

REGIONAL TOWER CRANE RESCUE SERVICES AGREEMENT

THIS Agreement is made as of the day of , 2016

BETWEEN:

THE CORPORATION OF THE DISTRICT OF SAANICH

770 Vernon Avenue
Victoria, B.C.
V8X 2W7

(Hereinafter called "Saanich")

THE CORPORATION OF THE CITY OF VICTORIA

1 Centennial Square
Victoria, B.C.
V8W 1P6

(Hereinafter called "Victoria")

OF THE FIRST PART

AND:

THE CORPORATION OF THE CITY OF COLWOOD

3300 Wishart Road
Victoria, B.C.
V9C 1R1

(Hereinafter called "Colwood")

THE CORPORATION OF THE TOWNSHIP OF ESQUIMALT

1229 Esquimalt Road
Victoria, B.C.
V9A 3P1

(Hereinafter called "Esquimalt")

THE CORPORATION OF THE DISTRICT OF OAK BAY

2167 Oak Bay Avenue
Victoria, B.C.
V8R 1G2

(Hereinafter called "Oak Bay")

THE TOWN OF SIDNEY

2440 Sidney Avenue
Sidney B.C.
V8L 1Y7

(Hereinafter called "Sidney")

THE TOWN OF VIEW ROYAL

45 View Royal Avenue
Victoria, B.C.
V9B 1A6

(Hereinafter called "View Royal")

OF THE SECOND PART

WHEREAS Saanich and Victoria have each established within their respective Fire Departments specialized units to provide Tower Crane Rescue Services and those units are capable of servicing the Greater Victoria Area;

AND WHEREAS Colwood, Esquimalt, Oak Bay, Sidney, and View Royal (hereinafter collectively called "Serviced Municipalities") have requested Saanich and Victoria (hereinafter collectively called "Servicing Municipalities") to 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 of five (5) years commencing May 1, 2016 and terminating on April 30, 2021 subject to earlier termination in accordance with this Agreement.

3.0 SERVICE

- 3.1 Servicing Municipalities agree to provide, in accordance with the terms of this Agreement, the following service within the territorial boundaries of the Serviced Municipalities:
- (a) Inspection of Tower Cranes and construction sites to establish Tower Crane rescue pre-plans;
 - (b) Tower Crane Rescue Services.
- 3.2 Servicing Municipalities will each provide Service in accordance with the standards each Servicing Municipality employs for the Services within its own jurisdiction, unless a variance of such standards is agreed upon between the parties.
- 3.3 Servicing Municipalities 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 Whenever one of the Serviced Municipalities requires services to be provided under this Agreement it shall contact Saanich initially and Saanich shall provide the Service so long as it has the required staff and equipment available. If there is insufficient Saanich staff and equipment available, Saanich shall contact Victoria and Victoria, at its discretion and subject to resources available, shall
- (a) provide the necessary assistance and resources to Saanich, or
 - (b) provide the Service directly to the Serviced Municipality requiring Service.
- 3.5 Servicing Municipalities will provide all equipment and personnel necessary for the provision of Services only and will charge the Serviced Municipality within whose jurisdiction the Service was provided for the cost of carrying out the Service as follows:

(a) Personnel Charge:

For each officer and fire fighter an hourly rate for time spent providing the Services at two times the normal hourly pay per hour or a portion of an hour for such person, and

(b) For each rescue vehicle dispatched to the service area in response to a request for a Tower Crane Rescue Service, a rate per hour or portion of an hour, as established by the most recent B.C. Office of the Fire Commissioner "Inter-Agency Working Group Report – Reimbursement Rates" will be charged.

3.6 Serviced Municipalities shall promptly pay to the Servicing Municipalities all charges invoiced under section 3.5 of this Agreement.

4.0 INDEMNITY

4.1 Saanich agrees that it will indemnify and save harmless Victoria, Colwood, Esquimalt, Oak Bay, Sidney, and View Royal 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 Saanich 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 Saanich.

4.2 Victoria agrees that it will indemnify and save harmless Saanich, Colwood, Esquimalt, Oak Bay, Sidney, and View Royal 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.

4.3 Colwood, Esquimalt, Oak Bay, Sidney, and View Royal agree that they will jointly and severally indemnify and save harmless Saanich and 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 Colwood, Esquimalt, Oak Bay, Sidney, and View Royal

or their employees, officers, elected officials, contractors or agents with respect to the provision of Services under this Agreement; or

- (b) a breach of this Agreement by Colwood, Esquimalt, Oak Bay, Sidney, or View Royal.

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 2017, 2018, and 2019 Saanich or Victoria 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.
- 5.3 By notice in writing delivered to the Servicing Municipalities not later than June 30th in any of the years 2017, 2018, and 2019, Colwood, Esquimalt, Oak Bay, Sidney or View Royal may elect to withdraw from this Agreement for the remainder of the term and in such case the withdrawal shall be effective on January 1st of any such subsequent calendar year and the Servicing Municipalities' obligations to provide any of the Services under this Agreement within the territorial area of the Serviced Municipality giving notice under this section 5.3 shall cease.
- 5.4 In the event funding for the regional tower crane rescue service from the Technical High Angle Rope Rescue Program and WorkSafe BC is reduced or discontinued, Saanich or Victoria may, by delivering notice in writing to the Serviced Municipalities, terminate this Agreement effective upon the date such funding is discontinued.

6.0 CONSENT

- 6.1 Colwood, Esquimalt, Oak Bay, Sidney, and View Royal hereby consent to the provision of services as provided under this Agreement by Saanich and Victoria within the respective territorial areas of Colwood, Esquimalt, Oak Bay, Sidney, and View Royal.

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 Colwood:

3300 Wishart Road
Victoria, B.C. V9C 1R1
Attention: Municipal Clerk

If to Esquimalt:

1229 Esquimalt Road
Victoria, B.C.
V9A 3P1
Attention: Corporate Administrator

If to Oak Bay:

2167 Oak Bay Avenue
Victoria, B.C.
V8R 1G2
Attention: Municipal Clerk

If to Sidney:

2440 Sidney Avenue
Sidney B.C.
V8L 1Y7
Attention: Municipal Clerk

If to View Royal:

45 View Royal Avenue
Victoria, B.C. V9B 1A6
Attention: Municipal Clerk

If to Saanich:

770 Vernon Avenue
Victoria, B.C. V8X 2W7
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 *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 **THE CORPORATION OF**)
THE CITY OF COLWOOD)
This ____ day of _____, 2016:)
)
)
_____)
Authorized Signatory)
)
)
_____)
Authorized Signatory)

Executed by **THE TOWN OF VIEW ROYAL**)
This ____ day of _____, 2016:)
)
)
_____)
Authorized Signatory)
)
)
_____)
Authorized Signatory)

Executed by **THE CORPORATION OF**)
THE TOWNSHIP OF ESQUIMALT)
This ____ day of _____, 2016:)
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_____)
Authorized Signatory)
)
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_____)
Authorized Signatory)

Executed by **THE CORPORATION OF**)
THE DISTRICT OF OAK BAY)
This ____ day of _____, 2016:)
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)

Authorized Signatory)
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Authorized Signatory)

Executed by **THE TOWN OF SIDNEY**)
This ____ day of _____, 2016:)
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Authorized Signatory)
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Authorized Signatory)

Executed by **THE CORPORATION OF**)
THE CITY OF VICTORIA)
This ____ day of _____, 2016:)
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Authorized Signatory)
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Authorized Signatory)

Executed by **THE CORPORATION OF**)
THE DISTRICT OF SAANICH)
This ____ day of _____, 2016:)
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Authorized Signatory)
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Authorized Signatory)

END OF DOCUMENT