

**EMERGENCY RECOVERY SERVICE AGREEMENT**

**Bigge File No.**: Click here to enter text.

This Agreement is made on **Click here to enter a date.**, by and between **Click here to enter text** (Customer), located at Click here to enter text, and **BIGGE CRANE AND RIGGING CO.** (Bigge), located at 10700 Bigge Avenue / San Leandro, CA 94577.

**Location of Emergency Recovery:** Click here to enter text.

Bigge Crane and Rigging Co. will be performing the following recovery work on a best effort basis: Click here to enter text.

Bigge will furnish labor, equipment and tools as follows on a time and material basis:

|  |  |  |  |
| --- | --- | --- | --- |
| **Description of Work** | **Qty** | **Unit Cost** | **Total** |
| Mobile Crane: Click here to enter text. | 1 | $0.00 | $0.00 |
| Crane Operator: Click here to enter text. | 1 | $0.00 | $0.00 |
| Rigger Foreman: Click here to enter text. | 1 | $0.00 | $0.00 |
| Rigging Journeyman: Click here to enter text. | 1 | $0.00 | $0.00 |
| Man Basket: Click here to enter text. | 1 | $0.00 | $0.00 |
| Other: Click here to enter text. | 1 | $0.00 | $0.00 |
|  |  |  |  |

**Exclusions** (the following items will be provided by others):

* Lane closure, traffic control and permits
* Protection of underground structures and voids
* Free and clear access to the work area and other necessities as required

Special Conditions:

1. Bigge will exercise reasonable care, but, is not responsible for damage to asphalt, concrete, curbs, gutters, landscaping, or any structure that is necessary to move equipment over.

2. Bigge is not responsible for fuel, hydraulic fluids or any other lubricants, or contaminates that may be released by the equipment being recovered or equipment belonging to others. This includes any release of contaminants to ground water or any other water supply.

3. Both parties acknowledge the precarious nature of this operation and the risk of additional damage to property, including the property that is being recovered. As a consideration for Bigge to perform the recovery, Customer accepts sole responsibility for any and all existing and additional damage, and, any loss which may occur as a result of this best effort operation and indemnifies and holds Bigge harmless from and against any and all claims or losses which may occur. The indemnity will survive after the performance of the work in this Agreement.

4. Bigge will be named as an additional insured on Customer’s general liability policy, as evidenced by endorsement CG 20 10 11 85 or its equivalent, on a primary and non-contributory basis with limits not less than $2 million. Customer shall also provide evidence of Workers’ Compensation / Employers Liability insurance with limits not less than $1 million. The General Liability and the Workers’ Compensation / Employer Liability policies will be endorsed to waive rights of recovery against Bigge and its carrier. Insurance certificates shall be provided naming Bigge Crane and Rigging Co. as the certificate holder and endorsements evidencing this coverage must be received before any work is performed at the location stated above.

5. Terms of payment. Bigge will be paid net 30 days from presentation of its invoice(s). The undersigned agrees to pay Bigge when due and does not rely on the proceeds of any insurance to satisfy this obligation.

This Agreement and Exhibit 1 attached represent the entire agreement between Bigge and **Customer** and supersedes any prior written or oral representations. Execution of this Agreement is proof that the signing parties have the full authority to bind the company.

The Parties agreed to the terms and conditions above:

|  |  |
| --- | --- |
| **Bigge Crane and Rigging Co.** | **Customer** |
|  |  |
| **By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | **By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |
| **Name/Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | **Name/Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |
| **Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | **Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |

**EXHIBIT 1 - Terms and Conditions**

* 1. **ACCEPTANCE**: The proposal and pricing estimated herein are valid for acceptance within the fifteen days and, thereafter, are subject to equipment and resource availability. Should the work be extended beyond the period quoted. Bigge Crane and Rigging Co. reserves the right to negotiate an equitable adjustment.
	2. **ACCESS**: Contractor/Owner will provide reasonable access for equipment and a safe place to work which complies with Federal OSHA and CAL/OSHA. Firm, level, all weather roadways, access road and ramps, and work areas will be provided for cranes and transporting equipment.
	3. **LIFTING LUGS FURNISHED BY OTHERS**: Bigge Crane and Rigging Co. will assume no liability or responsibility for the adequacy of the design or the strength of any lifting lug embedded or attached to any object, whether concrete, steel, or other, to which we attach for handling or holding, whether or not it is furnished by Contractor/Owner, manufacturer or others.
	4. **WORKING CONDITIONS**: All work will be performed on a straight time basis during regular working days on a generally recognized eight- hour shift. All commitments in which time is of the essence are contingent upon strikes and force majeure causes beyond our control. This proposal is based upon one mobilization at the job site with our work being performed in a continuous and uninterrupted manner with exclusive use of the required work area.
	5. **OBSTRUCTIONS**: Overhead and underground obstructions and facilities will be removed or made safe by others. Bigge Crane and Rigging Co. will not be held responsible for damage to underground structures, voids or utilities not specifically identified in advance, or for damage to concrete or asphalt. Protection of identified underground items, concrete or asphalt must be agreed to by all parties, in advance, in writing.
	6. **INSURANCE AND INDEMNIFICATION**: To the fullest extent permitted by law, Contractor/Owner will indemnify Bigge Crane and Rigging Co. against loss or expense, including cost of defense, by reason of liability imposed by law for damages resulting from death or injury to persons or destruction of property occurring during the performance of the work under any contract made on the basis of this proposal, except to the extent that such death, injury or damage shall have been due to the active negligent act or willful misconduct of Bigge Crane and Rigging Co., its agents or employees. Bigge Crane and Rigging Co.’s liability, including indemnification, is hereby limited to the sum of $1,000,000 and is additionally limited by specific conditions and sub-limits of our insurance policies. If this limit is not acceptable, Contractor/Owner will notify Bigge Crane and Rigging Co. in writing and we will provide a quotation to cover the increased cost for the account of Contractor/Owner.

The Owner and/or Contractor will purchase and maintain a broad form All-Risk Builder’s Risk insurance policy upon the entire project, including work in progress and completed work, for the full cost of repair or replacement. Said insurance will include coverage for project delays. The policy will be endorsed to name Bigge Crane and Rigging Co. and its subcontractors as additional named insured. The policy coverage will insure against loss from the perils of fire and extended coverage and will include “All Risk” coverage for physical loss or damage including at least theft, vandalism, malicious mischief, transit, collapse, flood and earthquake. In the event of a loss, the deductible and uninsured perils will be paid by the Contractor/Owner.

* 1. **PAYMENTS**: Progress payments will be made to Bigge Crane and Rigging Co. monthly; all invoices are due and payable upon presentation. There shall be no retention unless agreed to in writing. Any unpaid balance shall bear interest from the due date until paid, at the rate of 1.5% per month. If the account is referred for collection, the Contractor/Owner agrees to pay collection costs and attorney’s fees.
	2. **LIQUIDATED AND CONSEQUENTIAL DAMAGES**: Bigge Crane and Rigging Co. has made no contingency in either proposal or pricing for indirect, liquidated or consequential damages and will assume no responsibility or liability for either. References to said damages in contract documents are not acceptable or binding.
	3. **HAZARDOUS MATERIALS**: The handling or transportation of any hazardous materials, or equipment or containers containing hazardous materials, is specifically excluded from Bigge Crane and Rigging Co.’s scope of supply. These materials include, but are not limited to, the following: Asbestos, fuels, oils, explosives and materials known to be cancer causing carcinogens. Workers’ Compensation claims resulting from the handling of such materials will not be excluded from subrogation by any waiver furnished by Bigge Crane and Rigging Co.. The Contractor/Owner will advise Bigge Crane and Rigging Co. in writing prior to the commencement of Bigge Crane and Rigging Co.’s work of the presence of hazardous materials, if any. A written resolution of the disposition of hazardous materials will be provided to Bigge Crane and Rigging Co. prior to the start of the work which is the subject of this proposal.
	4. **WARRANTY LIMITATION**: Warranty of services provided is limited to acceptance upon completion.
	5. **VENUE**: In any legal action which may result from a contract entered into on the basis of this proposal, the laws of the State of California shall govern such action. Venue for legal actions, if any, will be Alameda County, California. Bigge Crane and Rigging Co. will be entitled to actual attorney’s fees and cost of litigation to enforce the terms contained herein.
	6. **BORROWED SERVANT**: When services are provided on a Time and Material basis or Operated and Maintained Equipment, working as Directed, Contractor/Owner agree that the personnel are under the direct supervision and control of Contractor/Owner and are provided under the Borrowed Servant Doctrine as borrowed servants or employees of Contractor/Owner. Contractor/Owner shall supervise and have the right to control the work of the personnel and shall be fully liable for any and all loss or damage, including property damage and bodily injury or death as a result of the acts or omissions of personnel provided hereunder.
	7. **NO OTHER AGREEMENT**: This proposal and terms and conditions shall be the complete agreement and understanding by and between the parties unless Bigge Crane and Rigging Co. and Contractor/Owner have entered into a separate written contract for the services. Bigge Crane and Rigging Co. shall not be bound by any other contracts or obligations for Contractor/Owner unless expressly agreed to in writing by Bigge Crane and Rigging Co..
	8. **BRACES**: In the event the work requires braces then Contractor/Owner will provide bracing and bracing labor in sufficient numbers to prevent standby time by Bigge Crane and Rigging Co.’s erection crew.
	9. **CAL/OSHA STANDARD COMPLIANCE**: For work requiring hoisting and erecting of precast and prefabricated panels, and tilt-up concrete panels Contractor/Owner shall be responsible for compliance with CAL/OSHA Title 8, Subchapter 4, Article 29, Sections 1714 and 1715 of Construction Safety Orders, which requires the civil or structural engineer registered in the State of California to provide lifting and erection plans and procedures.