

SWIFT WATER RESCUE SERVICES AGREEMENT

This Agreement made this ____ day of ____ 2020 (“Effective Date”)

BETWEEN:

THE CORPORATION OF THE TOWN OF OAKVILLE

hereinafter referred to as “Oakville”

-and-

THE CORPORATION OF THE CITY OF MISSISSAUGA

hereinafter referred to as “Mississauga”

WHEREAS pursuant to the provisions of the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c.4, as amended a municipality may enter into an agreement to: (a) provide such fire protection services as may be specified in the agreement to lands or premises that are situated outside the territorial limit of the municipality; and (b) receive such fire protection services as may be specified in the agreement from a fire department situated outside the territorial limits of the municipality;

AND WHEREAS Oakville wishes to receive rescue and emergency services in the form of swiftwater rescue services from Mississauga (hereinafter the “Party” or “Parties”);

AND WHEREAS Mississauga has agreed to provide swiftwater rescue services, subject to the terms and conditions as set out in this agreement;

IN CONSIDERATION of the covenants and agreements hereinafter contained, the parties covenant and agree that:

1. Definitions

- a) **“Act”** shall mean the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c.4, as amended;
- b) **“Agreement”** shall mean this agreement and all schedules and documents incorporated in it by reference as the same may be amended from time to time;
- c) **“Oakville Fire Department”** shall mean Oakville’s Fire and Emergency Services established pursuant to the *Act*;
- d) **“Equipment”** shall mean all swiftwater rescue equipment owned and/or operated by

Mississauga;

- e) **“Fire Chief”** shall mean the fire chief for Mississauga appointed pursuant to the provisions of the *Act*;
- f) **“Joint Fire Communications Centre” (JFCC)** shall mean the operational call centre for Mississauga that receives fire and emergency calls and dispatches fire apparatus and personnel for the City of Brampton’s, City of Mississauga’s and Town of Caledon’s fire stations; and
- g) **“Mississauga Fire and Emergency Services”** shall mean Mississauga’s Fire and Emergency Services established pursuant to the *Act*;
- h) **“Operational Support”** shall mean operational support as further described in Schedule B of this *Agreement*;
- i) **“Town of Oakville”** shall mean the geographic area described by the boundaries illustrated in Schedule "A" of this *Agreement*;
- j) **“Swiftwater Rescue Services”** shall mean services operating at a technician level as per the *NFPA 1670 – Standard on Operations and Training for Technical Search and Rescue Incidents* related to swiftwater. According to NFPA 1670 – swiftwater is defined as water flowing faster than 1.85km/h as further described in Schedule B of this *Agreement*.

2. Term and Renewal

- 2.1 The term of this *Agreement* shall be for a period of five (5) years commencing on _____ and terminating on _____.
- 2.2 The *Agreement* shall automatically renew, for one (1) further term of five (5) years unless written notice is given by either Party six (6) months before the expiry date of the term of the Party’s intention not to renew the *Agreement*.

3. Swiftwater Rescue Services

- 3.1 Subject to the terms of this *Agreement*, *Mississauga Fire and Emergency Services* shall be responsible for providing *Swiftwater Rescue Services* in the *Town of Oakville*.
- 3.2 All requests for *Swiftwater Rescue Services* shall be made by Oakville to the *Joint Fire Communication Centre*. In the event that Mississauga cannot accept a request for *Swiftwater Rescue Services*, the *Fire Chief* or *Joint Fire Communication Centre* representative shall inform Oakville at the time of request that the *Swiftwater Rescue Services* cannot be provided.
- 3.3 Notwithstanding section 3.1 of this *Agreement*, the nature, type, scope and amount of the *Swiftwater Rescue Services* provided by Mississauga shall be determined by the *Fire Chief*

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which shall include but not be limited to the ability to:

- (a) accept or refuse to provide *Swiftwater Rescue Services*;
 - (b) cease, alter, discontinue or suspend *Swiftwater Rescue Services* provided at any time; or
 - (c) determine the priority of providing *Swiftwater Rescue Services*.
- 3.4 The *Fire Chief* may delegate any or all of his or her responsibilities under this *Agreement*, subject to the provisions of the *Act*.
- 3.5 Where the *Fire Chief* accepts a request for *Swiftwater Rescue Services*, *Mississauga Fire and Emergency Services* shall be responsible for:
- (a) providing *Swiftwater Rescue Services*; and/or
 - (b) dispatching Equipment and firefighters as promptly as possible to answer calls for *Swiftwater Rescue Services* as per the relevant policies and procedures of the *Mississauga Fire and Emergency Services*.
- 3.6 Notwithstanding Section 3.3, where *Mississauga Fire and Emergency Services* is providing *Swiftwater Rescue Services*, the Parties shall cooperate with each other and operate under a unified command system. This system will consist of *Oakville Fire Department* taking a supervisory role at the location where the *Swiftwater Rescue Services* is required by providing updates, direction and support to *Mississauga Fire and Emergency Services*
- 3.7 *Mississauga Fire and Emergency Services* shall not withdraw any *Swiftwater Rescue Services* that have commenced, however it may suspend, cease or discontinue any *Swiftwater Rescue Services* if the senior officer for *Mississauga Fire and Emergency Services* does not agree, acting reasonably, with the *Operational Support* provided by *Oakville Fire Department*.
- 3.8 All decisions related to *Swiftwater Rescue Services* shall be first communicated to *Oakville Fire Department* save and except where *Mississauga Fire and Emergency Services* has determined that the circumstances warrant immediate action, acting reasonably.

4. Investigations

- 4.1 When providing *Swiftwater Rescue Services*, *Mississauga Fire and Emergency Services* will assist *Oakville Fire Department* in conducting investigations in the *Swiftwater Rescue Services*, as deemed necessary by the *Fire Chief* pursuant to the requirements of the *Act*.
- 4.2 Where extensive investigation is deemed to be warranted by the *Fire Chief* or any condition requiring notification to the Office of the Fire Marshal, the Ministry of Labour or any other relevant authority, the *Fire Chief* shall notify *Oakville Fire Department* to assume full responsibility for the investigation.

5. Oakville Responsibilities

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- 5.1 Oakville shall be responsible for initiating and communicating requests for *Swiftwater Rescue Services* in accordance with Section 3.2 of this *Agreement*.
- 5.2 Oakville shall establish and maintain suitable emergency plans to respond to calls for *Swiftwater Rescue Services* in the Town of Oakville in the event that the *Fire Chief* determines that *Mississauga Fire and Emergency Services* cannot provide *Swiftwater Rescue Services* in accordance with this *Agreement*.
- 5.3 Oakville will at all times maintain a supervisory role at the location where the *Swiftwater Rescue Services* are being provided and provide all necessary *Operational Support* to *Mississauga Fire and Emergency Services*.

6. Fees

- 6.1 Oakville shall pay to Mississauga the following hourly fees for *Swiftwater Rescue Services* which will be invoiced to Oakville on a monthly basis no later than the 15th day of each month for the month prior. Oakville shall pay the amount invoiced plus applicable tax within thirty (30) days of the invoice date:

<i>Swiftwater Rescue Services Incident</i>	\$1,845.00 per hour
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- 6.2 In addition to the fees set out in section 6.1, Oakville shall pay to Mississauga an annual fee of \$5,000.00 for each year of the term of the *Agreement*. This annual fee will cover Mississauga's cost of training *Mississauga Fire and Emergency Services* personnel in *Swiftwater Rescue Services* and *Equipment* usage. Oakville will be invoiced in January of each year. Oakville shall pay the amount invoiced plus applicable tax within thirty (30) days of the invoice date.
- 6.3 The fee amount outlined in section 6.1 is subject to change according to the applicable Mississauga Fees and Charges By-law. Mississauga shall notify Oakville of any change to this fee.
- 6.4 Notwithstanding the fees outlined in in section 6.1 and 6.2, Oakville shall be responsible for any extraordinary costs associated with the *Swiftwater Rescue Services* such as but not limited to: the cost for damaged *Equipment*, replace present inventory and any other cost associated with the response. The amount of these costs shall be determined by Mississauga acting reasonably.

7. Representations and Warranties

- 7.1 The Parties represent, warrant and covenant (and acknowledge that the Parties, in entering into this *Agreement*, are relying thereon) that:
 - (a) both Parties are municipal corporations and have all necessary corporate power, authority and capacity to enter into this *Agreement* and to perform and fulfill all of their obligations under this *Agreement*;

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- (b) the execution and delivery of this *Agreement* and the consummation of the transactions contemplated under it have been duly authorized by the Parties' respective municipal councils; and
- (c) this *Agreement* constitutes a valid and binding obligation of the Parties enforceable against them in accordance with the terms of this *Agreement*.

7.2 Oakville agrees to notify Mississauga immediately of any material change in any of the conditions described in 7.1.

8. Employment Status

8.1 The personnel of *Mississauga Fire and Emergency Services* are and shall remain employees of Mississauga notwithstanding any provision of this *Agreement* and are not, and shall not be deemed to be agents or employees of Oakville for any purpose.

9. Collective Agreements

9.1 Each Party agrees to review the provisions of this *Agreement* with its appropriate local bargaining units for the purpose of seeking amendments to local agreements, if necessary, to reflect the terms of this *Agreement*.

9.2 Each Party further agrees to advise the other Party as soon as practically possible if it becomes aware of any impediments or obstacles imposed by local agreements to meeting its obligations under this *Agreement*.

10. Indemnity

10.1 Oakville shall defend, indemnify and save harmless Mississauga, and all of its elected officials, officers and employees (the "Indemnified Parties"), from and against all claims, costs, all manner of action or actions, cause and causes of action, accounts, covenants, contracts, demands or other proceedings of every kind or nature whatsoever at law or in equity arising under this *Agreement* including the *Swiftwater Rescue Services* provided under this *Agreement*, save and except to the extent that the same are attributable to the negligence or willful misconduct of the Indemnified Parties.

10.2 Mississauga shall not be liable to Oakville or any other person or entity for any liability, claim, damage, cost, suit or action in respect of any property damage or personal injury, including death, howsoever caused relating in any way whatsoever to the provision of or failure to provide *Swiftwater Rescue Services* by Mississauga or arising directly or indirectly from this *Agreement* except where any damage or injury is due to Mississauga's negligence or that of its officers, employees or agents or for whom they are responsible for in law. The provisions of the *Act* respecting protection from personal liability and non-relief from liability shall apply, notwithstanding any provisions of this *Agreement*.

11. Insurance

11.1 Oakville shall at its sole cost and expense, obtain and maintain in full force and effect at all

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times throughout the term or extended term(s) of this *Agreement*, insurance satisfactory to Mississauga with financially sound and reputable insurance companies licensed to underwrite insurance in the Province of Ontario. Oakville shall be responsible for payment of all amounts within the deductible or self-insured retention under each policy of insurance. All Insurance policies required pursuant to this clause shall be primary and shall not call into contribution any insurance available to Mississauga. The insurance shall include but not be limited to:

- (a) Commercial general liability insurance in respect of the operations of Oakville against claims for bodily injury, including personal injury and death, and property damage or loss, indemnifying and protecting Oakville and its respective employees, servants, agents, contractors, invitees or licensees, to the inclusive limit of not less than Ten (\$10,000,000.00) Million Dollars. Such insurance shall specifically state by its wording or by endorsement that the following extensions of coverage are included:
 - (i) Mississauga is included as additional insured under the policy with respect to the operations and obligations of Oakville as outlined in this *Agreement*;
 - (ii) contractual liability, non-owned automobile liability, owner's and contractor's protective liability, products and completed operations coverage, contingent employer's liability, and employees as additional insured;
 - (iii) a cross-liability clause which shall have the effect of insuring each person, firm or corporation named in the policy as an insured in the same manner and to the same extent as if a separate policy had been issued to each;
 - (iv) medical malpractice liability;
 - (v) tenants legal liability and advertising liability coverage; and

11.2 Oakville shall deliver to Mississauga a City of Mississauga Certificate of Insurance Form evidencing the insurance required under this *Agreement*. A PDF fillable Certificate of Insurance form can be obtained at www.mississauga.ca/certificateofinsurance which shall be completed by a broker.

12. Termination

12.1 This *Agreement* may be terminated by either Party at any time without further obligation, liability or penalty, upon giving not less than one hundred and twenty (120) days notice in writing to the other Party.

12.2 Notwithstanding section 12.1, Mississauga may terminate this *Agreement* without further liability or obligation to Oakville, in the event of non-payment by Oakville of any invoice which has remained outstanding and unpaid for ninety (90) days or more. Prior to exercising any rights of termination under this section Mississauga agrees to provide Oakville with written notice of any unpaid amounts and a reasonable opportunity to satisfy those amounts.

13. Confidentiality and Protection of Privacy

- 13.1 The Parties acknowledge and agree that, in the performance of this *Agreement*, each Party may be required to have access to information that is confidential or proprietary in nature to the other party ("*Confidential Information*"). Confidential Information will not include any information that:
- (a) was in the public domain or was created or disclosed for the purpose of being in the public domain;
 - (b) was disclosed to a party by a third party, without breach of any duty of confidentiality;
 - (c) was approved in writing for disclosure, without restriction, by the disclosing party;
 - (d) is required to be disclosed by operation of law or regulation to which either party is subject, notice of such requirement of disclosure to first be provided to the party which owns the *Confidential Information*, wherever possible; or
- 13.2 Neither Party shall disclose *Confidential Information* to anyone other than to a designated representative of the Party who requires the *Confidential Information* to perform the *Swiftwater Rescue Services*. Wherever possible, prior to releasing any *Confidential Information* to the other, the disclosing party shall obtain from the designated representative of the other party an undertaking to comply with the obligations under this *Agreement* pertaining to the protection of *Confidential Information*. Where required by the disclosing party, the other party shall provide written confirmation, satisfactory to the disclosing party, that such designated representatives have agreed to be bound by the terms of this Section.
- 13.3 All *Confidential Information* disclosed by one party to the other party, or to the other party's designated representatives, shall remain the sole and exclusive property of the disclosing party, regardless of how the *Confidential Information* is represented, stored, produced or acquired.
- 13.4 Upon completion of the *Swiftwater Rescue Services*, the termination of this *Agreement* or at the request of either party, all *Confidential Information* of the disclosing party shall be promptly returned, or if requested and not prohibited by a legal requirement, destroyed, including all copies, notes and summaries in the receiving party's possession or in the possession of any of its designated persons. The receiving party shall then certify in writing to the disclosing party that all *Confidential Information*, including all copies or partial copies, have been returned or destroyed.
- 13.5 Where either Party or any of their respective employees, officers or agents will have access to any personal information or personal health information in the possession of the other party, as those terms are defined in the *Municipal Freedom of Information and Protection of Privacy Act* and *The Freedom of Information and Protection of Privacy Act* and *The Personal Health Information Act*, when performing the *Swiftwater Rescue Services*, then either Party, as the case may be, agrees to comply with, and have its employees, officers or agents comply with, any Protection of Personal Information and Personal Health Information rules, directions and requirements as the other party may impose from time to time, acting reasonably.

14. Further Assurances

- 14.1 Each party agrees to make such further assurances in writing as may be reasonably required from time to time by the other to more fully implement the true intent of this *Agreement*.

15. Survival of Obligations

- 15.1 Any obligation of a party which is unfulfilled on the termination of this *Agreement* shall survive until fulfilled.

16. Notice

- 16.1 Where notice is required to be given to a party under this *Agreement*, the notice shall be in writing and shall be given,

- a) in the case of notice to Mississauga, to:

Mississauga Fire Chief
City of Mississauga
Mississauga Fire and Emergency Services
7535 Ninth Line
Mississauga, ON L5N 7C3
Facsimile No.: (905) 615 4579
Telephone No.: (905) 615 3750

- b) in the case of notice to Oakville, to:

Oakville Fire Chief
Town of Oakville
1225 Trafalgar Road
Oakville, ON L6H 0H3
tel (905) 815 6051
fax (905) 338 4403

17. Assignment

- 17.1 Neither party shall assign this *Agreement*, in whole or in part, or subcontract any portion of the services to be provided under this *Agreement*, without the written permission of the governing body of the other party.

18. Binding

- 18.1 This *Agreement* ensures to the benefit of and is binding upon Oakville and Mississauga and its successors.

19. Entire Agreement

19.1 This *Agreement* contains the entire agreement and understanding of the parties of the matters contained in it, and supersedes all prior agreements and understandings on these matters.

20. Amendment

20.1 Except where expressly provided otherwise, this *Agreement* shall not be amended, in any way, unless such amendment is in writing and is executed by all the parties.

21.0 Governing Law

21.1 This *Agreement* shall be governed by the laws of the Province of Ontario and the laws of Canada applicable in the Province, and shall be treated in all respects as an Ontario contract. The parties submit to the exclusive jurisdiction of the courts of Ontario for the resolution of any and all disputes relating to this *Agreement* or any of its terms.

22.0 Time is of the Essence

22.1 Time shall be deemed to be of the essence with respect to all time limits mentioned in this *Agreement*.

23.0 Counterparts

23.1 This *Agreement* may be executed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument.

24.0 Headings For Convenience Only

24.1 The *division* of this *Agreement* into sections is for convenience only and shall not affect the interpretation or construction of this *Agreement*.

IN WITNESS WHEREOF the parties have affixed their respective corporate seals attests by the hands of their respective officers duly authorized in that behalf.

**The Corporation of the
Town of Oakville**

**The Corporation of the City of
Mississauga**

Jane Clohecy, Acting CAO

Tim Beckett, Fire Chief

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Vicki Tytaneck, Town Clerk
Authorized by By-law No.:

Diana Rusnov, City Clerk
Authorized by By-law No.:

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Schedule "A"

SWIFTWATER RESCUE AREA

Need map of Oakville

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Schedule "B"

SWIFTWATER RESCUE SERVICES AND OPERATIONAL SUPPORT

For the purposes of this *Agreement*, Operational Support shall include but not be limited to:

- awareness level training as per NFPA requirements
- assessment of emergency scenes prior to the arrival of Mississauga
- assessment of victims present prior to the arrival of Mississauga
- stabilizing scene
- providing air monitoring through hazardous materials team as per the NFPA
- providing rehabilitation services for Mississauga (ie. rest stations, provide water)
- establishing an "Incident Command System" – a standardized on-scene incident management system designed to allow responders to adopt an integrated organizational structure equal to the complexity and demands of any single incident or multiple incidents without being hindered by jurisdictional boundaries
- providing Mississauga with waterway mapping
- providing annual tactical familiarization visits by Mississauga to identify hazards and high risk areas

For the purposes of this Agreement, Swiftwater Rescue Services shall mean services operating at a technician level as per the NFPA 1670 – Standard on Operations and Training for Technical Search and Rescue Incidents including but not be limited to:

- integrating with the onsite ICS
- recognizing and mitigating general hazards associated with Swiftwater search and rescue incidents
- determining rescue versus recovery
- conducting initial and ongoing size-up of existing and potential conditions at incidents where Swiftwater rescue operations will be performed
- assessing Swiftwater conditions in terms of hazards to the victim and the responder
- conducting non-entry and entry rescue operations
- initiating self-rescue for responders who accidentally become immersed
- using packaging devices for removal of water/ice-bound patients
- transferring victim information and conditions to emergency medical services personnel
- using watercraft-assisted and watercraft-based operations
- assisting with search operations for missing subjects, which do not require the rescuer to enter the water but that identify areas of the highest probability and track progress of the search
- implementing accountability/ entry control system for all MFES personnel
- performing a risk analysis on the victim's projected survival and the potential risks to the responder
- implementing a RIT system for MFES personnel
- maintaining communication with responders

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- constructing and operate a rope rescue system

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