the address of the other parties set forth on the first page of this Agreement or at such other addresses as the other parties may from time to time direct in writing, and any such notice will be deemed to have been received if mailed or faxed, 72 hours after the time of mailing or faxing and, if delivered, upon the date of delivery. If normal mail service or facsimile service is interrupted by strike, slow down, force majeure or other cause, then a notice sent by the impaired means of communication will not be deemed to be received until actually received, and the party sending the notice must utilize any other such services which have not been so interrupted or must deliver such notice in order to ensure prompt receipt thereof.

7.2 Time

Time is to be of the essence for this Agreement.

7.3 Binding Effect

This Agreement will inure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors, and permitted assignees.

7.4 Waiver

The waiver by a party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar.

7.5 Headings

Section and paragraph headings are inserted for identification purposes only and do not form part of this Agreement.

7.6 Language

Wherever the singular, masculine and neuter are used throughout this Agreement, the same is to be construed as meaning the plural or the feminine or the body corporate or politic as the context so requires.

7.7 Cumulative Remedies

No remedy under this Agreement is to be deemed exclusive but will, where possible, be cumulative with all other remedies at law or in equity.

7.8 **Law Applicable**

This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

7.9 **Relationship of Parties**

No provision of this Agreement shall be construed to create a partnership or joint venture relationship, an employer-employee relationship, a landlord-tenant or a principal-agent relationship.

7.10 **Amendment**

This Agreement may not be modified or amended except by the written agreement of the parties.

7.11 **Integration**

This Agreement contains the entire agreement and understanding of the parties with respect to the matters contemplated by this Agreement and supersedes all prior and contemporaneous agreements between them with respect to such matters.

7.12 **Survival**

All representations and warranties set forth in this Agreement and all provisions of this Agreement, the full performance of which is not required prior to a termination of this Agreement, shall survive any such termination and be fully enforceable thereafter.

7.13 **Notice of Violations**

Each party shall promptly notify the other party of any matter which is likely to continue to give rise to a violation of its obligations under this Agreement.

7.14 **Settlement**

The parties acknowledge that they have a common goal of providing public service and will attempt to settle any differences arising in the administration of this Agreement amicably through discussion in good faith with a view to providing quality public service at a reasonable cost.

7.15 **Arbitration**

- (a) Disputes not capable of resolution through discussion under 7.14 shall be submitted to arbitration pursuant to the *Commercial Arbitration Act*,

R.S.B.C. 1996, c. 55, to a single arbitrator appointed jointly by the parties.

- (b) No one shall be nominated to act as an arbitrator who is in any way financially interested in this Agreement or in the business affairs of either party.
- (c) If the parties cannot agree on the choice of any arbitrator each party shall select a nominee and the nominees shall jointly appoint an arbitrator.
- (d) The laws of the Province of British Columbia shall govern this Agreement and any arbitration or litigation in respect hereof.
- (e) The award of the arbitrator shall be final and binding upon the parties.

8.0 COUNTERPART CLAUSE

This Agreement may be signed in counterpart that

- (a) have the same effect as if the parties had all signed the same documents;
- (b) will be construed together to be an original document; and
- (c) will constitute one and the same agreement.

IN WITNESS WHEREOF the parties hereto have set their hands and seals as of the day and year first above written.

Executed by **XXXXXX** this _____ day of _____, 2021:)
 _____)
 Authorized Signatory)
 _____)
 Authorized Signatory)

Executed by **THE CORPORATION OF THE CITY OF VICTORIA** this _____ day of _____, 2021:)

Authorized Signatory

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Authorized Signatory

END OF DOCUMENT