



CONTRACT
for the
Crushing & Stockpiling
of Gravel

MAZURE PIT
NE 16-43-09 W4

CR-02-2023

THIS CONTRACT made the _____ day of _____, 20_____.

BETWEEN:

FLAGSTAFF COUNTY
(hereinafter referred to as the "COUNTY")

OF THE FIRST PART

- and -

(hereinafter referred to as the "CONTRACTOR")

OF THE SECOND PART

WHEREAS the COUNTY requires the CONTRACTOR to **perform certain work** for the COUNTY (hereinafter referred to as the "**Work**") as outlined in the CONTRACTOR's Tender dated _____, **2023**, a copy of which is attached hereto as Schedule "A";

AND WHEREAS the CONTRACTOR is qualified or has in its employment personnel qualified to provide **Work**;

NOW THEREFORE, in consideration of the promises, mutual terms, covenants and conditions contained herein, the parties hereto agree as follows:

1. The COUNTY hereby retains the CONTRACTOR and the CONTRACTOR hereby accepts such retainer to provide **Work**, which includes, but is not limited to the following, namely:

1.1 The "**Work**", in general terms, shall consist of:

- The CONTRACTOR shall supply all necessary labor, equipment, expertise, supervision and incidentals to complete this Contract according to the specifications, which are part of this Contract.

The Work to be undertaken generally involves, but is not necessarily limited to: crushing and stockpiling, at the Mazure Pit (NE 16-43-09 W4) of approximately:

- 80,000 tonne of 4:20 modified spec. gravel (95% material must pass through a 20,000mm screen, 100% must pass through a 7/8" screen).
 - Any other "**Work**" which may be requested by COUNTY from time to time.
2. The Goods shall be delivered to the COUNTY by the CONTRACTOR no later than _____, **2023** for the total price of \$ _____ **per tonne**.

The term of the Contract shall be from _____, 2023 to October 31st, 2023. (hereinafter referred to as the "Term").

3. In carrying out its obligations hereunder, the CONTRACTOR shall be bound by and observe all applicable federal, provincial and municipal legislation and related regulations, which, without limiting the generality of the foregoing, shall comply with the provisions of the *Occupational Health and Safety Act*, R.S.A. 2000, Chapter 0-2 and amendments thereto and Regulations thereunder or any successive legislation, and shall at all times ensure that all employees comply with the requirements of the said Act and regulations thereunder. The CONTRACTOR shall be the general representative and agent to the COUNTY for the purposes of ensuring compliance with safety regulations for its own employees. The CONTRACTOR shall bring to the attention of its own employees the provisions of the *Occupational Health and Safety Act* and Regulations thereunder. The CONTRACTOR acknowledges that he is an "employer" and "prime contractor" as defined in the Alberta *Occupational Health and Safety Act*.
4. The CONTRACTOR shall be responsible for the payment of all income tax, Canada Pension, employment insurance and all other required payments, contributions or deductions that arise or may hereafter arise with respect to the "**Work**" performed by the CONTRACTOR under this Contract.
5. No "**Work**" shall be provided by the CONTRACTOR until the Contract has been executed by both parties hereto.
6. The CONTRACTOR shall have complete control of the "**Work**" and shall effectively direct and supervise the "**Work**" so as to ensure conformance with the COUNTY's requirements.

7. The CONTRACTOR will provide qualified employees to provide the “**Work**” required under this Contract. The CONTRACTOR will provide a representative for the management and administration of the “**Work**” required by this Contract.
8. In consideration of the proper performance by the CONTRACTOR of the “**Work**” pursuant to this Contract, and subject to verification by the COUNTY of the actual “**Work**” having been provided by the CONTRACTOR, the COUNTY shall pay the CONTRACTOR the amount set out in the CONTRACTOR’s invoice within thirty (30) days from the date of receipt of an invoice from the CONTRACTOR. All payments will be subject to a holdback as per the *Builders Lien Act* if applicable and the holdback will be released in accordance with the *Builders Lien Act*.
9. All amounts payable by the COUNTY to the CONTRACTOR for “**Work**” hereunder shall be exclusive of any Goods and Services Tax (“GST”) payable thereon and the COUNTY shall, in addition to the amounts payable, pay to the CONTRACTOR all amounts of GST applicable thereon.
10. (a) Nothing in this Contract shall be construed as:
 - (i) constituting either party as the agent, employer or representative of the other party;
 - (ii) creating a partnership; or
 - (iii) imposing upon either party any partnership duty, obligation or liability to the other party.(b) The relationship created by this Contract between the COUNTY and the CONTRACTOR is that of independent CONTRACTOR.
11. The CONTRACTOR has no authority to assume or create any obligation whatsoever, expressed or implied, on behalf of or in the name of the COUNTY, nor to bind the COUNTY in any manner whatsoever.
12. The CONTRACTOR shall be responsible for all fees, licenses, permits, filings, and all other costs incidental to the performance of the CONTRACTOR’s obligations under this Contract.

13. The COUNTY may, at its discretion, agree in advance to reimburse the CONTRACTOR for specific expenses to be incurred by the CONTRACTOR in the discharge of its obligations hereunder. Such expenses shall only be paid when approved in writing by the COUNTY prior to expenditure and thereafter supported by proper receipts, invoices or vouchers submitted to the COUNTY within thirty (30) days from the date upon which such expenses are incurred.
14. The CONTRACTOR will report on a regular basis, as required by the COUNTY, on the “**Work**” to be provided pursuant to this Contract. The CONTRACTOR will make available such information, including data, reports, and documents, as the COUNTY may require from time to time relating to the obligations of the CONTRACTOR to allow the COUNTY to evaluate the quality and progress of “**Work**” to be provided under this Contract.
15. Supporting the CONTRACTOR’s request for payment shall be all applicable invoices for materials, time sheets, government remittance records, statutory declarations and such other material as the COUNTY, acting reasonably, may require.
16. Where the COUNTY determines that the CONTRACTOR is in default of its obligations as set out in this Contract, the COUNTY shall, by written Notice of Default, require the CONTRACTOR to remedy such default, at the CONTRACTOR’s sole expense, within forty-eight (48) hours of the delivery of the Notice of Default to the CONTRACTOR. The CONTRACTOR shall be in compliance with the COUNTY’s instructions if:
 - (a) the CONTRACTOR corrects the default within the time specified in the Notice of Default; or
 - (b) if the default cannot be corrected within the time specified in the Notice of Default, the CONTRACTOR commences the correction of the default within the time specified in the Notice of Default; and
 - (i) the CONTRACTOR provides a schedule to correct default acceptable to the COUNTY; and
 - (ii) the CONTRACTOR corrects the default within the time set out in the schedule agreed to by the COUNTY.

In the event that the default is not corrected in accordance with this clause to the COUNTY’s satisfaction, or in the event of urgent circumstances where the giving of a

written Notice of Default is impossible, or impracticable, as may be determined by the COUNTY in its sole and unfettered discretion, the COUNTY may, without prejudice to any other right that the COUNTY has pursuant to this Contract, or at law;

- (a) terminate the CONTRACTOR's right to continue with the provision of the **"Work"** of this Contract, in whole or in part; or
- (b) terminate the Contract forthwith; or
- (c) correct the default at the Contactor's expense and deduct the cost of same from any amount of monies that may be, or become, due and owing to the CONTRACTOR, or
- (d) complete the **"Work"**, or allow another independent CONTRACTOR to provide the uncompleted portion of the **"Work"** if results are not satisfactory to the COUNTY or in the event that the schedule for the performance of the **"Work"** is not being met by the CONTRACTOR.

The sum of all damages, expenses, fees, costs, including but not limited to solicitor and client legal costs, incurred or suffered by the COUNTY as a result of the CONTRACTOR's failure to correct the default, or the termination of the CONTRACTOR's right to continue with the provision of the **"Work"** of this Contract, in whole or in part, or the termination of the Contract forthwith, shall be a debt immediately due and owing by the CONTRACTOR to the COUNTY which debt may be offset by the COUNTY against any monies payable to the CONTRACTOR pursuant to this Contract or any other monies payable by the COUNTY to the CONTRACTOR. The exercise by the COUNTY of the rights pursuant to this clause shall not limit any other remedy the COUNTY may have pursuant to this Contract or at law.

17. This Contract may be terminated for convenience by the COUNTY at any time by giving forty-eight (48) hours written notice of termination for convenience to the CONTRACTOR. The effective date of the termination for convenience shall be set out in the Notice of Termination for Convenience. The CONTRACTOR's right to consideration shall be limited to payment for **"Work"** provided and not previously paid for up to the effective date as set out in the Notice of Termination for Convenience. The CONTRACTOR specifically agrees that the Notice of Termination for Convenience and consideration set forth in this clause constitutes reasonable, fair and equitable notice and compensation for damages, if any, which may be suffered by the CONTRACTOR as a result of the termination for

convenience of this Contract. In the event this Contract is terminated for convenience, the CONTRACTOR shall provide the “**Work**” required by this Contract up to and including the effective date set out in the Notice of Termination for Convenience and shall, upon request, provide the COUNTY with a written report on the “**Work**” rendered to the time of termination for convenience. Except for any such report, the CONTRACTOR shall not provide any further “**Work**” subsequent to the effective date set out in the Notice of Termination for Convenience.

18. The CONTRACTOR acknowledges that the COUNTY is subject to the *Freedom of Information and Protection of Privacy Act*, RSA 2000, Chapter M25. Confidentiality for any records compiled or created under this Contract cannot be ensured by the COUNTY. Provisions exist under the *Act* to allow disclosure of personal or business information where disclosure would not be harmful to business interest or would not be deemed an unreasonable invasion of your personal privacy as defined within the *Act*. The CONTRACTOR also acknowledges that information and records compiled or created under this Contract, which are in the custody of the CONTRACTOR, are also subject to the *Act*. If the COUNTY receives a request for information under the *Act*, which includes information provided by the CONTRACTOR, the COUNTY will give the CONTRACTOR notice of such request and the CONTRACTOR will respond to such notice in accordance with the *Act*. If the CONTRACTOR does not respond to the notice from the COUNTY, it will proceed to process the request for information in accordance with its procedures as set forth within the *Act*. If the COUNTY’s response to a request under the *Act* is appealed to the Office of the Information and Privacy Commissioner, the CONTRACTOR shall be responsible for the burden of proof as to exception from disclosure as defined under the *Act*.
19. The CONTRACTOR shall be responsible for all costs related to confidentiality requirements. As applicable, for COUNTY records and information under its care, the CONTRACTOR shall bear the burden and associated costs of records management practices required under the *Act*. As well, the CONTRACTOR shall be responsible to provide for the protection of confidential COUNTY records and information as required by the *Act*.

20. Neither the COUNTY, nor the COUNTY's employees, shall use, copy, disclose or otherwise communicate any information not available to the general public that was gained by them in the course of the duties.
21. Neither the CONTRACTOR, nor the CONTRACTOR's employees, shall use, copy, disclose or otherwise communicate any information not available to the general public that was gained by them in the course of the duties.
22. The COUNTY shall furnish to the CONTRACTOR such information in its possession reasonably required for the proper performance of the obligations of the CONTRACTOR, and shall, in every way provide such cooperation as is reasonable in order for the CONTRACTOR to be able to perform the Work required pursuant to this Contract in a satisfactory manner.
23. The CONTRACTOR hereby represents and warrants to the COUNTY, and acknowledges that the COUNTY is relying upon such representation and warranty, that the CONTRACTOR is in compliance with all laws and regulations of any public authority relating to the conduct of its business and has all required approvals, permits, licenses, certificates and authorizations necessary to carry on its business and to carry out its obligations hereunder and there are not any proceedings whatsoever, actual or pending, and whether concerning cancellation, extension or otherwise, relating to the said approvals, permits, licenses, certificates or authorizations.
24. The CONTRACTOR and the COUNTY acknowledge and agree that the COUNTY shall not be liable nor responsible for any bodily or personal injury or property damage of any nature whatsoever that may be suffered or sustained by the CONTRACTOR, his employees or agents in the performance of this Contract.
25. The CONTRACTOR shall indemnify and hold the County harmless from and against all claims, demands, losses, costs, damages, action, suits or proceedings by third parties ("Third Party Claims"), including all legal fees, costs and expenses incurred by the County in defending such claims, that arise out of or are attributable to the performance of Contract by the CONTRACTOR, or the negligence of the CONTRACTOR, except any proportion

thereof which is attributable to acts or omissions of the County, its agents or employees, which constitute a breach of this Contract and for which the County is liable under the terms of this Contract, or for Third Party Claims that arise out of or the negligence of the County, its agents or employees.

26. The parties acknowledge and agree that the provisions of this Contract, which, by their context, are meant to survive the expiry of the Term, shall survive the termination or expiration of the Term and shall not be merged therein or therewith.
27. No consent or waiver, express or implied, by either party to or of any breach or default by the other party in the performance by the other party of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance of obligations hereunder by such party hereunder. Failure on the part of either party to complain of any act or failure to act of the other party or to declare the other party in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights hereunder.
28. For the purposes of this Contract, the addresses of the parties are:

COUNTY:

**Flagstaff County
12435 TWP RD 442
P.O. Box 358
Sedgewick, AB T0B 4C0**

Attention: Shelly Armstrong, Chief Administrative Officer

AND

CONTRACTOR:

Attention:

Any communication, notice or service of documents required to be made during the course of this Contract will be good and sufficient if delivered to, or posted by prepaid registered

mail addressed to, the above addresses. Notice given in any such manner shall be deemed to have been received by the party on the day of delivery or upon the 3rd day after the date of mailing provided that normal postal service is in existence at the time of mailing and for three (3) days thereafter. Any party may change its address for service from time to time upon written notice to that effect. In the event of disruption of normal postal Work, any party giving notice hereunder shall be required to deliver the same.

29. The laws of the Province of Alberta shall govern the interpretation of this Contract and the jurisdiction for any proceeding relating to any matters hereunder shall be Alberta.
30. The obligations of the CONTRACTOR performed pursuant to this Contract shall only be performed by the CONTRACTOR or an employee or a party acting on behalf of the CONTRACTOR who has been approved in advance in writing by the COUNTY, such approval which may be arbitrarily withheld and which may be terminated or revoked at any time in the discretion of the COUNTY.
31. This Contract constitutes the entire Contract between the parties hereto and the parties acknowledge and agree that there are no covenants, representations, warranties, contracts or conditions expressed or implied, collateral or otherwise forming part of or in any way affecting or relating to this Contract save as expressly set out in this Contract.
32. This Contract may not be altered or amended in any of its provisions, except where any such changes are reduced to writing and executed by the parties.
33. This Contract shall enure to the benefit of and be binding upon the parties herein and their respective heirs, successors and assigns.
34. Time is of the essence in this Contract, and if either party shall fail to perform the covenants on its part to be performed at fixed times or alternatively within a reasonable time for the performance thereof under the terms of this Contract, the other party may elect to terminate this Contract.

- 35. If any term, covenant or condition of this Contract or the application thereof to any party or circumstances shall be invalid or unenforceable to any extent, the remainder of this Contract or application of such term, covenant or condition to a party or circumstance other than those to which it is held invalid or unenforceable shall not be affected thereby and each remaining term, covenant or condition of this Contract shall be valid and shall be enforceable to the fullest permitted by law.

- 36. The parties agree all reasonable efforts shall be made to resolve all disputes under this Contract by negotiation and agree to provide, without prejudice, open and timely disclosure of relevant facts, information and documents to facilitate these negotiations. The parties agree that any dispute not resolved through negotiation shall be submitted for arbitration in accordance with the provisions of the relevant arbitration legislation in the Province of Alberta. The parties hereto agree that submission of a dispute dealt with by this section shall be a condition precedent to any application or action brought before any competent court.

IN WITNESS WHEREOF the parties have executed this Contract as of the date first above written.

FLAGSTAFF COUNTY

_____ c/s

CONTRACTOR

Per: _____ c/s

APPENDIX “A”

**FLAGSTAFF COUNTY
GENERAL SPECIFICATIONS TO CONTRACT**

A. DESCRIPTION OF WORK

The CONTRACTOR shall supply all necessary labor, equipment, expertise, supervision and incidentals to complete this Contract according to the specifications, which are part of this Contract.

The Work to be undertaken generally involves, but is not necessarily limited to crushing and stockpiling, at the Mazure Pit (NE 16-43-09 W4) of approximately:

- 80,000 tonne of 4:20 modified spec. gravel (95% material must pass through a 20,000mm, 100% must pass through a 7/8” screen); and
- a) *All oversize rock must be piled at a predetermined area to be shown. This will be determined prior to the commencement of crushing.*
- b) *The County will have the designated work area stripped of organic material. All reject material will either be placed in conical piles for County use; designated location will be determined at the pre-tender meeting.*
- c) *The Contractor will mine to the depth of the gravel deposit or as otherwise directed by the County to ensure the maximum use of raw materials are being utilized for the purpose of this contract.*

B. CRUSHING SPECIFICATIONS

1. Materials

- a) **The Public Works Field Coordinator – Gravel will specify the specific area where material is to be mined from.** Only materials suitable for the production of gravel will be accepted. The use of organic materials will not be tolerated.
- b) All material must pass through a minimum 24” X 36” jaw opening, comes with a 24” grizzly on the feeder.

The Contractor is to indicate the crusher:

Grizzly Size _____

Jaw Size _____

2. Crushed Gravel

The 4:20 modified spec. gravel produced must meet the following specifications:

	<i>Percent Passing</i>
METRIC SIEVE SIZE	4:20 Spec.
50,000	-
40,000	-
25,000	
20,000	100
16,000	-
12,500	-
10,000	30-77
5,000	15-55
1,250	0-30
630	-
315	-
160	-
80	0-12
% Fracture by Weight (2 faces)	40+
Moisture Content	0-7

3. Fines Elimination

The elimination of fines, as may be necessary to meet the specifications listed above, will be the CONTRACTOR's responsibility. **Payment for eliminations shall be considered to be included in the unit price for the gravel to be produced in this contract.**

4. Moisture Content

The CONTRACTOR will ensure that all material produced meets the specifications as set out in Section "B-2".

5. Testing

All material will be sampled and tested by a third-party quality control personnel while production is taking place. Should the CONTRACTOR dispute the results of these tests, then an Engineering Company will be secured to re-test the samples. In the event that the second set of results are close to, or the same as, those reached by the County, then the CONTRACTOR will be responsible for all costs incurred in securing the Engineering Company's services.

C. STOCKPILE

Prior to commencing stockpiling operations, the CONTRACTOR will prepare the stockpile site at the designated location to the specifications of the Public Works Field Coordinator. The stockpile shall be constructed by first spreading material over the entire base and building upward in uniform layers. The stockpile shall be built with haul trucks supplied by the CONTRACTOR. In some cases, a Tele-Stacker Conveyor can be utilized. Use of stockpiling methods will be left to the judgement of the Public Works Field Coordinator. Any necessary leveling is to be done by the CONTRACTOR.

D. CALCULATIONS OF QUANTITIES

Quantities for payment will be determined by weighing all materials either on a truck scale to be provided by the Flagstaff County or a Tele-stacker Conveyor supplied by the CONTRACTOR. If a Tele-stacker Conveyor is being used the Scale on the Conveyor will be Calibrated by a qualified technician.

E. ADDITIONAL INFORMATION

- a) Bulk Fuel Storage:
- *All fuel storage sites will be constructed in a manner that follows the Guidelines for Secondary Containment for Above Ground Storage Tanks, Alberta Environmental Protection, May, 1997 and comply with Part 4 of the Alberta Fire Code.*
 - *A bermed imperviously lined area, or other form of secondary containment, will surround fuel tanks with a minimum 110% holding capacity of the largest tank's capacity.*
 - *All machinery maintenance supplies will be kept in a designated storage facility.*
- b) Spills:
- *Any spills will be controlled immediately using various techniques including diking and containing.*
 - *Spills will be collected using sorbent pads and vacuum trucks.*
 - *All waste material/impacted soil will be disposed of at an approved waste management facility.*
 - *If pit operations interfere with the immediate spill response, pit operations will be suspended until complete cleanup occurs.*
- c) Buffers:
- *A 3m undisturbed buffer will be maintained along property boundaries and right-of-ways except where daylighting occurs.*
 - *The access road to the abandoned Penn West wellsite will be mined through although a 3m undisturbed buffer will be maintained around the wellsite itself.*
- d) Internal Slopes:
- *Reclaimed slopes will be no steeper than 3:1 on pit faces adjacent to property boundaries and right-of-ways.*
 - *Reclaimed slopes will be no steeper than 20:1 between the pit and adjacent agricultural land.*

F. WORKERS COMPENSATION BOARD

The CONTRACTOR will provide a valid W.C.B. account number in the space below:

Account Number: _____

G. INSURANCE

Without in any way limiting the obligations or liabilities of the CONTRACTOR, the CONTRACTOR shall maintain and keep in force during the term of the Contract, with an

Insurance Company or Companies and under policies of insurance acceptable by the COUNTY, the following project based insurance with limits not less than that drawn hereunder.

- a) Commercial/General Liability in an amount not less than \$2,000,000 per occurrence;
- b) Automobile Liability insurance in the amount not less than \$2,000,000 per occurrence;
- c) The CONTRACTOR shall furnish endorsements to such policies capable of law of being so endorsed, as follows:
 - a. Providing that said insurance shall not be cancelled by the CONTRACTOR or the insurer, or modified to reduce or remove coverage afforded to the COUNTY or otherwise prejudice the COUNTY without 30 days written notice by registered mail to the COUNTY.
 - b. Providing all policies shall name the COUNTY as additional insured in the policies provided hereunder.

H. SAFETY

The CONTRACTOR shall comply (himself, his staff and his subcontractor) with the Occupational Health and Safety Act and Regulations and Code.

A pre-construction meeting will be held prior to startup to review safety requirements.

The following documentation must be submitted with tender:

1. A copy of the Contractor's Certificate of Recognition (COR) from Alberta Workplace Health & Safety;
2. A clearance letter from the Alberta Worker's Compensation Board indicating that the Contractor's WBC account is in good standing;
3. A copy of the Contractor's Silica Code of Practice as required by Occupational Health & Safety, Part 4;
4. A copy of the Contractor's Respirator Code of Practice as required by Occupational Health & Safety, Part 18.

In addition to the above documentation, the following are requirements of the CONTRACTOR:

- A power switch must be installed to the conveyor motor in which gravel samples are taken from. The switch must be readily accessible to the gravel sampler; must restrict all hazardous energy from reaching the conveyor motor when it is turned off and must have the ability to be locked out by the sampler to prevent all others from turning the switch on.
- Suitable washroom facilities must be in place on site as per Occupational Health & Safety, Part 24;
- Suitable means of Silica decontamination must be present without the restricted zone which shall be established by the County;
- A suitable area for breaks, eating and smoking be established outside of the restricted zone;

- The employees of the successful bidder must participate in worksite monitoring of respirable silica exposure.

The COUNTY will inspect crushing operations prior to start up to ensure that all above requirements are in place and meet the COUNTY'S approval. The inspection will also serve to identify any other possible deficiencies which may need to be remedied prior to the commencement of crushing operations, such as missing guards and any other items which fall under the Occupational Health & Safety Act, Regulation and Code.

I. LIQUIDATED DAMAGES

If any work remains incomplete after the specified or adjusted completion date, the CONTRACTOR agrees to pay the COUNTY an amount of \$1,500.00 per day, for each and every day beyond the specified or adjusted completion date that the work remains incomplete.

The COUNTY will deduct assessed liquidated damages from payments due on this Contract. If there are insufficient funds to cover the liquidated damages, the COUNTY will invoice the CONTRACTOR. The CONTRACTOR shall promptly pay the amounts invoiced. Should any Liquidated Damages remain unpaid after 30 days for the date of the invoice, the COUNTY may recover the unpaid sum from any money due the CONTRACTOR on other Contracts or Accounts.