



REQUEST FOR PROPOSALS

June 11, 2019

**AMMONIA ICE PLANT REPAIRS AND COMPLIANCE PROJECT
Bob Snodgrass Recreational Complex**

**TOWN OF HIGH RIVER
High River, Alberta**

**CLOSING DATE:
June 24, 2019 at 4:00 p.m. (Mountain Time)**



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INSTRUCTIONS TO PROPONENTS

INTRODUCTION

1. The Town of High River ("High River") is seeking the services and inviting proposals from an experienced and qualified refrigeration company to repair the existing Ammonia Ice Plant located at the Bob Snodgrass Recreational Complex for a fixed sum. The successful Contractor will be responsible for the repairs of the existing plant including ensuring the health and safety of the plant, the facility workers and meeting code compliance (the "Work") in the Town of High River.
2. The purpose of this Request for Proposals ("RFP") process is to select a qualified Contractor to enter into an Agreement with High River for the performance of the Work. Further details about the Work required by High River are set out in **Schedule "A" – Project Information and Work Requirements**.
3. Proponents will be expected in their submission to this RFP, demonstrate a thorough understanding of the requirement, their qualifications and relevant experience, provide their approach and methodology, project plan and detailed schedule.
4. **This RFP is not a tender and is not subject to the laws of competitive bidding. No bid contract or agreement is created by the submission of a proposal.**

RFP DOCUMENTS

5. The following documents are attached to and form part of this RFP:

Schedule "A" – Project Information and Work Requirements

Schedule "B" – Proposal Content Requirements

Schedule "C" – Form of Agreement

INQUIRIES

6. Any inquiries concerning this RFP should be directed in writing to the following:
Contact, Clifton Thornton P.Eng. , PMP
Phone: 403.771.6995
Fax: 403.652.2396
E-mail: CThornton@highriver.ca

Town of High River
309B Macleod Trail SW
High River, AB T1V 1Z5
7. All inquiries (clarifications or questions) should be in writing by paper or email and received by High River on or before **June 18, 2019 at 4.00 pm**. Inquiries received later than this stated time and date may not be acknowledged or answered. Depending on their nature, comments or responses will be replied by the Town via email or through addenda. All posted addenda will become part of the agreement and must be referenced in the Proponent's Proposal submission.
8. High River may circulate its response to any inquiries to all Proponents, along with the original



inquiry and may post such response and original inquiry on www.purchasingconnection.ca or may choose not to reply to any inquiry.

9. Proponents should refrain from contacting other employees, agents or members of Council of High River in respect of this RFP process, including for the purposes of lobbying or attempting to influence the outcome of this RFP process. Any such contact may, in High River's sole discretion, result in disqualification.

PROPONENT MEETING

10. High River expects to hold a proponent meeting on **June 17, 2019 at 10.00 a.m. (Mountain Standard Time)**. Interested proponents should assemble at the property, Bob Snodgrass Recreational Complex, located at 228 12 Avenue S.E. High River, Alberta.
11. In order to better understand the anticipated needs for Work, proponents considering the submission of a proposal are strongly encouraged to attend the proponent meeting.
12. If you are interested in attending the proponent meeting, please advise Clifton Thornton, by email at CThornton@highriver.ca latest on **June 13, 2019** with the following information:
 - a) Name of representative(s) who will be in attendance; and
 - b) Questions the proponent would like addressed at the meeting

Meeting Minutes from the proponent meeting may, at High River's discretion, be posted on the competition website at www.purchasingconnection.ca

SUBMISSION OF PROPOSALS

13. Proposals should be in both paper and electronic format. Proponents should submit three (3) hard copies of their proposal (including one unbound copy for photocopying) plus an electronic copy on a memory stick or USB indicating the RFP Title and Closing Date to the following address by:

4:00 p.m. (Mountain Time), Monday June 24, 2019;

**PROPOSAL: Ammonia Ice Plant Repairs and Compliance Project
Town of High River
309B Macleod Trail
High River, AB
Attention: Clifton Thornton P.Eng. , PMP**

14. If you require additional time to submit your proposal, you should contact Clifton Thornton by e-mail to CThornton@highriver.ca. High River may, in its sole discretion, allow additional time for proponents to submit a proposal. Such a request must be received no later than 4:00 p.m. (Mountain Standard Time) on **June 21, 2019**.
15. Proposals and accompanying documentation provided to High River in response to this RFP will not be returned.

CONTENT OF PROPOSALS

16. Proposals should address the items set out in **Schedule "A" – Project Information and Work Requirements**.
17. Proponents may provide additional information beyond that requested in the RFP for High River's consideration. Any such additional information may be considered by High River in its



sole discretion.

18. Proponents may be asked to submit additional information pertaining to their past experience, qualifications and such other information that High River might reasonably require.

COST OF PROPOSALS

19. High River is not responsible for any costs incurred by proponents in preparing their proposals, attending any meetings or interviews with High River, making any presentations to High River in connection with their proposals, or otherwise incurred in connection with this RFP process.

EVALUATION PROCESS

20. Proposals will be opened and evaluated privately.
21. In assessing proposals, High River will take into consideration the following evaluation criteria:
 - a) qualifications, experience and capacity of the proponent to provide and successfully complete the services required by High River in a timely, safe, efficient and quality manner;
 - b) proponent's overall fee proposal (including any lump sum prices), proposed project costs and fee schedules and detailed cost breakdown and estimates for each phase and type of service;
 - c) the qualifications and experience of the proponent's proposed key personnel;
 - d) the qualifications and experience of the subcontractor the proponent intends to use for the project;
 - e) proponent's demonstrated understanding of the project scope, objectives, deliverables and schedule requirements;
 - f) the proposal's responsiveness to the requested information;
 - g) the proposed timeline for completion of services;
 - h) the proponent's proposed methodology that outlines how each phase will be completed including the integration of project management, and overall coordination of a successful project;
 - i) performance of proponents at the final interview;
 - j) terms of the Agreement that the proponent is prepared to accept; and
 - k) such other criteria as High River considers relevant.
22. Proposals will be evaluated on the basis of the information provided in response to these Instructions to Proponents. In addition, in assessing the proponent's qualifications, experience and capacity, High River may also consider the following:
 - a) clarifications and/or additional information that may be supplied pursuant to requests from High River;
 - b) interviews and/or reference checks that may be conducted at High River's discretion;
 - c) previous experience of High River in working with the proponent and/or its subcontractor; and
 - d) information received from any source that High River considers reliable.



23. High River may, in its sole discretion, request clarification from a proponent during the evaluation process.
24. High River has not predetermined the relative importance of the above evaluation criteria. High River expects to select the proponent that provides the most advantageous proposal, as determined by High River in its sole discretion, having regard to the evaluation criteria referred to above.
25. Proponents are advised that the evaluation process is subjective in nature and High River's intention is to consider, in its sole discretion, each proposal on its merits, without regard to the rules or principles of competitive bidding, including without regard to whether a proposal is compliant with this RFP.
26. High River may short-list proponents and conduct interviews with short-listed proponents at its sole discretion. Furthermore, High River may negotiate any and all aspects of a proposal, including but not limited to the fee proposal, and Agreement terms.
27. An invitation to interview or to negotiate does not obligate High River to conclude the Agreement with that proponent. High River may interview or may negotiate any aspect of any proposal with one or more proponents at any time.
28. High River will notify all unsuccessful proponents after entering into a definitive agreement with the successful proponent. Unsuccessful proponents may request a debriefing interview to obtain feedback on their proposal after receiving this notification.

ANTICIPATED SCHEDULE OF EVENTS

29. The following is the anticipated schedule of events related to this RFP. These dates are provided as target dates only and may be changed at any time by High River in its sole discretion:
 - a) RFP Released **June 11, 2019**
 - b) Date for proponent to confirm attendance at proponent meeting **June 13, 2019**
 - c) Proponent Meeting **June 17, 2019**
 - d) Inquiries respecting RFP **June 18, 2019**
 - e) Closing Date **June 24, 2019**
 - f) Tentative Agreement Execution/Notification of Award **June 26, 2019**
 - g) Commencement of Work *As soon as possible after contract award*

FORM OF AGREEMENT

30. Any successful proponent(s) will be expected to enter into an Agreement based on the form of agreement attached at **Schedule "D" (the "Agreement")**, with such modifications as agreed to by High River and a chosen proponent.

EFFECT OF RFP

31. This RFP is not intended to be a tender or otherwise subject to the laws applicable to competitive bidding. Until such time as High River signs a definitive Agreement with a proponent, High River does not intend to create a contractual relationship including a bid contract (either express or implied) with any proponent submitting a response to this RFP.



32. Submission of a proposal does not obligate High River to accept any proposal or to proceed further with any of the Work. Consideration of any proposal shall be in High River's sole discretion.
33. Proposals may be withdrawn or amended by proponents at any time by written notice to High River prior to High River and a proponent signing a formal contract.
34. Proponents are advised that High River is intending to conduct a flexible procurement process, not subject to the law of competitive bidding, and that High River may, in its sole discretion, at any time and for any reason:
 - a) reject any and all proposals (including, for greater certainty, the lowest cost proposal);
 - b) modify or vary any aspect of this RFP at any time before or after the time for submission of proposals;
 - c) extend the deadline for submission of proposals at any time before or after the time for submission of proposals;
 - d) accept any non-compliant, conditional or irregular proposal or any alternate proposal, in whole or in part;
 - e) discuss the terms of a proposal submitted by a proponent with that proponent at any time, on a confidential basis, for the purposes of clarification and/or negotiation of that proposal;
 - f) allow any proponent submitting a proposal to modify or vary any aspect of its proposal at any time;
 - g) verify or seek clarification of any and all information provided pursuant to this RFP;
 - h) negotiate any and all aspects of any proposal and the provisions of the Agreement (including, without limitation, those provisions relating to fees and/or any scope of work) with any one or more proponents at any time in its sole discretion, whether before, during or after the selection and evaluation process; and
 - i) cancel this RFP at any time for any reason and thereafter proceed in any manner it sees fit, in its sole discretion, including:
 - i. issuing a new request for proposals or other procurement document based on the same or changed specifications, scope of work, or other requirements;
 - ii. entering into sole source negotiations with any one or more of the proponents or any other person; or
 - iii. cancelling the procurement in its entirety.

CONFIDENTIALITY, PUBLIC ANNOUNCEMENTS

35. Proponents are expected to keep confidential all documents, data, information and other materials of High River which are provided to or obtained or accessed by a proponent in relation to this RFP, other than documents which High River places in the public domain. Proponents are expected not make any public announcements or news releases regarding this RFP or the entering into an Agreement pursuant to this RFP, without the prior written approval of High River.
36. Proponents are advised that as a municipality, High River is subject to the provisions of the *Freedom of Information and Protection of Privacy Act* (Alberta), which provides a right of access



to information in records under the control of a municipality. Proponents are advised that High River may be required to disclose all or a portion of any proposal or other communications in response to this RFP pursuant to the *Freedom of Information and Protection of Privacy Act* (Alberta).

CANADIAN FREE TRADE AGREEMENT

37. This procurement is subject to the applicable provisions of the Canadian Free Trade Agreement.

Schedule "A" – Project Information and Work Requirements

Background and Overview of Project

1. The Bob Snodgrass Recreational Complex (BSRC) has a Curling Rink, Small and Large Arena all serviced by the same Ammonia Ice Plant.
2. A number of assessments and inspections have identified various issues (*please refer to scope of work below for details on the findings*)
3. The existing Ammonia Ice Plant is functionally adequate but is ageing and needs to be repaired thereafter followed by a high level of maintenance service to provide users and staff with a safe and positive experience
4. An assessment was recently completed as part of this project with a view to having the current plant repaired and brought to compliance with the current code
5. This included the completion of a specialized assessment of the chillers. The results of this assessment confirmed that the chillers are in a functional state for another year.
6. Through the repairs of the existing plant, High River intends to extend its service life including the headers by another 10+ years and other work depending on code compliance.
7. The Town would welcome any recommendations from the proponents in their proposals and would encourage them to use innovation, make proposed revisions or alternatives beneficial and add value to the Town's interests

Project Approach

8. Provide a detailed description of your organization's plan for approaching the project including planning and implementation on the basis of the scope of services outlined below.
9. Participate in a Project Kick-Off Meeting with the High River Project Team during which major project goals and an implementation strategy are identified. Other key aspects for discussion at this meeting will include Safety, Communications, Roles and Responsibilities, Project Status Reports etc.
10. Maintain direct relationship with the project manager, facility staff to determine and manage project conformance and costs through clear, open and feedback on a continuous basis.
11. Establish well defined methodology, processes and procedures and lines of communication required to ensure delivering a well-coordinated project.
12. Ensure the High River, Provincial and Federal codes, bylaws and regulations are met.

Scope of the Work

13. The key components identified to be repaired as part of this project include but is not limited to the following:
 - a) Install manual venting control in new vestibule for code compliance
 - b) Install emergency shutdown control in new vestibule to code compliance
 - c) Upgrade compressor #3 to align with chiller capacity
 - d) Install additional control in vestibule for increased safety and efficiencies
 - e) Replace pulleys on compressor #2 for proper output (Completed in 2018)
 - f) Remove Glycol circulation tank from outside to inside for better monitoring and control (Not Applicable)
 - g) Source and install proper piping labels and information tags
 - h) Misc. small repairs



14. Other key elements as listed below have also been identified for completion of the repairs of this plant:
- a) Arena Headers Pipes - Majority of the headers and piping in the large arena, small arena and curling rink are in poor condition. There are significant portions of the headers that need full replacement. Numerous leaks were found resulting in severe corrosion on the headers and significant loss of brine (coolant for under the arenas) during operation.
 - b) Ammonia Relief Valves - To meet code requirements the relief valve needs to be upgraded to a 5" header. The current header is 3" which is undersized. The relief valve is used in an emergency to allow the ammonia to vent and relieves pressure from the top of chiller.
 - c) Full Overhaul of Compressor #3 - Instead of an upgrade, compressor #3 would benefit from a major overhaul. A preventative maintenance schedule has been developed for the compressors with overhauls scheduled on a three year rotation. Compressor #2 and #3 will need to be replaced within the next two years and will be reflected in future budgets.
 - d) Compressor #1 - Perform maintenance on the compressor including replacement of motor bearings and condenser belts.

Site of the Work

1. The location of the work is at the Bob Snodgrass Recreational Complex, 228 12 Avenue S.E. High River, Alberta.

Schedule

2. High River expects that the Work will be commencing in **June 2019** with completion of the Work achieved on or before **August 2, 2019**.
 - a. The proponent is to reference the dates above and present a breakdown showing a detailed plan of activities and sequences as needed.
 - b. There will be few dates that the Contractor will be committed to meet and accommodate within the project schedule.
 - c. The timing of these projects is vital to ensure there is minimal impact to our user groups. The work on the headers in the large arena is a priority and they must be completed before **August 2, 2019**.

Standards of the Work

1. Work shall be in conformance with all applicable by-laws,
2. Bidders shall read and be governed by the instructions defined in this RFP package and any Addendum.
3. The complete work under this Contract shall be governed by the dictates of good practice and shall be complete in all details of materials and methods even if not minutely specified. The work shall be properly coordinated with the requirements of all work specified in other sections.

Copies of the specifications and standards not appended to this RFP document can be provided upon request.



Schedule "B" - Proposal Content Requirements

Proponents should at a minimum address the following in their Proposals:

Company Detail

1. A brief description of your company including organizational structure and any qualifications you consider relevant.

Relevant Experience

2. A description of the Proponent's relevant experience in performing such, including three (3) references of a similar scope of work performed for municipalities or other government bodies or agencies in the previous (5) years, and provide appropriate contact information including telephone number and email address for references.
3. The preference of the Town will be a proponent with expertise and proven experience relevant to the completion of projects of a similar magnitude, complexity and scope to meet the defined schedule.
4. Provide information on your organization's experience in projects of a similar scope of work. The projects must be listed in order of priority starting with the most relevant. Information for each project listed must include the project name, location and description.

Capacity

5. High River expects that you will have sufficient resources available to meet the service requirements of High River in a timely and efficient manner.
6. Provide a chart showing the organization of the proposed design team identifying the Project Manager who will be responsible for the Work and provide their resumes.
7. Provide a current clearance certificate from the Workers' Compensation Board of Alberta, and a current COR or SECOR certificate issued by Alberta.
8. Identify and provide a brief description of any Subcontractors you propose to engage to perform the Work.
9. Provide any additional information that you deem appropriate and useful in assisting in the selection of a Contractor.

Liability Insurance

10. High River expects that you carry commercial general liability insurance and automobile insurance policies each in an amount of not less than \$5,000,000.00 per occurrence, and Errors and Omissions/Professional Liability Insurance, with a limit of not less than \$2,000,000 per claim. Provide certificates of insurance outlining the amounts of commercial general liability, automobile insurance, and professional liability insurance carried.

Schedule

11. Work is expected to commence on or around **June 28, 2019** and completion of the Work is expected to be achieved, by **August 2, 2019**.

Bonding

12. Confirm that you have a bonding program in place.



13. Provide pricing to include a consent of surety, stating that the surety is willing to supply a 50% Performance Bond and 50 % Labour and Material Payment Bond as specified in the agreement. Proponents should separately identify the cost of providing the bonds in their proposals.

Fee Proposal

14. High River expects the Work will be performed on both a "Fixed Sum" basis for the Design. Provide a "Fixed Sum Price" in Canadian Dollars for the Work, exclusive of any applicable GST.
15. High River is interested in considering any value-added services and options a proponent may have to offer. The proponent is expected to provide a description of any such services and a pricing proposal.
16. At the option of High River, hourly rates may be used for valuing certain changes to the Work. The proponent is expected to provide a complete list of hourly rates in Canadian Dollars, exclusive of GST.
17. Provide a breakdown of your Fixed Sum price, including at a minimum, pricing for the following components of the Work:
 - a. Project Management,
 - b. Repairs and,
 - c. Compliance to Code

Exceptions to Agreement Terms

18. A detailed description of any exceptions or additions to the Agreement should be clearly set out in a proponent's proposal. High River will assume, in the absence of any such exceptions or additions, that the proponent accepts the form of Agreement.

Conflict of Interest Disclosure

19. Disclose any actual or potential conflicts of interest that may exist between your firm and its management, and High River, its members of Council and management, and the nature of such conflict of interest. If a proponent has no such conflict of interest, a statement to that effect should be included in its proposal. High River employees are ineligible to participate, directly or indirectly, with any proponent.

Confidentiality

20. Proponents acknowledge that High River and all materials in its possession are subject to the *Freedom of Information and Protection of Privacy Act* of Alberta. Identify any information in your proposal which you consider to be confidential or proprietary business information.



Schedule "C" – Form of Agreement

| Insert the Form of Agreement |

SITE SERVICES AGREEMENT

This Site Services Agreement is made as of the _____ day of _____, 20__

Between:

TOWN OF HIGH RIVER
("High River")

and **<NAME OF CONTRACTOR>**
(the "Contractor")

High River wishes to engage the Contractor to perform certain work for High River. Accordingly, High River and the Contractor agree as follows:

- 1. Work:** The Contractor shall perform the Work described in the attached Schedule 1 – Scope of Work in accordance with this Contract.
- 2. Payment:** High River agrees to pay the Contractor for the Work performed, the amounts set forth in the attached Schedule B – Contract Price, at the times and in the manner prescribed by this Contract.
- 3. Contract Documents:** The rights and obligations of High River and the Contractor are set forth in this Contract, and the following attached Schedules:

Schedule A - Scope of Work
Schedule B - Contract Price
[Appendix 1 – Rate Schedule]
[Appendix 2 – Estimate]
Schedule C - General Conditions

- 4. Counterparts:** This Contract may be executed in one or more counterparts and may be executed and delivered by facsimile or electronic mail, and all the counterparts taken together constitute one and the same instrument.
- 5. Notices:** All notices or other communications between the parties under this Contract shall be in writing and delivered to the address set out below:

High River:

<insert address>

Fax: (<area code>) <fax number>

Attention: <name or title>

Contractor:

<insert address>

Fax: (<area code>) <fax number>

Attention: <name or title>

- 6. Binding Agreement:** High River and the Contractor, intending to be legally bound, have signed this Contract.

TOWN OF HIGH RIVER

[CONTRACTOR]

By: _____
Name:
Title:

By: _____
Name:
Title:

SCHEDULE A – SCOPE OF WORK

Scope of the Work

[NTD: Provide a detailed description of the scope of the Work to be performed by the contractor. Any necessary drawings or maps should be attached as an exhibit and this section should include a list of these attachments.]

Site(s) of the Work

[NTD: List the Site(s) where the Work is to be performed.]

Standards of the Work

[NTD: Describe any standards and any other requirements applicable to the Work or the performance of the Work by the contractor. Any additional documents specifying standards should be either incorporated by reference or attached as an appendix and this section should include a list of these attachments or documents incorporated.]

[Term]

This Contract will commence on the date first written above and will continue in effect until the ____ day of _____, 20___. [This Contract may be renewed for an additional term of _____ at the option of High River, on the same terms and conditions specified in this Contract. High River may exercise its option by giving a notice in writing to the Contractor on or before _____.]

[OR]

[Schedule]

[NTD: Describe the schedule and any important milestones or deadlines related to the Work. Any detailed schedule agreed to should be incorporated by reference or attached as an appendix and this section should include a list of these attachments or documents incorporated.]

Related Deliverables and Work Product

[NTD: Describe any deliverables the contractor will be required to supply in connection with the Work (ie, manuals, drawings, documentation, third party warranties). If there are no applicable deliverables, delete this heading.]

Approved Subcontractors

The following are the approved Subcontractors for the Divisions or Sections of Work listed hereunder.

<u>Scope of Work</u>	<u>Subcontractor</u>
_____	_____
_____	_____
_____	_____
_____	_____

SCHEDULE B – CONTRACT PRICE

1. Contract Price

1.1 The Contract Price to be paid by High River for the complete performance of the Work is:

fixed sum of \$<amount>.

-OR-

time and materials properly incurred by the Contractor, payable at the rates, prices and other terms set out in the Rate Schedule attached as Appendix 1 to this Schedule B – Contract Price.

-OR-

units of work performed by the Contractor, payable at the rates, prices and other terms set out in the Rate Schedule attached as Appendix 1 to this Schedule B – Contract Price.

1.2 The Contractor's charge-out rates set out in the Rate Schedule attached as Appendix 1 to this Schedule B – Contract Price may apply at High River's option to any agreed upon changes to the scope of Work set out in Schedule A – Scope of Work.

1.3 If the Contract Price is to be paid on a "time and materials" basis, the Contractor's estimate for completing the Work is set out in Appendix 2 to this Schedule B – Contract Price. **[NTD: Delete if not applicable]**

2. Invoicing

2.1 The Contractor may invoice High River:

upon complete performance of the Work.

-OR-

monthly in arrears, based on the value of the Work performed during the preceding month.

2.2 Invoices may be submitted **electronically to ♦**. Invoices shall be accompanied by such documentation and information, including time sheets, as High River may reasonably require in order to substantiate the Work performed to which the invoice relates.

2.3 The Contractor shall retain for at least two years after the completion of the Work, complete and accurate records of all of the Contractor's costs which are chargeable to High River on a reimbursable basis. High River shall have the right, at reasonable times, to inspect and audit those records for the reimbursable portion of any Work.

APPENDIX 1 – RATE SCHEDULE

No.	Labour	Rate (CDN \$)
1	<Insert Position>	\$<amount> per hour
2	<Insert Position>	\$<amount> per hour

No.	Equipment	Rate (CDN \$)
1	<Insert Equipment>	\$<amount> per hour
2	<Insert Equipment>	\$<amount> per hour

No.	Material	Unit Rate (CDN \$)
1	<Material>	\$<amount> per <amount>
2	<Material>	\$<amount> per <amount>

The rate for Materials where no "Unit Rate" is expressed above, will be the Contractor's actual out of pocket cost, plus a markup of:	<Markup on Materials>%
The rate for Equipment required in connection with the Work for which no rate is expressed above, will be the Contractor's actual out of pocket cost, plus a markup of:	<Markup on Equipment>%

The Contractor's rates set out above are inclusive of:

- (a) in the case of labour rates, the cost of all payroll burdens, benefits, insurance, safety certifications, training, permits, and licenses; and
- (b) in the case of equipment rates, the cost of all insurance, licenses, shop supplies, wear and fuel.

Unless expressly set out in this Schedule B – Contract Price, no other costs are chargeable to High River in connection with the Contractor's performance of the Work.

Units of Work	Quantity	Price per Unit (CDN \$)	Extended Unit Price (CDN \$)
<Description of Work>		\$<amount> per <amount>	
<Description of Work>		\$<amount> per <amount>	
<Description of Work>		\$<amount> per <amount>	

The Unit Price rates set out above are inclusive of all labour, materials, consumables, tools and equipment required to perform the Work described in the above table. Quantities specified are estimated quantities and are not actual quantities of work to be performed.

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APPENDIX 2 – ESTIMATE

1. The Contractor's estimate for the total cost payable by High River for the complete performance of the Work is set out below.

[NTD: If the Contract Price is to be paid on a "time and materials" basis, include this Appendix 2 with the Contractor's estimate]

2. The Contractor acknowledges that High River is relying on this estimate as a good faith estimate of the total cost required to perform the Work.
3. The Contractor shall act diligently in performing the Work so as to minimize the total costs payable by High River to complete the Work.

DRAFT

SCHEDULE C – GENERAL CONDITIONS

ARTICLE 1: INTERPRETATION

1.1 Definitions

(1) In this Contract:

- (a) "**Claims**" means any claim, demand, action, cause of action, suit or proceeding;
- (b) "**Confidential Information**" means: (i) the terms and conditions of this Contract; (ii) all knowledge and information concerning the technical, commercial and business operations of High River; (iii) any third party proprietary information in the custody and control of High River; or (iv) any personal information as defined in the *Freedom of Information and Protection of Privacy Act* (Alberta); which may be acquired by the Contractor in the course of negotiation or performance of this Contract;
- (c) "**Contract**" means this Site Services Agreement, together with: (a) all of the schedules attached hereto and all documents incorporated by reference into those schedules; and (b) all other amendments from time to time, duly executed by the parties;
- (d) "**Contract Price**" means: (a) where the Work is performed on a "fixed sum" basis, the total contract price specified for the performance of the Work in Schedule B – Contract Price; or (b) where the Work is performed on a "time and materials" basis, the total contract price earned for performance of the Work, determined in accordance with Schedule B – Contract Price; or (c) where the Work is performed on a "unit price" basis, the total of the unit rates payable for the performance of the Work, determined in accordance with Schedule B – Contract Price;
- (e) "**Contractor Equipment**" means the tools, plant, equipment and materials used for execution of the Work, but not forming part of the Work;
- (f) "**Deliverables**" means the drawings, data, operation and maintenance manuals and all other documents and data that the Contractor is required to deliver to High River in accordance with this Contract in relation to the performance of the Work;
- (g) "**General Conditions**" means this Schedule C - General Conditions;
- (h) "**GST**" means the goods and services tax as provided for in the *Excise Tax Act* (Canada), or any successor or replacement Laws;
- (i) "**High River Personnel**" means the Town of High River and its Councillors, agents, officers, directors and employees, or any of them;
- (j) "**Laws**" means any applicable federal, provincial, or municipal law, regulation, bylaw, ordinance, rule, permit, license or code of every relevant jurisdiction that in any manner affects the Work or the performance of the Contractor's obligations under this Contract and any order, decree, authorization or approval, or other binding determination of any relevant governmental authority, body, tribunal or agency with jurisdiction over the foregoing;

- (k) **"Materials"** means all materials, machinery, equipment, systems, technology, licenses, processes, accessories, supplies and parts supplied by the Contractor as part of the Work;
- (l) **"Remedial Work"** means the repair, modification, replacement, or re-performance of any Work in breach of any condition, warranty, guarantee or covenant of this Contract, including removal and reinstallation of the defective Work or replacement Work, and any other corrective measures required;
- (m) **"Site"** means each location within the Town of High River where the Work is to be performed as identified in Schedule A – Scope of Work;
- (n) **"Subcontractor"** means an individual, firm, corporation or other entity engaged directly or indirectly by the Contractor to perform any portion of the Work, including, without limitation, the furnishing of any Materials; and
- (o) **"Work"** means the carrying out, doing and supply of all things and services that are to be done or supplied by the Contractor pursuant to this Contract and the end product of such activities including, without limitation: (a) the performance of all work set out in this Contract; (b) the supply of Deliverables and all Materials; (d) the performance of all Remedial Work; (e) the supply of all Contractor Equipment and labour necessary for the foregoing; and (f) any part, component or portion of the foregoing.

1.2 Rules of Interpretation

- (1) If there is a conflict or discrepancy between, among or within any provisions of this Contract, the more stringent requirement, specification, standard, drawing, criteria, or warranty governs.
- (2) If, in the performance of the Work, the Contractor discovers any conflict, discrepancy, error or omission in Schedule A – Scope of Work or any other part of this Contract, the Contractor shall immediately provide written notice to High River, requesting clarification pursuant to section 2.4.

1.3 Law of the Contract

The Laws of the Province of Alberta (excluding its conflict of laws rules) and the Laws of Canada applicable in Alberta govern the interpretation, validity and enforceability of this Contract. The Contractor agrees to submit to the jurisdiction of the courts of the Province of Alberta.

1.4 Entire Agreement

This Contract constitutes the entire and only agreement between the parties, and cancels all pre-existing agreements and understandings between the parties relating to the subject matter of this Contract.

ARTICLE 2: WORK

2.1 General Requirements

The Contractor shall: (a) have complete control over the proper performance of the Work and all persons involved in the Work, including any Subcontractors, and shall be entirely responsible for the compliance with this Contract by all such persons; (b) be responsible for the Work satisfying the requirements set out in this Contract and in every other manner conforming with the specifications,

standards, drawings, plans, and all other information or data relating to the Work which are either set forth or referred to in Schedule A – Scope of Work; (c) ensure that the performance of the Work at the Site does not interfere with High River's ongoing operations or use of the Site, except with High River's prior written consent; and (d) if any other contractors are performing work at the Site, co-operate with and co-ordinate its activities with the other contractors in the working area so that the work of all contractors proceeds with efficiency.

2.2 Remedial Work

Any Work not performed in accordance with the standards and specifications required by this Contract shall be re-performed by the Contractor at its expense.

2.3 Inspection of Site

The Contractor is responsible for investigating the Site before performing the Work, and informing itself of all conditions concerning the Work, including but not limited to accessibility, general character, surface conditions, utilities, and all other conditions.

2.4 Additional Instructions

High River may provide the Contractor with additional instructions as necessary for the performance of the Work. All such additional instructions must be consistent with the general scope and intent of this Contract, and the Work must be executed in conformity with such additional instructions.

2.5 Subcontracts

The Contractor shall not employ any Subcontractor to perform any Work without first obtaining High River's written consent. No subcontract by the Contractor, nor the granting of any approval or consent to subcontract by High River, relieves the Contractor of any of its liabilities or obligations under this Contract. The Contractor shall pay when due all proper invoices, claims and accounts of Subcontractors employed in connection with the Work.

2.6 Permits and Licenses

Except as expressly provided elsewhere in this Contract, the Contractor shall obtain, at its expense, all necessary permits and licenses and give all necessary notifications to governmental authorities for the performance of the Work.

2.7 Compliance with Laws

The Contractor shall, and shall cause all Subcontractors and personnel engaged in the performance of the Work to: (a) ensure that the Work is performed in accordance with applicable Laws; (b) comply with all applicable Laws in performing its obligations under this Contract; and (c) provide High River with evidence of compliance with Laws upon request.

2.8 Time for Performance

The Contractor agrees to perform the Services diligently at all times and within any timelines or schedule specified in Schedule A – Scope of Work.

ARTICLE 3: : PROTECTION OF PERSONS AND PROPERTY

3.1 Protection of Property

- (1) The Contractor shall take all necessary precautions to protect High River's property and the property of any other person located in, upon or about the Site from damage due to any cause related to the Work.
- (2) If the Contractor damages the Work or High River's property or the property of any other person in the course of performing the Work, the Contractor shall reimburse High River for any costs reasonably incurred by High River to make good such damage.

3.2 Site Policies and Procedures

Without limiting the Contractor's responsibility under section 2.7, the Contractor shall, and shall cause all Subcontractors and personnel engaged in the performance of the Work at the Site to comply with all rules, regulations and policies, as may be established and amended by High River from time to time.

3.3 Occupational Safety and Health

- (1) The Contractor shall have responsibility for the safety and health of all persons involved in the Work at the Site, and for compliance with occupational health and safety laws by all such persons.
- (2) The Contractor warrants that it is familiar with and understands the occupational health and safety Laws and hazards and potential hazards associated with the performance of the Work, and that its personnel have the training, expertise, capability, experience, and means required to provide the Services in compliance with occupational health and safety Laws. The Contractor shall be responsible for informing all persons involved in performing Work at the Site of such occupational health and safety Laws or hazards.
- (3) The Contractor shall take all necessary precautions to guard against any person being injured by the Work at or near the Site or by the condition of the area in which the Work is being performed at the Site.
- (4) The Contractor shall immediately forward to High River a written report of every loss, damage, injury or death which may occur during the performance of the Work and arising out of the Work at or near the Site.

3.4 Hazardous Materials

The Contractor shall notify High River in advance of any hazardous materials that it intends to bring onto the Site and provide High River with the appropriate Material Safety Data Sheets for such materials.

ARTICLE 4: PAYMENT

4.1 Payment of Invoices

- (1) Subject to the amount of each invoice being verified and authenticated to High River's satisfaction, payment of all undisputed amounts of each invoice are due within 30 days after receipt of such invoice by High River.
- (2) If the amount of any invoice is disputed by High River, High River shall give prompt notice of the disputed amount with reasons, and will not delay payment of the remainder of the invoice.

4.2 Full Compensation

Except as otherwise expressly stated in this Contract, the Contractor accepts the Contract Price as full compensation for everything furnished and done by the Contractor under this Contract and fulfillment of all the Contractor's obligations under this Contract.

4.3 Taxes

- (1) All sales or use taxes which are required to be levied on the Contract Price shall be separately identified in all invoices delivered by the Contractor. Any taxes not so identified shall be deemed to be included in the Contract Price.
- (2) The Contractor shall: (a) comply with the *Excise Tax Act* (Canada) regarding the collection and remittance of all applicable GST; and (b) promptly pay or remit to the appropriate governmental authority when due all applicable GST (whether included in the Contract Price or collected from High River).
- (3) The Contractor shall indemnify and save harmless High River from and against liability for all sales taxes, excise taxes, goods and services taxes, workers' compensation assessments or other charges (including late interest and penalties) in relation to the performance of the Work that are payable by the Contractor to any governmental authority.

4.4 Set-off

Despite any other provision of this Contract, High River may withhold, set-off or deduct from any amount otherwise payable to the Contractor under this Contract, any amount that is reasonably necessary to reimburse, indemnify or protect High River from any loss or damage resulting from or attributable to the default by the Contractor in any obligation under this Contract, or to reimburse High River for any amounts otherwise due and payable by the Contractor to High River under or arising from this Contract, or from Claims by third parties against High River in respect of the Work.

ARTICLE 5: INSURANCE AND INDEMNITY

5.1 Insurance Coverage

The Contractor shall, without limiting its obligations or liabilities under the Contract, maintain and keep in force, at its own expense, the following insurance policies with limits not less than those stated below:

- (a) Commercial General Liability Insurance with a limit of not less than \$5,000,000 for each occurrence, covering all amounts that the Contractor becomes legally obligated to pay as damages arising from bodily injury, death, and property damage and including product liability coverage and an endorsement for contingent employers liability coverage or contingent liability coverage;
- (b) Automobile Liability Insurance covering owned, non-owned, and hired vehicles, with a limit of not less than \$5,000,000 for each occurrence of bodily injury, death, and property damage;
- (c) All-Risks Contractor's Equipment Insurance, covering loss or damage to Contractor Equipment owned, leased or rented by the Contractor and used in connection with the Work; and
- (d) any other types or amounts of insurance coverage which the Contractor is required by any Laws to provide or which may be required by High River from time to time, acting reasonably.

5.2 Terms of Insurance

- (1) The insurance obtained by the Contractor pursuant to this Contract must be provided in accordance with the following terms and conditions:
 - (a) The Contractor shall, prior to commencement of the Work and from time to time as further requested by High River, provide High River with a certificate of insurance evidencing that the insurance required under section 5.1 has been so obtained.
 - (b) Each insurance policy shall provide that 30 days' prior written notice shall be given to High River of any cancellation of such policy.
 - (c) The Contractor shall ensure that the High River Personnel are included as an additional insured regarding the Contractor's operations under this Contract for the Commercial General Liability Insurance.
 - (d) Each insurance policy shall specifically provide that the insurance is primary and non-contributing with any insurance carried by High River.
 - (e) The Contractor shall make each insurance policy available for inspection upon request by High River.
 - (f) Each insurance policy (excluding Automobile Liability Insurance) shall be endorsed to provide that the insurer will have no right of subrogation against High River.
 - (g) Each insurance policy shall be maintained from the date of commencement of the Work until at least two years after final completion of the Work.
- (2) The Contractor waives any Claims it may have against the High River Personnel (and indemnifies the High River Personnel against any Claims by the Contractor's personnel, suppliers, labourers and Subcontractors) arising out of any loss or damage to any Contractor Equipment used by the Contractor

or its Subcontractors in connection with the Work, whether such loss or damage, injury or death, is caused in whole or in part by High River.

5.3 Workers' Compensation

The Contractor shall ensure that workers' compensation covers all workers engaged in performing the Work at the Site in accordance with the *Workers' Compensation Act* (Alberta).

5.4 Contractor Indemnification

The Contractor shall indemnify and hold harmless the High River Personnel from and against all liability, damage, losses, expenses or costs (including, without limitation, legal fees and disbursements on a solicitor and his own client full indemnity basis), suffered or incurred as a result of Claims that are made, brought or prosecuted in any manner whatsoever against the High River Personnel by a third party, to the extent any such Claim is based upon, arises out of, results from or is attributable to: (a) the negligent acts or omissions, including, without limitation, gross negligence or willful, wanton or intentional misconduct of the Contractor, any Subcontractor or anyone for whose acts or omissions any of them may be liable in the performance of the Work; or (b) a breach of this Contract by the Contractor.

ARTICLE 6: TERMINATION

6.1 High River's Right to Terminate

High River may terminate this Contract by providing written notice to the Contractor, if the Contractor:

- (a) fails to comply with any of the terms or conditions of this Contract, or
- (b) becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, is subject to the appointment of a receiver, manager, trustee or liquidator, or has commenced dissolution, liquidation or winding up proceedings.

6.2 Cancellation by High River

High River may at its sole option cancel this Contract at any time, without cause, by providing written notice to the Contractor. Upon such cancellation, High River shall pay the Contractor for the Work completed, together with all actual direct expenses, charges and liabilities reasonably incurred by the Contractor as a result of such cancellation. High River shall have no further liability to the Contractor in relation to such cancellation.

ARTICLE 7: CONFIDENTIALITY

- (1) Without the prior written consent of High River, the Contractor shall: (a) keep all Confidential Information strictly confidential; (b) not divulge to any third party any Confidential Information; (c) not make any commercial use whatsoever of any Confidential Information; and (d) only use Confidential Information solely for the Contractor's performance of this Contract.
- (2) The Contractor acknowledges and agrees that all records created pursuant to this Contract are subject to the *Freedom of Information and Protection of Privacy Act* (Alberta). The Contractor shall provide to High River any records in its care or control (a) within five (5) days' of receipt of a request from

High River therefor; and (b) upon the expiration or earlier termination of this Contract; at the sole cost and expense of the Contractor.

ARTICLE 8: GENERAL

8.1 Rights and Remedies

Unless otherwise expressly provided in this Contract, each party's rights and remedies specified in this Contract are cumulative and are not exclusive of any other rights or remedies that a party may have, whether under this Contract, at law, in equity or otherwise.

8.2 Independent Status of the Contractor

The Contractor is an independent contractor and not an agent or representative of High River. Nothing contained in this Contract creates any contractual relationship between High River and any Subcontractor nor an employment relationship between High River and any employee of the Contractor or any Subcontractor.

8.3 Waiver

No waiver by High River of any provision of this Contract, nor consent by High River to any departure therefrom, shall in any event be effective unless it is signed by an officer of High River, and then shall be effective only in the specific instance and for the purpose for which such waiver was given.

8.4 Modification

No revision, modification or waiver of this Contract is binding on High River unless expressly agreed to in writing signed by an authorized representative of High River.

8.5 No Assignment

This Contract may not be transferred or assigned in whole or in part by the Contractor without the prior written consent of High River. Such consent will not relieve the Contractor of its obligations and liabilities under this Contract.

8.6 Survival of Covenants, Representations and Warranties

All provisions of this Contract which expressly or by their nature survive the termination of this Contract or the completion of the Work will continue in full force and effect after any termination of this Contract or completion of the Work.

8.7 Enurement

This Contract enures to the benefit of and is binding upon the parties and their respective successors and assigns (in the case of the Contractor, permitted assigns).

ARTICLE 9: ADDITIONAL CONSTRUCTION AND REPAIR REQUIREMENTS

If the Work performed by the Contractor includes repair work or construction of improvements or other infrastructure at a Site, the additional provisions of this Article 9 shall apply.

9.1 Quality Requirements

The Contractor shall ensure that: (a) the Work and all Materials satisfy, in every manner, the requirements of this Contract; (b) unless otherwise stated in this Contract, all Materials incorporated into the Work are of good quality, new and undamaged; (c) the Work is free from defects in Materials and workmanship at the time the Work is completed; and (d) where not otherwise expressly provided in this Contract, the Work all workmanship is in accordance with prudent industry standards having regard to the requirements of this Contract.

9.2 Builders' Lien Act

Payment of invoices will be subject to: (a) where applicable, the holdbacks required by the *Builders' Lien Act* (Alberta); and (b) the Contractor providing valid clearance certificates for Alberta Workers' Compensation assessments.

9.3 Title

- (1) Subject to the Contractor's rights under the *Builders' Lien Act* (Alberta), the Contractor warrants that High River will obtain title to the Materials and all other aspects of the Work, free and clear of all liens, charges and encumbrances.
- (2) High River shall obtain title to the Materials and all other aspects of the Work upon the earlier of: (a) payment for the Materials or other aspect of the Work by High River in accordance with this Contract; or (b) delivery of the Materials to the Site.

9.4 Risk of Loss

Despite the passage of title to any portion of the Work, the Contractor shall bear all the risk of loss and be responsible for all:

- (a) Materials supplied by the Contractor or its Subcontractors prior to their permanent incorporation into the Work; and
- (b) Contractor Equipment used in the performance of the Work.

9.5 Liens

- (1) If High River receives written notice of any claim of lien from or if any claim of lien should be recorded by any Subcontractor, labourer or supplier, the Contractor shall promptly cause such written notice of claim or claim of lien to be discharged and removed or make such other financial arrangements so as to fully protect the interest of High River as High River may approve.
- (2) High River shall, after giving at least five business days' advance notice to the Contractor of its intention to do so, be entitled to employ any monies then due or to become due to the Contractor under this Contract in order to discharge every such lien by bond or posting of other security (including security for costs), or by paying the amount claimed into court or directly to the lien claimant.
- (3) The Contractor shall indemnify High River from any losses or expenses suffered or incurred by High River (including disbursements and legal fees on a solicitor and his own client full indemnity basis) in

connection with any liens claimed or recorded by any Subcontractor, labourer or supplier in relation to the Work.

9.6 Changes to the Work

The Contractor shall not make any change to the Work, regardless of the reason, without first receiving a duly executed Change Order such change to the Work. Changes to the Work performed by the Contractor without a prior Change Order are at the Contractor's sole cost and expense and High River is in no way liable for any claim for compensation by the Contractor or a Subcontractor relating to the change to the Work.

9.7 Change Order

- (1) High River and the Contractor may from time to time, acting reasonably, agree in writing to alter, omit, add to or vary the Work (a "**Change Order**"). Each Change Order shall specify the agreed upon: (a) scope of the change to the Work; (b) adjustment to the Contract Price, if any; and (c) adjustment to the schedule for completing the Work, if any.
- (2) Except as specifically set forth in a Change Order, a change to the Work does not affect any other warranties, guarantees or obligations of the Contractor.

9.8 Warranty Repair

- (1) If any defect or deficiency in, or failure of, the Work occurs within 12 months after completion of the Work, however caused or arising (excluding normal wear and tear or High River's negligent maintenance or operation of the Work), the Contractor shall perform, at the Contractor's expense, all Remedial Work necessary to correct such defect, deficiency or failure.
- (2) If any defect or deficiency in, or failure of, any Remedial Work occurs within 12 months after the completion of the Remedial Work, the Contractor shall perform, at the Contractor's expense, all further Remedial Work necessary to correct such defect, deficiency or failure.
- (3) If the Contractor fails to proceed with the Remedial Work as promptly as possible after notice from High River and to diligently continue to perform such Remedial Work to its completion, or if the Contractor has authorized High River to complete the Remedial Work, then High River may, at the Contractor's expense, take all necessary steps to have the Remedial Work completed.

9.9 Intellectual Property

The Contractor warrants that the Work and High River's use, maintenance and repair of the Work will not infringe on any existing or pending patent, copyright, industrial design or other intellectual property right. The Contractor shall indemnify and hold harmless High River from and against any Claims, damages, losses and, expenses, (including legal fees on a solicitor and his own client full indemnity basis and the cost of experts) arising from any assertion by any person that any portion of the Work infringes upon any intellectual property rights of any person, or any law relating thereto.

9.10 Termination

Upon termination by High River under section 6.1, the Contractor shall immediately deliver to High River all components and items of the Work as they exist on the date of termination, and specifically

including all Deliverables. Despite any other provision in this Contract respecting passage of title, all right, title and interest of the Contractor in the Work, as the Work exists on the effective date of termination, immediately passes to and vests in High River.