



CITY OF NORTH POLE
Regular Meeting February 19, 2019
North Pole Council Chambers
125 Snowman Lane, North Pole, Alaska
www.northpolealaska.com

Tuesday, February 19, 2019
Committee of the Whole: 6:30 p.m.
Regular City Council Meeting – 7:00 p.m.

MAYOR

Michael Welch
488-8584

CITY CLERK

Judy Binkley
488-8583

COUNCIL MEMBERS

Doug Isaacson – Mayor Pro Tem	322-3133
Avery Thompson – Deputy Mayor Pro Tem	388-5351
Perry Walley – Alt Dep Mayor Pro Tem	347-0135
DeJohn Cromer	347-2808
Aino Welch	488-5834
David Skipps	750-5106

- 1. Call to Order/Roll Call**
- 2. Pledge of Allegiance to the US Flag**
- 3. Invocation**
- 4. Approval of the Agenda**
- 5. Approval of the Minutes**
 - a. February 04, 2019
- 6. Communications from the Mayor**
 - a. Proclamation: NPHS February Student of the Month
- 7. Council Member Questions of the Mayor**
- 8. Communications from Department Heads, Borough Representative and the City Clerk**

9. Ongoing Projects Report

10. Citizens Comments (Limited to Five (5) minutes per Citizen)

11. Old Business

- a. Ordinance 19-02, An Ordinance of the City of North Pole, Alaska to Amend Title 13, Public Services Correcting Language in Section 13.28.010 Lien Rights.

12. New Business

- a. Ordinance 19-03, An Ordinance of the North Pole City Council Amending Title 10 Vehicles and Traffic by Adding Chapter 10.03 Restrictions on Certain Vehicles.
- b. Ordinance 19-04, An Ordinance of the City of North Pole, Alaska to Amend Title 1, by Updating General Penalties and Including a Surcharge Section and a Minor Offense Fine Schedule.
- c. Request to Approve the Scope of Service, Additional Site Characterization, City of North Pole 8th Avenue Fire Well Pump House, ADEC File Number 100.38.224.

13. Council Comments

14. Adjournment

Detailed information and copies of agenda documents may be obtained at the Office of the City Clerk, 125 Snowman Lane or on the City website www.northpolealaska.com. Notice of Council Action is available at City Hall and on the City website following the meeting. Council Meetings are aired live via audio streaming from the City's website. Inquiries concerning ADA compliance or accommodations should be directed to the City Clerk.



**Committee of the Whole – 6:30 P.M.
Regular City Council Meeting – 7:00 P.M.**

A regular meeting of the North Pole City Council was held on Monday, February 04, 2019 in the Council Chambers of City Hall, 125 Snowman Lane, North Pole, Alaska.

CALL TO ORDER/ROLL CALL

Mayor Welch called the regular City Council meeting of Monday, February 04, 2019 to order at 7:01 p.m.

There were present:

Doug Isaacson – Mayor Pro Tem
Avery Thompson – Deputy Mayor Pro Tem
Perry Walley – Alt Dep Mayor Pro Tem
DeJohn Cromer
Aino Welch
David Skipps
Mayor Welch

Absent/Excused

PLEDGE OF ALLEGIANCE TO THE U.S. FLAG

Led by Mayor Welch

INVOCATION

Invocation was given by Mr. Isaacson

APPROVAL OF AGENDA

Mr. Isaacson moved to approve the agenda of February 04, 2019

Seconded by Ms. Welch

DISCUSSION

Mr. Isaacson moved to postpone the following items:

New Business:

- a.** Request to Approve the Fairbanks Area Surface Transportation Planning Inter-Governmental Operating Agreement and Memorandum of Understanding for Transportation and Air Quality Planning in the Metropolitan Area of the Fairbanks Metropolitan Planning Organization.
- c.** Ordinance 19-03, An Ordinance of the North Pole City Council Amending Title 10 Vehicles and Traffic by Adding Chapter 10.03 Restrictions on Certain Vehicles.

- d. Ordinance 19-04, An Ordinance of the City of North Pole, Alaska to Amend Title 1, by Updating General Penalties and Including a Surcharge Section and a Minor Offense Fine Schedule.

Seconded by Mr. Skipps

Discussion

None

On the amendment

PASSED

Yes: 7 – Skipps, Thompson, Isaacson, Welch, Cromer, Walley, Welch

No: 0

Absent: 0

On the Agenda as amended

Discussion

None

PASSED

Yes: 7 – Skipps, Thompson, Isaacson, Welch, Cromer, Walley, Welch

No: 0

Absent: 0

APPROVAL OF MINUTES

Ms. Welch moved to approve the Minutes of January 22, 2019

Seconded by Mr. Isaacson

Discussion

None

PASSED/FAILED

Yes:

No:

Absent:

COMMUNICATIONS FROM THE MAYOR (Audio 4:29)

- January 23, 2019 – FNSB Council of Economic Development was briefed by Mr. Jeff Stepp that it would not be feasible to build up an Economic Development District for the

2

*Minutes
February 04, 2019*

NOT A VERBATIM TRANSCRIPT

Interior.

- Launched the CNP Finance Committee under Chairman Perry Walley. CNP citizens Rollie Miranda and Benny Williams were in attendance. Kathleen Thompson, CPA was there in an advisor capacity, and CFO Tricia Fogarty attended as well.
- January 24, 2019 – Shadowed Officer Phil McBroom at NPHS as the SRO. Then followed Evidence Custodian, Rachel Wing, to see the technical aspects of her job. Followed up on 2 plus hours of traffic patrol with Officer Phil McBroom. There were 6 pulled over from speeds of 81mph to 74mph in a 60mph zone and 1 vehicle doing 55 in a 40mph zone.
- January 30, 2019 – Visit to FNSB Planning Department concerning a permit for the Pagoda concerning its expansion beyond the setback limit.
- January 31, 2019 – Shadowed Paul in the CNP Utility Department. Visited the new CNP water pump station on Peridot.
- February 1, 2019 – Shadowed CFO over payroll. There were many corrections that were needed, mostly due to overtime in the Fire Department. This took 7 hours.
- February 2, 2019 – Joined by Mayor Pro Tem, Doug Isaacson at KJNP “Over the Coffee Cup” explaining my first 100 days in office and personal objective to have worked in every department by that time frame. Also spoke with Representative Tammy Wilson as she called in for over the air from Juneau. Came back to City Hall to finish up checks and purchase orders with Tricia.

COUNCIL MEMBER QUESTIONS OF THE MAYOR

None

COMMUNICATIONS FROM DEPARTMENT HEADS, BOROUGH REPRESENTATIVE AND THE CITY CLERK

Police Dept., Chief Dutra (Audio 10:17)

- VFW – Award for Officer Phil McBroom. VFW National Law Enforcement Award presented by State Commander Dave Lemlin, NP VFW Commander Troy Eck, and Deputy VFW Commander Carol Kacal.
- Attended the APOA Legislative review in Anchorage.
- I put in for a DHS & EM Grant for 2019 in the amount of \$118,000.00. Includes exercise funding, equipment (radios fire and police), and a repeater for radio communications.
- ALiCE Presentation at Animal Control and NPHS. Both sessions were comprehensive 2 hours hands-on trainings in a room-to-room analysis. Excellent feedback from all parties involved.
- All the information has been sent to the leadership course. Should hear something shortly. LEO centric but applicable to all leadership. We will be doing this in phases of 6 months to complete 40 hours. All participants will proceed through process at same pace.
- We have finally received a tentative state bid for patrol vehicles and the cost appears to

3

*Minutes
February 04, 2019*

NOT A VERBATIM TRANSCRIPT

have gone up \$4000 plus per unit so it is critical we get additional funds rolled over.

- Went over monthly stats.
- Guys Read – I read for Midnight Sun Elementary, Tikasuk Brown, and North Pole Elementary on Friday. I always encourage other folks to sign up to encourage 4th grade boys to read.
- I met with the new Project Manager at Chena Lakes. Good discussions about this year's contract.
- February 19th – myself and AST, FPD and other LEO's will be at FNSBSB meeting for presentation on ALiCE project.
- We have moved our award presentation to our employees to the 23rd at 6:30 pm at City Hall if any of you are interested in attending. We would love to have you.

Fire Dept., Deputy Chief Heineken (Audio 29:21)

- Chief Coon and Captain Haywood are in Juneau for the Alaska Fire Chief's Leadership Summit.
- We have been giving advice to the lower 48 on how to deal with the cold temperatures when fighting fires.

Director of City Services, Bill Butler (Audio 31:31)

Building Department

- Permit issued for emergency generator replacement at the North Pole Middle School.
- Anticipate permit application for IGU storage facility; \$9 million project.

Public Works

- Conducted a City-wide plowing last week.
 - Hubbard Excavation is proving the best snow plow contractor since I have been with the City.
- Graveling intersections is an on-going activity.
- Hiring one of last summer's temporary hires to assist Public Works for seven weeks while Cody is on an extended leave followed by Tom being on extended leave; otherwise Public Works would have just a single staff member for a seven-week period.
- **Mr. Isaacson** asked what the department's policy for clearing sidewalks was. Mr. Butler replied that it depends on staff availability for how quickly after a snow event it happens. Sometimes, if there's a forecast coming, they will wait until after the event. With limited staff and resources, Cody has to make the calls as he sees best fit.
- **Utility Department**
- Sulfolane Settlement.
 - Water System Expansion work is still addressing warranty and ongoing technical "tweaking" of the operational and electronic controls.

- Construction re-start will be weather dependent, but I do not expect to see serious water main installation until May.
- Moose Creek Water System Expansion Project.
 - Planning charrette held on January 24 winnowed possible flood control crossings from 10 to 3 options.
 - Follow up to charrette on January 31 winnowed possible crossings of the flood control to three options and the Utility has selected its preferred and alternative crossing options.
 - USAF funding limitations prevent USAF funds being used for “property interests” or purchasing permits. There are possible options to work through the USACE, but if this issue cannot be resolved to pay for these expenses, I will recommend that the City Council not proceed with the project.

Natural Gas Utility Board

- IGU is still engaged in negotiations with Siemens Government Technologies, Inc. for an alternative means to supply LNG to the Interior.
 - Siemens has changed its proposal. Whether the change is substantial, I hope to learn at the IGU meeting tomorrow, Tuesday, February 5.
 - I am becoming frustrated with Siemens’ repeated changes of its negotiated terms.

Finance, Tricia Fogarty

None

Borough Representative, Ms. Welch (Audio 54:21)

- There is a “Cabin Fever Reading Program” at the libraries for adults.
- The human resource department is putting on a job fair that will be held at Pioneer Park in March.
- The Mayor is supposed to turn in the budget and there was a lot of conversation about small changes to this and that and to the wording.

City Clerk’s Office, Judy Binkley (Audio 57:35)

- Please don’t forget to complete you APOC POFD filings. The due date is March 15th! Please make sure that you provide a copy of your filing to me once you’ve completed it. I have paper copies available if you prefer that method over the online filing.
- The January Letter to Council is on the dais for you this evening. I will continue to provide those monthly if Council would like me to.

ONGOING PROJECTS

None

CITIZENS COMMENTS – (Limited to Five (5) minutes per Citizen)

None

OLD BUSINESS

None

Public Comment

None

NEW BUSINESS

ORDINANCE 19-02, AN ORDINANCE OF THE CITY OF NORTH POLE, ALASKA TO AMEND TITLE 13, PUBLIC SERVICES CORRECTING CODE LANGUAGE IN SECTION 13.28.010 LIEN RIGHTS. (Audio 59:28)

Mr. Isaacson introduced the ordinance.

Public Comment

None

Mr. Isaacson *moved to* Introduce and Advance Ordinance 19-02, An Ordinance of the City of North Pole, Alaska to Amend Title 13, Public Services Correcting Code Language in Section 13.28.010 Rights.

Seconded *by* Ms. Welch

Discussion (Audio 1:02:39)

Mr. Thompson *moved to* Amend Ordinance 19-02, An Ordinance of the City of North Pole, Alaska to Amend Title 13, Public Services Correcting Code Language in Section 13.28.010 Rights by Replacing “see C below” on line 18 with “as defined in 13.28.020(C).”

Seconded *by* Ms. Welch

Discussion on the amendment (Audio 1:03:12)

Mr. Thompson stated that this just helps clarify the ordinance and makes it a little less confusing.

On the amendment

PASSED

Yes: 7 – Skipps, Thompson, Isaacson, Welch, Cromer, Walley, Welch

No: 0

Absent: 0

Discussion on the motion as amended

None

On the motion as amended

PASSED

Yes: 7 – Skipps, Thompson, Isaacson, Welch, Cromer, Walley, Welch

No: 0

Absent: 0

COUNCIL COMMENTS (Audio 1:04:09)

Mr. Thompson – None

Mr. Skipps – Be aware of the snowplows and stay back. It's slick out there so slow down.

Mr. Walley – We had our first finance meeting and it was a good history lesson. I learned a lot and we have our next meeting set. We have good people on the committee.

Mr. Cromer – I noticed that Amazon was charging us for taxes so I hope we learn more about that.

Ms. Welch – Our snow plowing has been very nice. I was able to drive right over the little berm and by and it was totally cleared up by the time I got home.

Mr. Isaacson – I do appreciate the snow plowing efforts in the City. We should start thinking and preparing for our 4th of July celebration.

Mayor Welch – The Mayor Pro Tem and I will be at the legislative session of AML during the next Council meeting. Pray that Doug and I have a safe and productive trip when we go to Juneau.

Mr. Isaacson *moved to adjourn the meeting at 8:15 p.m.*

Seconded by Ms. Welch

The regular meeting of Monday, February 04, 2019 adjourned at 8:16 p.m.

These minutes passed and approved by a duly constituted quorum of the North Pole City Council on Tuesday, February 19, 2019.

Michael W. Welch, Mayor

ATTEST:

Judy L. Binkley, City Clerk

Draft

Office of the Mayor
City of North Pole

Proclamation

WHEREAS, Chalayna Culler is a senior at North Pole High School and is the daughter of Chuck and Anita Culler of North Pole; and

WHEREAS, Chalayna is involved in soccer and enjoys spending time outdoors. Chalayna is a National Honor Society member, has received the Student of the Year in Spanish I and Algebra II, and NPHS Junior Citizenship awards. Chalayna is a licensed CNA and plans to attend UAF and pursue a Nursing Career; and

WHEREAS, Chalayna volunteers for the Fall Festival, Homecoming set-up, Alaska clean-up day, helps coach soccer players and volunteers at the Animal Shelter; and

WHEREAS, the City of North Pole desires to recognize the outstanding students in the community.

NOW, THEREFORE, I, Michael W. Welch, Mayor of the City of North Pole, do hereby proclaim Chalayna Culler the:

*North Pole City Council
High School Student of the Month
For February 2019*

Michael W. Welch

Michael W. Welch, Mayor

ATTEST:

Judy L. Binkley
Judy L. Binkley, City Clerk



**CITY OF NORTH POLE
ORDINANCE NO. 19-02**

**AN ORDINANCE OF THE CITY OF NORTH POLE, ALASKA TO AMEND TITLE 13,
PUBLIC SERVICES CORRECTING CODE LANGUAGE IN SECTION 13.28.010 LIEN
RIGHTS**

WHEREAS, changes to the public services practices and policies is a continually changing requirement; and

WHEREAS, the City of North Pole Municipal Code should be amended to conform to the requirements of the City; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of North Pole, Title 13, Section 13.28.010 Lien rights shall be amended as follows:

B. The Utility Billing Clerk shall maintain a list of all individuals whose utility accounts with the City ~~are more than ninety days delinquent~~ **become seriously delinquent (as defined in 13.28.020(C))**. The list shall include the name of the individual holding the account with the North Pole Utility, the legal description of the property serviced by the North Pole Utility, and the amount delinquent. The Utility Billing Clerk shall cause a lien to be recorded for the amounts owed, including fees, costs and attorney fees, ninety days from the date of delinquency.

Section 1. This ordinance is of a general and permanent nature and shall be codified.

Section 2. Title 13 is amended in the North Pole Code of Ordinances by inserting the text underlined in red, and removing the lines that have been ~~stricken~~.

Section 3. Effective date. This ordinance shall become effective upon passage.

PASSED AND APPROVED by a duly constituted quorum of the North Pole City Council this ____ day of ____ 2019.

Michael W. Welch, Mayor

ATTEST:

Judy L. Binkley, City Clerk

PASSED/FAILED Yes: No: Absent:

125 Snowman Lane
North Pole, Alaska 99705
(907) 488-8593
(907) 488-3002 (fax)
bill@northpolealaska.com

City of North Pole
Director of City Services

Memo

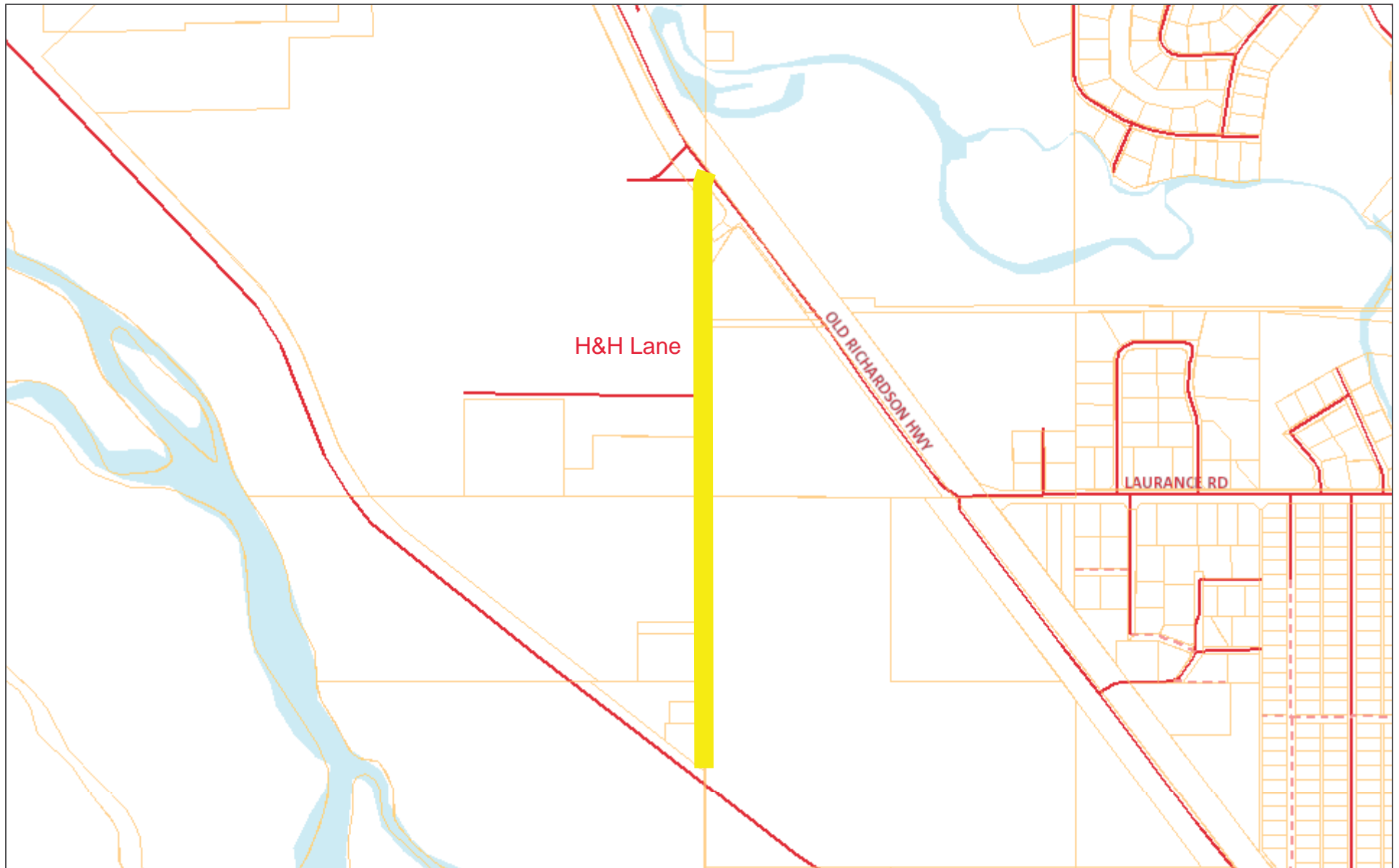
To: North Pole City Council
From: William Butler
Date: January 29, 2019
Subject: Truck route ordinance

Large commercial truck traffic on residential roads is a two-pronged problem. The City's residential roads were not constructed to support large commercial trucks on a routine basis. The Public Works Department is concerned about the hazards to pedestrians, bicyclists and residential vehicles presented by large commercial trucks operating on residential roads. The secondary concern is the negative effects large commercial trucks have on the condition and longevity of residential roads that will be borne by City tax payers not the commercial trucking businesses.

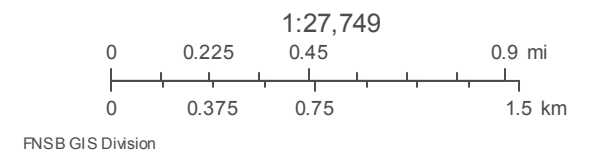
Ordinance 19-03, "An Ordinance of the City of North Pole City Council Amending Section Title 10 Vehicles and Traffic Adding Chapter 10.03 Restrictions on Certain Vehicles" is intended to restrict commercial truck traffic to identified truck routes. The ordinance will not restrict "routine" commercial truck traffic within the City like UPS, fuel delivery, tractor trailer deliveries to commercial establishments, construction vehicles for work within the City, etc. The ordinance is intended to prevent large heavy trucks from using residential roads for commercial activity like hauling gravel from pits within the city for projects outside of the city, large commercial trucks using city streets as short-cuts or by-passes, etc. Also, the ordinance will not invalidate any pre-agreed approvals for commercial truck traffic; for example, the developer agreement for the Brookside Development, that allows specified truck traffic from a gravel pit.

The ordinance grants the Mayor or Mayor's designee authority to establish truck routes. Based upon existing commercial truck traffic patterns, five truck routes are proposed. The intent of the proposed truck routes is to enable existing businesses to continue to operate, but to restrict their truck traffic to designated routes. Should the Council pass the ordinance, businesses within the City that have need to operate on City roads will be notified of the code change and the established truck routes. Signage will also be posted around the City notifying restrictions on truck traffic.

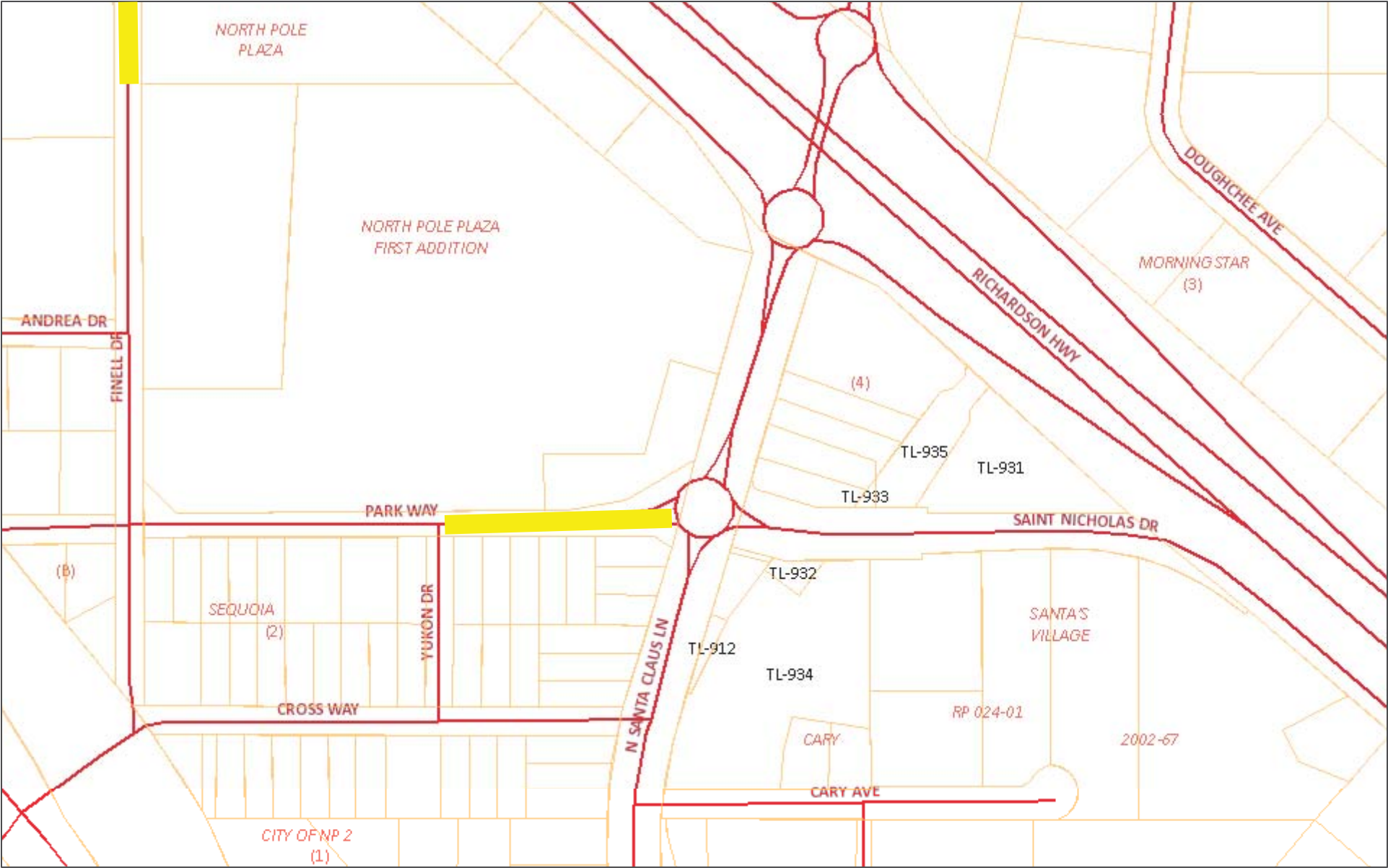
Truck Route: H&H Lane



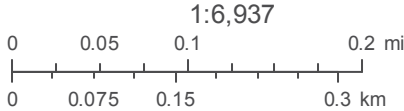
Truck Route 



Truck Route: Park Way & Finell Drive

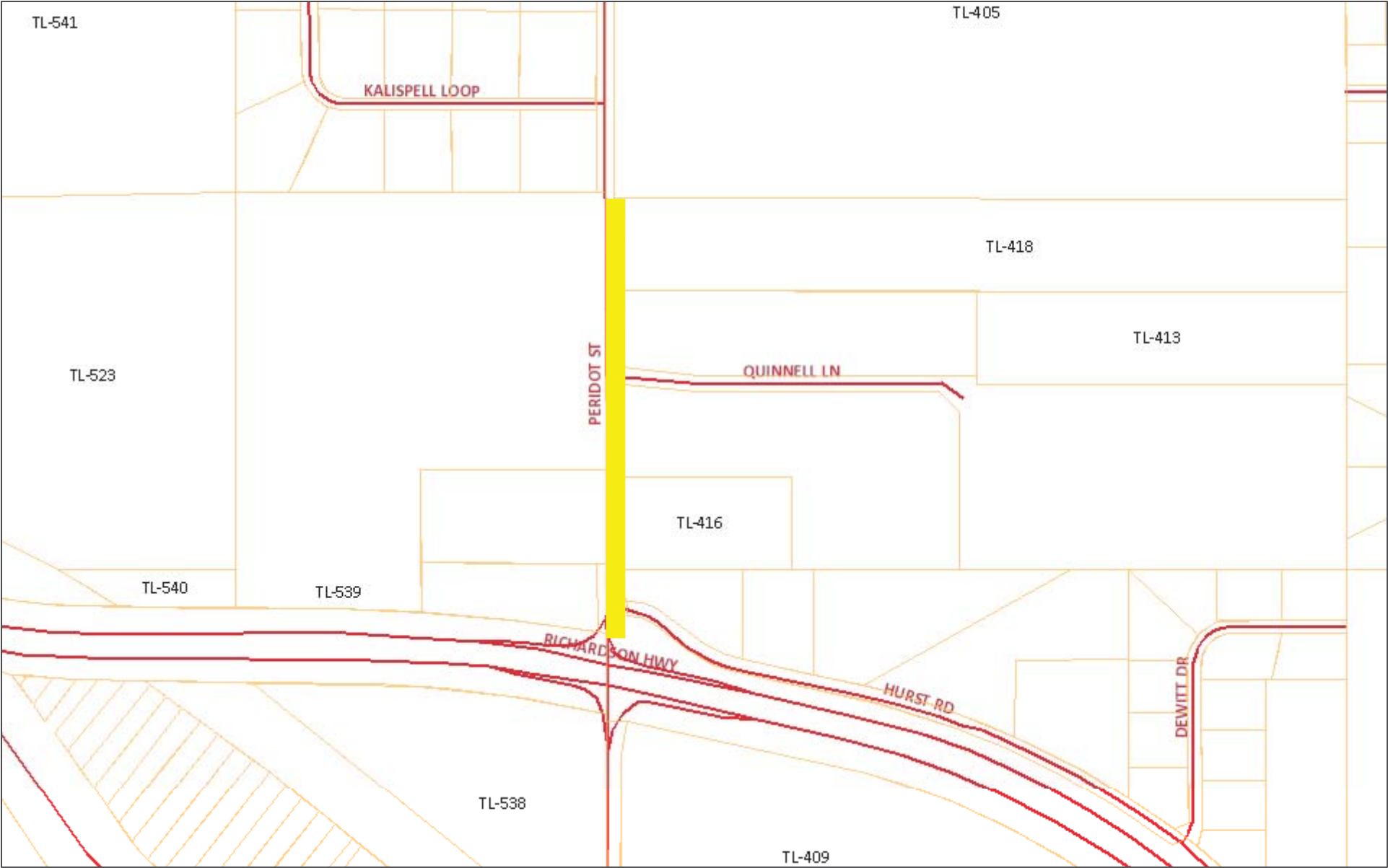


Truck Route 

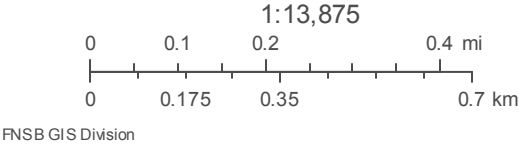


FNSB GIS Division

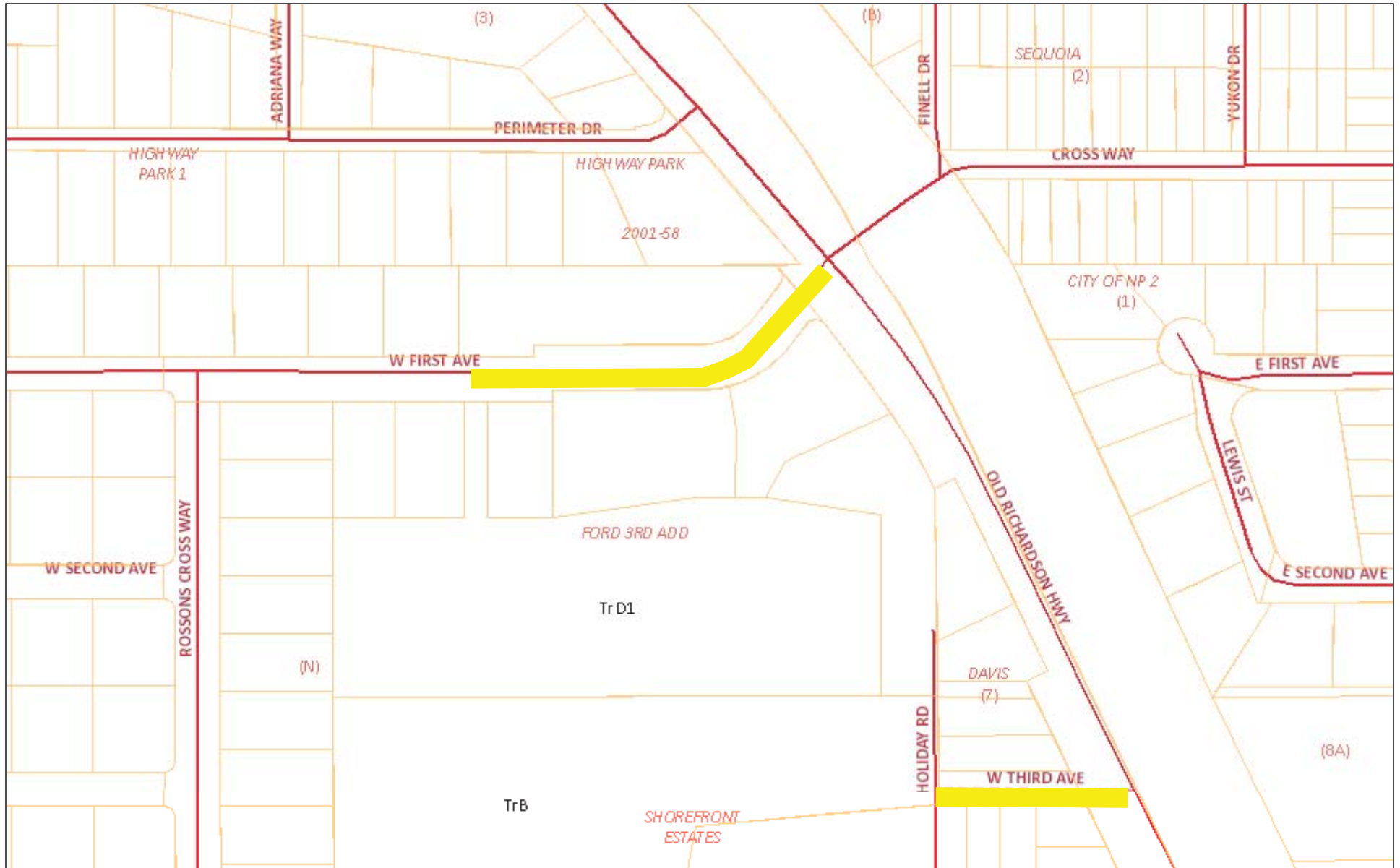
Truck Route: Peridot Street



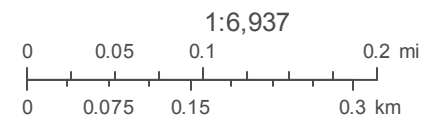
Truck route 



Truck Routes: West First and Third Avenues



Truck route



FNSB GIS Division

**CITY OF NORTH POLE
ORDINANCE NO. 19-03**

**AN ORDINANCE OF THE NORTH POLE CITY COUNCIL AMENDING SECTION
TITLE 10 VEHICLES AND TRAFFIC ADDING CHAPTER 10.03 RESTRICTIONS ON
CERTAIN VEHICLES**

WHEREAS: changes to the practices, regulations and policies is a continually changing requirement; and

WHEREAS: commercial truck traffic within the City on roads intended for local traffic has the potential to shorten the life of these streets leading to increased costs for City residents and are a safety hazard for community residents, and;

WHEREAS: State of Alaska 17 AAC 25 grants organized municipalities and boroughs authority to regulate movement of vehicles within their jurisdictions.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of North Pole:

Section 1. This ordinance is of a general and permanent nature and shall be codified in the North Pole Code of Ordinance.

Section 2. Title 10 Vehicles and Traffic shall be amended by adding the attached Chapter 10.03 Restrictions on Certain Vehicles.

Section 3. Effective date.
This ordinance shall become effective upon passage.

PASSED AND APPROVED by a duly constituted quorum of the North Pole City Council this ____ day of ____, 2019.

Michael W. Welch, Mayor

ATTEST:

Judy L. Binkley, City Clerk

PASSED/FAILED Yes: No: Absent:

10.03 RESTRICTIONS ON CERTAIN VEHICLES

10.03.010 Load restrictions on certain streets.

The Mayor or the Mayor's designee is authorized to determine and designate those streets or highways upon which vehicles of a gross weight permitted by state law would create a hazard or cause undue damage to the roadway and shall erect appropriate signs stating the reduced gross weight permitted on such designated streets. When signs are so erected giving notice, no person shall disobey the restrictions stated in such signs.

10.03.020 Commercial vehicles restricted.

A. The Mayor or the Mayor's designee is authorized to determine and designate various residential streets or highways upon which the operation of commercial vehicles would create exceptionally hazardous conditions or cause undue public inconvenience and may erect appropriate signs stating that commercial vehicles are prohibited from such designated streets.

B. When signs are erected giving notice, no person shall operate any commercial vehicle at any time upon any of the streets or parts of streets so designated, except that such vehicles may be operated on such streets for the purpose of delivering or picking up materials or merchandise and then only by entering such street at the intersection nearest the destination of the vehicle and proceeding on such street no farther than the nearest intersection thereafter.

10.03.030 Restrictions on certain other vehicles.

A. The Mayor or the Mayor's designee is authorized to determine and designate those heavily traveled streets or highways upon which shall be prohibited the use of the roadway by motorcycles, bicycles, horse-drawn vehicles or other non-motorized traffic and shall erect appropriate signs giving notice of such restrictions.

B. When signs are so erected giving notice, no person shall disobey the restrictions stated on such signs.

10.03.040 Standard wide load sign.

Every over-width vehicle as defined by the most recently passed state regulation shall display a sign bearing the legend "Wide Load," which shall be mounted securely on or directly above the front and rear bumpers. The dimensions and color of such sign shall be as follows: one-quarter-inch margin, three-quarter-inch border, 1 1/8 -inch stroke width, yellow background, black legend with yellow reflective sheeting, meeting requirements of federal specification LS-300. Signs shall conform to the sign design specifications of the State Department of Transportation and Public Facilities.

10.03.050 Established truck routes.

A. The Mayor or the Mayor's designee, after consultation with the Police and Fire Chiefs, shall designate streets in the district as truck routes.

B. Any provision of this section which affects state highway routes is subject to approval of the Alaska Department of Transportation and Public Facilities.

10.03.060 Trucks prohibited on certain streets.

A. No City street may be used by any commercial vehicle with a gross vehicle weight rating (GVWR) of 26,000 pounds or greater, except where required to provide business service to specific locations within the City limits for which the vehicle is required as an essential part of the service and then only the most direct route requiring the least amount of travel upon City streets.

B. Only streets designated by the Mayor or the Mayor's designee as truck routes may be used by vehicles having more than two axles, or having an overall length of 29 feet excluding power lift gate; however, a vehicle required to observe the established truck routes may deviate from such routes to provide cargo delivery or pickup or in performance of a business service for which the vehicle is required as an essential part of the service. Such deviation from the established routes to any location not on the route shall be by the most direct route reasonably available. No vehicle may be loaded or unloaded or perform any service on any street or part of a street where usable off-street space is available provided the provisions governing stopping, standing and parking as contained in this chapter shall be complied with. This exception shall not apply between the hours of 7:00 a.m. and 8:00 a.m. and 4:30 p.m. and 6:00 p.m.

C. The provisions of this section shall not be construed to prohibit the use of any street, alley or other area by vehicles of any government agency or any public utility company while in the performance of official or normal duties. This exception does not apply to Alaska Railroad vehicles which are engaged in competitive cartage of goods.

D. The provisions of this section shall not apply to passenger buses operated under the authority of the State Transportation Commission.

E. When it becomes necessary to temporarily close a street which traffic regulated under this section would normally use, the Mayor or Mayor's designee may authorize the detouring of traffic over other streets. Such detours shall be appropriately signed as approved by the Mayor or the Mayor's designee, and such vehicles as described in subsections (A) and (B) of this section shall be required to travel over such designated routes.

F. The Mayor or the Mayor's designee may grant an exception in writing to the prohibitions of subsections (A) and (B) of this section when an unusual nonrecurring situation arises which justifies such an exception and which is in the best interest of the City.

G. Any provision of this section which affects state highway routes is subject to approval of the State Department of Transportation.

10.03.070 Enforcement

A. The City Mayor, Police Chief or designated representatives are authorized to enforce the provisions of this chapter.

B. Any person may file a complaint under this chapter with the Mayor or Police Chief and request enforcement of an alleged violation.

10.03.080 Violation and penalties on certain vehicles

A. A person who violates any provision of this chapter shall be guilty of a minor offense, punishable by the fine listed in the fine schedule in 1.20.030. The vehicle involved in the violation is subject to towing and impounding. In case of impound, the vehicle's owner shall pay all costs of the impound, including towing and storage, in accordance with the fee schedule on file in the City Clerk's office.

B. Each violation constitutes a new violation.

C. Fines or violations are separate from and in addition to all other remedies authorized by law or equity.

10.03.090 Abatement-Notices-Costs-Fines

A. The City may file a civil action in Superior Court to abate a nuisance and all costs and expenses of such abatement, removal, remediation or other remedy and full actual attorney fees and costs incurred by the City in any legal proceeding to abate the nuisance shall be paid by the persons or corporation committing, creating, keeping, maintaining or causing such nuisance or nuisances.

**CITY OF NORTH POLE
ORDINANCE 19-04**

**AN ORDINANCE OF THE CITY OF NORTH POLE, ALASKA TO
AMEND TITLE 1, BY UPDATING GENERAL PENALTIES AND
INCLUDING A SURCHARGE SECTION AND A MINOR OFFENSE FINE
SCHEDULE**

WHEREAS, changes to the practices, regulations and policies is a continually changing requirement; and

WHEREAS, the City of North Pole desires to establish a clear and concise schedule for code violations; and

WHEREAS, the City code list many violations but has not established a fine schedule for minor offense violations when such violations do occur; and

WHEREAS, if the code is to be enforced then it is prudent to have a mechanism to do so; and

WHEREAS, it is the City's desire, pursuant to AS 29.25.070(a), to provide for violations that offer the offender the option to pay a fine without appearing before a judge; and

WHEREAS, the City reserves the right to charge someone with an offense greater than a violation if necessary; and

WHEREAS, State law governing municipal violations and charges have changed since the City originally adopted this section of code; and,

WHEREAS, the Minor Offense Fine Schedule shall be applied uniformly to the entire code and gives direction to officers on how to enforce the code; and,

WHEREAS, Alaska Statute 11.81.250 (a)6 describes violations as follows, 'violations, which characteristically involve conduct inappropriate to an orderly society but which do not denote criminality in their commission.'

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of North Pole:

Section 1. This ordinance is of a general and permanent nature and shall be codified.

Section 2. Title 1 General Provisions, Chapter 1.20 General Penalty is amended as follows by inserting the text underlined and in red:

1.20.010 General Penalty

Unless an ordinance specifically provides otherwise, any person violating any of the provisions of this code or failing to comply with any of the mandatory requirements of this code is guilty of a minor offense and shall be punished by a fine not to exceed \$500 (five hundred dollars).

1.20.020 Surcharge

In addition to any penalty prescribed by law, a defendant convicted of violating a city ordinance shall pay the surcharge required under AS 12.55.039 and 29.25.074. All such surcharges collected shall be remitted to the State of Alaska as required by AS 29.25.074.

1.20.030 Minor Offense Fine Schedule

In accordance with AS 29.25.070(a), citations for the following offenses may be disposed of as provided in AS 12.25.195-.230, without a court appearance, upon payment of the fine amounts listed below plus the state surcharge required by AS 12.55.039 and AS 29.25.074. Fines must be paid to the court. The Rules of Minor Offense Procedure in the Alaska Rules of Court apply to all offenses listed below. Citations charging these offenses must meet the requirements of Minor Offense Rule 3. If a person charged with one of these offenses appears in court and is found guilty, the penalty imposed for the offense may not exceed the fine amount for that offense listed below. If an offense is not listed on this fine schedule or another fine schedule, the defendant must appear in court to answer to the charges.

Section	Offense Description	Fine Amount
8.01.020	Garbage and Refuse containers required	\$50 1 st offense \$100 2 nd offense \$300 3 rd offense
8.01.030	Failure to deposit garbage in designated place	\$50 1 st offense \$100 2 nd offense \$300 3 rd offense
8.01.040	Failure to cover garbage and refuse when transported	\$50 1 st offense \$100 2 nd offense \$300 3 rd offense
8.01.050	Burning garbage or refuse without a permit	\$50 1 st offense \$100 2 nd offense \$300 3 rd offense
8.02.020	Cause/Maintain/continue unwholesome well or groundwater	\$300 1 st offense \$500 2 nd offense \$1,000 3 rd offense
8.02.030	Groundwater and soil contaminated from garbage prohibited	\$300 1 st offense \$500 2 nd offense \$1,000 3 rd offense
8.02.040(B)	Open pits and unfilled excavations prohibited	\$300 1 st offense \$500 2 nd offense \$1,000 3 rd offense
8.02.040(C)	Failure to secure unoccupied/abandoned buildings	\$300 1 st offense \$500 2 nd offense \$1,000 3 rd offense
8.02.040(D)	Attractive hazards dangerous to children	\$300 1 st offense \$500 2 nd offense \$1,000 3 rd offense
8.02.050	Outhouses prohibited	\$300 1 st offense \$500 2 nd offense \$1,000 3 rd offense

8.02.060(A)	> 4 Junk vehicles on public property	\$300 1 st offense \$500 2 nd offense \$1,000 3 rd offense
8.02.060(B)	> 4 Junk vehicles on owner/tenant/occupant property	\$300 1 st offense \$500 2 nd offense \$1,000 3 rd offense
8.03.020	Animal Bite	\$50 1 st offense \$150 2 nd offense \$300 3 rd offense
8.03.030	Failure to restrain animal	\$ 50 1st offense \$150 2 nd offense \$300 3 rd offense
8.03.040	Failure to remove dog/cat waste	\$50 1 st offense \$150 2 nd offense \$300 3 rd offense
8.04.030	Flammable marijuana oil extraction methods prohibited	\$50 1 st offense \$150 2 nd offense \$300 3 rd offense
8.04.040	Permit/Cause soot, cinders, fumes, gases to endanger person or public	\$50 1 st offense \$150 2 nd offense \$300 3 rd offense
8.04.050(A)	Disturbing the peace	\$50 1 st offense \$150 2 nd offense \$300 3 rd offense
<u>10.03</u>	<u>Restrictions on Certain Vehicles</u>	<u>\$150 1st offense</u> <u>\$300 2nd offense</u> <u>\$500 3rd offense</u>
12.03.010 (A)	Consuming Marijuana in a Public Place	\$50 1 st offense \$100 2 nd offense
12.04.020	Unlawful to obstruct	\$ 50 1 st offense \$150 2 nd offense \$300 3 rd offense
12.04.030	Wire and Banners over streets- Approval required	\$ 50 1 st offense \$150 2 nd offense \$300 3 rd offense
12.04.040	Deposit of snow or ice Prohibited	\$ 50 1 st offense \$150 2 nd offense \$300 3 rd offense
12.04.050	Obstruction of drainage systems prohibited	\$ 50 1 st offense \$150 2 nd offense \$300 3 rd offense
12.08.010	Permit Required	\$ 150 1 st offense \$300 2 nd offense \$500 3 rd offense
12.12.020	Parking during street cleaning	\$150 1 st offense

	and snow removal	\$300 2 nd offense \$500 3 rd offense
12.12.030	Parking prohibited over 24 hours	\$150 1 st offense \$300 2 nd offense \$500 3 rd offense
Title, Chapter, Section Number		

Section 3. Effective date.

This ordinance shall become effective upon passage.

PASSED AND APPROVED by a duly constituted quorum of the North Pole City Council this _____ of _____, 2019.

Michael W. Welch, Mayor

ATTEST:

Judy L. Binkley, City Clerk

PASSED/FAILED
Yes:
No:
Absent:

125 Snowman Lane
North Pole, Alaska 99705
(907) 488-8593
(907) 488-3002 (fax)
bill.butler@northpolealaska.org

City of North Pole
Director of City Services

Memo

To: City Council
From: Bill Butler
Date: February 12, 2019
Subject: Shannon & Wilson terms of service to perform site characterization work

Approve

Scope of service, additional site characterization, City of North Pole 8th Avenue fire well pump house, ADEC file number 100.38.224 for \$40,505.

Background

On July 8, 2009, the recirculating fuel pump at the 8th Avenue fire-well pump house malfunctioned, causing an overflow of the day tank resulting in a discharge of heating fuel outside of the building through the tank's vent. Based on delivery records, the Utility estimated 274 to 474 gallons of fuel were released. The Utility contracted with Shannon & Wilson to assist the Utility with its initial response. One of the first actions was removal of fuel-contaminated soil. Samples from the excavation indicated gasoline range organics (GRO), diesel range organics (DRO), and the volatile organic compounds (VOCs) benzene, toluene, ethylbenzene, and xylenes (BTEX) were present at concentrations greater than ADEC soil cleanup levels for the migration-to- groundwater criteria.

From 2009 to 2011, Utility staff used a recovery well installed within the excavation footprint to collect petroleum products. As of 2011, the Utility had recovered 130 gallons of fuel. Since 2011 there has been insufficient product to continue the collection effort.

In 2018, Shannon & Wilson installed and sampled two soil borings and converted the borings as monitoring wells. Soil and groundwater sample results indicated petroleum constituents were present at concentrations exceeding ADEC clean up levels. Additionally, the soil samples indicated, "the hydrocarbon pattern is consistent with a weathered gasoline." This was of surprise to the Utility because the spill was only heating fuel.

Shannon & Wilson's will perform the following activities as part of the project by collecting samples to further characterize and delineate the extent of soil and groundwater contamination at the site. These efforts will assist the Utility to comply with ADEC regulations.

- Prepare a work plan for submittal to ADEC.
- Install three soil borings and convert the borings into monitoring wells.
- Collect samples from the soil borings, and from the new and existing site monitoring wells, and submit the samples for laboratory analysis.
- Conduct residential indoor-air sampling in nearby residences if analytical sample results indicate a vapor intrusion pathway.
- Conduct a survey of site monitoring wells for the purpose of calculating the groundwater flow direction.
- Conduct/support monthly gauging of wells to monitor for free-phase fuel.
- Prepare a summary report of our findings.

Shannon & Wilson is a respected environmental firm in Fairbanks. They assisted the Utility with its early response to the fuel spill and provided the Utility with its first effort at site characterization to satisfy ADEC requirements. The Utility 2019 budget includes the funding for this project in the Water Division professional services category.

February 12, 2019

City of North Pole
125 Snowman Lane
North Pole, AK 99705

Attn: Mr. Bill Butler

**RE: PROPOSED SCOPE OF SERVICES, ADDITIONAL SITE
CHARACTERIZATION, CITY OF NORTH POLE 8TH AVENUE FIRE-WELL
PUMP HOUSE, ADEC FILE NO. 100.38.224**

We are pleased to present this proposed scope of services and cost estimate for additional site characterization of the 8th Avenue Fire-Well Pump House site, located on the corner of 8th Avenue and Grange Road in North Pole, Alaska. The site is listed on the Alaska Department of Environmental Conservation (ADEC) Contaminated Site Database due to a fuel release to the ground surface on July 8, 2009. Analytical results from our sampling in April and May 2018 indicate a potential gasoline source may be affecting soil and groundwater quality at the site.

BACKGROUND

On July 8, 2009, the recirculating fuel pump at the fire-well pump house malfunctioned, causing an overflow of the day tank in the pump-house building. Based on delivery records, the City estimated 274 to 474 gallons of fuel were released. We responded to the spill and assisted the City of North Pole by removing fuel-contaminated soil. Samples from the limits of the excavation indicated gasoline range organics (GRO), diesel range organics (DRO), and the volatile organic compounds (VOCs) benzene, toluene, ethylbenzene, and xylenes (BTEX) were present at concentrations greater than ADEC soil cleanup levels for the migration-to-groundwater criteria.

City of North Pole personnel conducted free-phase fuel recovery from a recovery well installed within the excavation footprint from 2009 to 2011. As of 2011, the City had recovered 130 gallons of fuel. We understand that free-phase fuel has not been observed in site wells since 2011, though gauging visits may have been limited to the summer season.

In 2018, we advanced and sampled two soil borings and completed the borings as monitoring wells. Soil and groundwater sample results indicated petroleum constituents were present at concentrations exceeding ADEC CULs. Additionally, an assessment of the 2018 soil sample

chromatograms by the laboratory chemist indicated, “the hydrocarbon pattern is consistent with a weathered gasoline.”

SCOPE OF SERVICES

We propose collecting additional analytical samples to further characterize and delineate the extent of soil and groundwater contamination at the site and investigate for potential vapor intrusion into nearby residences. Our proposed project scope includes the following tasks:

- Prepare a work plan for submittal to ADEC;
- Subcontract with GeoTek Alaska, Inc. (GeoTek) to advance three soil borings and complete the borings as monitoring wells;
- Collect samples from the soil borings, and from the new and existing site monitoring wells, and submit the samples for laboratory analysis;
- Conduct residential indoor-air sampling in nearby residences if analytical sample results indicate a vapor intrusion pathway may be complete;
- Subcontract with Design Alaska, Inc. (Design Alaska) to conduct a survey of site monitoring wells for the purpose of calculating the groundwater flow direction;
- Conduct/support monthly gauging of wells RW-1 and MW-01 to monitor for free-phase fuel;
- Prepare a summary report of our findings.

Work Plan Preparation

During preparation of our work plan, we will research other potential sources for the gasoline range organics observed in the 2018 samples. We will incorporate the findings of our investigation into the conceptual site model which will be discussed in the work plan. We will provide the work plan to you for review, then to ADEC project manager Mr. Jim Fish for his review and comment. We will revise the work plan as appropriate following each review.

The work plan will guide the field activities and will be developed in general accordance with the ADEC’s *Site Characterization Work Plan and Reporting Guidance for Investigation of Contaminated Sites* (March 2017). It will include a sampling and analysis plan describing sample-collection procedures, a quality assurance program plan describing analytical methods and data-quality objectives, and a site-safety and health plan for Shannon & Wilson personnel to follow during field activities.

Soil and Groundwater Sampling

We propose advancing three soil borings to approximately 15 feet below ground surface (bgs) in three locations approximately upgradient, downgradient, and cross-gradient of identified contamination based on the calculated groundwater flow direction. The soil borings will be completed as 2-inch diameter PVC monitoring wells and will be constructed in accordance with the ADEC September 2013 *Monitoring Well Guidance*. We will collect two soil samples from each soil boring, and one groundwater sample from each newly installed wells following development. We will also sample four existing site wells: MW-01, MW18-01, MW18-02, and a newly discovered well southwest of the site and adjacent to Grange Road which we will refer to as MW-02. Field quality-control (QC) samples will be collected in accordance with the ADEC August 2017 *Field Sampling Guidance*.

We will submit soil and groundwater samples to SGS North America, Inc. (SGS) for laboratory analysis of GRO by Alaska (AK) Method 101, DRO by AK Method 102, VOCs by Environmental Protection Agency (EPA) Method 8260C, and polynuclear aromatic hydrocarbons (PAHs) by EPA Method 8270D.

Indoor-Air Sampling

If analytical results from soil and groundwater samples indicate a potential vapor intrusion risk for nearby properties, we propose coordinating with property homeowners to collect indoor-air samples from residences adjacent to the site. For the purpose of this proposal, we have included the estimated costs for sampling the indoor-air of three residences. We will complete the ADEC *Building Inventory and Indoor Air Sampling Questionnaire* for each residence sampled. We will collect the three samples and one field QC sample using 6-liter summa canisters, and submit the samples to Eurofins Laboratory for analysis of VOCs by EPA Method TO-15 SIM. We will compare VOC concentrations to the residential indoor air target levels listed in ADEC's *Vapor Intrusion Guidance for Contaminated Sites*.

Well Gauging

We propose conducting monthly gauging to monitor for possible accumulation of free-phase fuel. We understand the City of North Pole personnel gauged the recovery well RW-1 three times during the summer of 2017 and did not observe fuel or a sheen in the well. Changes in the groundwater table may lead to measurable accumulation during periods of low groundwater elevation. If a recoverable amount of fuel is observed at the site, we will coordinate with the City of North Pole to determine an appropriate fuel recovery program.

Reporting

After we have reviewed and evaluated analytical data, we will prepare a report in which we document field activities, summarize soil and groundwater sampling results, and evaluate those results in the context of ADEC cleanup levels. Qualified Shannon & Wilson personnel will review field data, including sample descriptions and pertinent observations, during preparation of the report. We will provide a discussion of sample results and recommendations for additional investigation, corrective action, monitoring, or site closure as appropriate. We will also include laboratory data reports, ADEC data-review checklists, and copies of COC records with the report.

PROJECT SCHEDULE

Upon authorization to proceed, we will begin drafting the work plan for your review, after which we will provide it to the ADEC for their review. We anticipate the field investigation will be completed in summer 2019. Monthly monitoring for free-phase fuel will continue until November 2019 so measurements can be made during the anticipated groundwater elevation minima.

ESTIMATE OF PROBABLE COSTS

Our fee for the proposed work will be completed on a time-and-expenses basis with an estimated fee of \$40,505. Our approach, scope of services, schedule, and price contained in this proposal are subject to Shannon & Wilson, Inc.'s Standard General Terms and Conditions, attached to and incorporated in this proposal. Our estimates of probable costs are enclosed and include our labor and expenses for the services described in this proposal.

If this proposal meets with your approval, please sign in the space provided at the end of the proposal and return one signed copy of this letter, which will constitute your authorization for us to proceed with this scope of services. The estimated fee for this work is firm for 30 days from the date of this proposal. Should authorization to begin be received after 30 days, we will review our estimated fee to determine if any price changes have occurred that would affect the estimated cost of the project.

Please contact me at (907)458-3152 or yew@shanwil.com if you have any questions regarding our proposed scope of services.

City of North Pole
Mr. Bill Butler
February 12, 2019
Page 5 of 5



Sincerely,

SHANNON & WILSON, INC.

A handwritten signature in blue ink, appearing to read "Val Webb", is written over a light gray rectangular background.

Digitally signed by
Valerie Webb, C.P.G.
Date: 2019.02.12
10:32:03 -09'00'

Valerie Webb, CPG
Senior Geologist

Enc: Summary of Probable Costs
Standard General Terms and Conditions (As approved by CONP and S&W in February
2019)
Important Information about your Proposal

ACCEPTANCE

I accept the above conditions and authorize the work to proceed.

By: _____ Printed Name: _____

Title: _____ Date: _____

Estimate of Probable Costs

	Rate	Quantity	Subtotal	Total
Task 1 - Work Plan Preparation				
Officer	\$220.00 /hr	1 hr	\$220.00	
Sr. Assoc	\$175.00 /hr	1 hr	\$175.00	
Sr Eng/Sci II	\$125.00 /hr	8 hrs	\$1,000.00	
Eng/Sci IV	\$92.00 /hr	36 hrs	\$3,312.00	
Ofc. Svs. V	\$86.00 /hr	1 hr	\$86.00	
			Task 1 Total	\$4,793
Task 2 - Soil and Groundwater Sampling				
Sr Eng/Sci II	\$120.00 /hr	2 hrs	\$240.00	
Eng/Sci IV	\$105.00 /hr	24 hrs	\$2,520.00	
Eng/Sci III	\$92.00 /hr	24 hrs	\$2,208.00	
Equipment & Supplies	\$500.00 /day	3 days	\$1,500.00	
			subtotal	\$6,468
GeoTek Alaska (drilling services)				
Mob/demob	\$300.00 /ea	1 mob	\$300.00	
GeoTek per diem	\$450.00 /day	1 day	\$450.00	
Drilling Services	\$3,000.00 /day	1 day	\$3,000.00	
Monitoring Well Consumables	\$700.00 /ea	3 wells	\$2,100.00	
Drums	\$135.00 /ea	1 drums	\$135.00	
Fee			\$898	
			subtotal	\$6,883
Design Alaska (surveying)				
	\$1,000.00 ls		\$1,000	
Fee			\$150	
			subtotal	\$1,150
SGS North America (laboratory analysis)				
Soil				
GRO (AK 101)	\$65.00 /ea	7 tests	\$455	
DRO (AK 102)	\$65.00 /ea	7 tests	\$455	
VOCs (EPA 8260B)	\$160.00 /ea	7 tests	\$1,120	
PAH (EPA 8270 SIM)	\$160.00 /ea	7 test	\$1,120	
GRO (AK 101) trip blank	\$32.50 /ea	1 tests	\$33	
VOCs (EPA 8260B) trip blank	\$80.00 /ea	1 tests	\$80	
Water				
GRO (AK 101)	\$65.00 /ea	9 tests	\$585	
DRO (AK 102)	\$65.00 /ea	9 tests	\$585	
VOCs (EPA 8260B)	\$160.00 /ea	9 tests	\$1,440	
PAH (EPA 8270 SIM)	\$160.00 /ea	9 test	\$1,440	
GRO (AK 101) trip blank	\$32.50 /ea	1 tests	\$33	
VOCs (EPA 8260B) trip blank	\$80.00 /ea	1 tests	\$80	
Fee			\$1,114	
			subtotal	\$8,539
			Task 2 Total	\$23,040

Task 3 - Indoor-Air Sampling

Sr Eng/Sci II	\$120.00 /hr	2 hrs	\$240.00
Eng/Sci IV	\$105.00 /hr	20 hrs	\$2,100.00
Equipment & Supplies	\$200.00 /day	2 days	\$400.00
		subtotal	\$2,740

Eurofins Air Toxics, Inc. (laboratory analysis)**Air**

VOCs (TO-15)	\$288.00 /ea	4 tests	\$1,152
Fee			\$173

subtotal \$1,325

Task 3 Total \$4,065**Task 4 - Monthly Well Gauging**

Eng/Sci IV	\$105.00 /hr	12 hrs	\$1,260
Eng/Sci II	\$92.00 /hr	12 hrs	\$1,104
Equipment & Supplies	\$80.00 /day	12 day	\$960

Task 4 Total \$3,324**Task 5 - Reporting**

Officer	\$220.00 /hr	2 hrs	\$440.00
Sr. Assoc	\$175.00 /hr	2 hrs	\$350.00
Sr Eng/Sci II	\$120.00 /hr	8 hrs	\$960.00
Eng/Sci III	\$92.00 /hr	36 hrs	\$3,312.00
Ofc. Svs. V	\$86.00 /hr	2 hrs	\$172.00
Misc Expenses			\$50.00

Task 5 Total \$5,284

TOTAL \$40,505

IMPORTANT INFORMATION ABOUT YOUR GEOTECHNICAL/ENVIRONMENTAL PROPOSAL

More construction problems are caused by site subsurface conditions than any other factor. The following suggestions and observations are offered to help you manage your risks.

HAVE REALISTIC EXPECTATIONS.

If you have never before dealt with geotechnical or environmental issues, you should recognize that site exploration identifies actual subsurface conditions at those points where samples are taken, at the time they are taken. The data derived are extrapolated by the consultant, who then applies judgment to render an opinion about overall subsurface conditions; their reaction to construction activity; appropriate design of foundations, slopes, impoundments, and recovery wells; and other construction and/or remediation elements. Even under optimal circumstances, actual conditions may differ from those inferred to exist, because no consultant, no matter how qualified, and no subsurface program, no matter how comprehensive, can reveal what is hidden by earth, rock, and time.

DEVELOP THE SUBSURFACE EXPLORATION PLAN WITH CARE.

The nature of subsurface explorations—the types, quantities, and locations of procedures used—in large measure determines the effectiveness of the geotechnical/environmental report and the design based upon it. The more comprehensive a subsurface exploration and testing program, the more information it provides to the consultant, helping to reduce the risk of unanticipated conditions and the attendant risk of costly delays and disputes. Even the cost of subsurface construction may be lowered.

Developing a proper subsurface exploration plan is a basic element of geotechnical/environmental design, which should be accomplished jointly by the consultant and the client (or designated professional representatives). This helps the parties involved recognize mutual concerns and makes the client aware of the technical options available. Clients who develop a subsurface exploration plan without the involvement and concurrence of a consultant may be required to assume responsibility and liability for the plan's adequacy.

READ GENERAL CONDITIONS CAREFULLY.

Most consultants include standard general contract conditions in their proposals. One of the general conditions most commonly employed is to limit the consulting firm's liability. Known as a "risk allocation" or "limitation of liability," this approach helps prevent problems at the beginning and establishes a fair and reasonable framework for handling them, should they arise.

Various other elements of general conditions delineate your consultant's responsibilities. These are used to help eliminate confusion and misunderstandings, thereby helping all parties recognize who is responsible for different tasks. In all cases, read your consultant's general conditions carefully and ask any questions you may have.

HAVE YOUR CONSULTANT WORK WITH OTHER DESIGN PROFESSIONALS.

Costly problems can occur when other design professionals develop their plans based on misinterpretations of a consultant's report. To help avoid misinterpretations, retain your consultant to work with other project design professionals who are affected by the geotechnical/environmental report. This allows a consultant to explain report implications to design professionals affected by them, and to review their plans and specifications so that issues can be dealt with adequately. Although some other design professionals may be familiar with geotechnical/environmental concerns, none knows as much about them as a competent consultant.

OBTAIN CONSTRUCTION MONITORING SERVICES.

Most experienced clients also retain their consultant to serve during the construction phase of their projects. Involvement during the construction phase is particularly important because this permits the consultant to be on hand quickly to evaluate unanticipated conditions, to conduct additional tests if required, and when necessary, to recommend alternative solutions to problems. The consultant can also monitor the geotechnical/environmental work performed by contractors. It is essential to recognize that the construction recommendations included in a report are preliminary, because they must be based on the assumption that conditions revealed through selective exploratory sampling are indicative of actual conditions throughout a site.

Because actual subsurface conditions can be discerned only during earthwork and/or drilling, design consultants need to observe those conditions in order to provide their recommendations. Only the consultant who prepares the report is fully familiar with the background information needed to determine whether or not the report's recommendations are valid. The consultant submitting the report cannot assume responsibility or liability for the adequacy of preliminary recommendations if another party is retained to observe construction.

REALIZE THAT ENVIRONMENTAL ISSUES MAY NOT HAVE BEEN ADDRESSED.

If you have requested only a geotechnical engineering proposal, it will not include services needed to evaluate the likelihood of contamination by hazardous materials or other pollutants. Given the liabilities involved, it is prudent practice to always have a site reviewed from an environmental viewpoint. A consultant cannot be responsible for failing to detect contaminants when the services needed to perform that function are not being provided.

ONE OF THE OBLIGATIONS OF YOUR CONSULTANT IS TO PROTECT THE SAFETY, PROPERTY, AND WELFARE OF THE PUBLIC.

A geotechnical/environmental investigation will sometimes disclose the existence of conditions that may endanger the safety, health, property, or welfare of the public. Your consultant may be obligated under rules of professional conduct, or statutory or common law, to notify you and others of these conditions.

RELY ON YOUR CONSULTANT FOR ADDITIONAL ASSISTANCE.

Your consulting firm is familiar with several techniques and approaches that can be used to help reduce risk exposure for all parties to a construction project, from design through construction. Ask your consultant, not only about geotechnical and environmental issues, but others as well, to learn about approaches that maybe of genuine benefit.

The preceding paragraphs are based on information provided by the
ASFE/Association of Engineering Firms Practicing in the Geosciences, Silver Spring, Maryland



Date: September 28, 2018

To: City of North Pole; Attn: Bill Butler

Re: Additional Site Characterization
City of North Pole 8th Ave Fire-Well Pump House

STANDARD GENERAL TERMS AND CONDITIONS (ALL PURPOSE)

ARTICLE 1 – SERVICES OF SHANNON & WILSON

Shannon & Wilson's scope of work (Work) shall be limited to those services expressly set forth in its Proposal and is subject to the terms and conditions set forth herein.

Shannon & Wilson shall procure and maintain all business and professional licenses and registrations necessary to provide its services. Upon Client's request (and for additional compensation, if not already included in Shannon & Wilson's Proposal), Shannon & Wilson shall assist Client in attempting to obtain, or on behalf of Client and in Client's name attempt to obtain, those permits and approvals required for the project for which Shannon & Wilson's services are being rendered.

Client acknowledges, depending on field conditions encountered and subsurface conditions discovered, the number and location of borings, the number and type of field and laboratory tests, and other similar items, as deemed necessary by Shannon & Wilson in the exercise of due care, may need to be increased or decreased; if such modifications are approved by Client, Shannon & Wilson's compensation and schedule shall be equitably adjusted.

If conditions actually encountered at the project site differ materially from those represented by Client and/or shown or indicated in the contract documents, or are of an unusual nature which materially differ from those ordinarily encountered and generally recognized as inherent for the locality and character of the services provided for in Shannon & Wilson's scope of work, Shannon & Wilson's compensation and schedule shall be equitably adjusted.

Without increasing the scope of work, price, or schedule contained in Shannon & Wilson's Proposal, Shannon & Wilson may employ such subcontractors as Shannon & Wilson deems necessary to assist in furnishing its services.

If Shannon & Wilson's scope of work is increased or decreased by Client, Shannon & Wilson's compensation and schedule shall be equitably adjusted.

ARTICLE 2 – TIMES FOR RENDERING SERVICES

Shannon & Wilson shall perform its services in accordance with the schedule set forth in its Proposal.

If Shannon & Wilson's Proposal sets forth specific periods of time for rendering services, or specific dates by which services are to be completed, and such periods of time or dates are extended or delayed through no fault of Shannon & Wilson, Shannon & Wilson's compensation and schedule shall be equitably adjusted.

If Shannon & Wilson's schedule is increased or decreased by Client, Shannon & Wilson's compensation shall be equitably adjusted.

ARTICLE 3 – PAYMENTS TO SHANNON & WILSON

Invoices shall be prepared in accordance with Shannon & Wilson's standard invoicing practices and shall be submitted to Client by Shannon & Wilson monthly. The amount billed in each invoice shall be calculated as set forth in Shannon & Wilson's Proposal.

Unless Shannon & Wilson's Proposal contains a fixed lump-sum price, Shannon & Wilson's actual fees may exceed the estimate contained in its Proposal. Shannon & Wilson shall not exceed the estimate contained in its Proposal without the prior written consent of Client; provided however, unless the Client authorizes additional funds in excess of the estimate contained in Shannon & Wilson's Proposal, Shannon & Wilson shall have no obligation to continue work on the project.

Invoices are due and payable within 30 days of receipt. If Client fails to pay Shannon & Wilson's invoice within 30 days after receipt, the amounts due Shannon & Wilson shall accrue interest at the rate of one and one-half percent (1.5%) per month (or the maximum rate of interest permitted by law, if less) after the 30th day. In addition, Shannon & Wilson may, after giving seven (7) days written notice to Client, suspend services under this Agreement until Shannon & Wilson has been paid in full.

If Client disputes Shannon & Wilson's invoice, only the disputed portion(s) may be withheld from payment, and the undisputed portion(s) shall be paid.

Records of Shannon & Wilson's direct and indirect costs and expenses pertinent to its compensation under this Agreement shall be kept in accordance with generally accepted accounting practices and applicable federal, state, or local laws and regulations. Upon request, such records shall be made available to Client for inspection on Shannon & Wilson's premises and copies provided to Client at cost.

ARTICLE 4 – CLIENT'S RESPONSIBILITIES

Client shall grant or obtain free access to the project site for all equipment and personnel necessary for Shannon & Wilson to perform its services.

ARTICLE 5 – STANDARD OF CARE / ABSENCE OF WARRANTIES / NO RESPONSIBILITY FOR SITE SAFETY OR CONTRACTOR'S PERFORMANCE

Standard of Care

The standard of care for all professional services performed or furnished by Shannon & Wilson under this Agreement shall be the skill and care ordinarily exercised by other members of Shannon & Wilson's profession, providing the same or similar services, under the same or similar circumstances, at the same time and locality as the services were provided by Shannon & Wilson. The construction, alteration, or repair of any object or structure by Shannon & Wilson shall be performed in a good and workmanlike manner in accordance with general industry standards, and conform to this Agreement. Shannon & Wilson warrants for one (1) year from substantial completion of the Work, all goods delivered hereunder shall be new and free from defects in material or workmanship,

and shall conform to the specifications, drawings, or sample(s) specified or furnished, if any, and shall be merchantable and fit for their intended purpose(s). Shannon & Wilson warrants that Shannon & Wilson has good and marketable title to all goods delivered hereunder, and that all goods delivered hereunder shall be free and clear of all claims of superior title, liens, and encumbrances of any kind.

Subsurface explorations and testing identify actual subsurface conditions only at those points where samples are taken, at the time they are taken. Actual conditions at other locations of the project site, including those inferred to exist between the sample points, may differ significantly from conditions that exist at the sampling locations. The passage of time or intervening causes may cause the actual conditions at the sampling locations to change as well.

Interpretations and recommendations made by Shannon & Wilson shall be based solely upon information available to Shannon & Wilson at the time the interpretations and recommendations are made.

Shannon & Wilson shall be responsible for the technical accuracy of its services, data, interpretations, and recommendations resulting therefrom, and Client shall not be responsible for discovering deficiencies therein. Shannon & Wilson shall correct any substandard work without additional compensation, except to the extent that such inaccuracies are directly attributable to deficiencies in Client-furnished information.

No Warranties

Shannon & Wilson makes no guarantees or warranties, express or implied, under this Agreement or otherwise, about Shannon & Wilson's professional services.

Client-Furnished Documents

Shannon & Wilson may use requirements, programs, instructions, reports, data, and information furnished by Client to Shannon & Wilson in performing its services under this Agreement. Shannon & Wilson may rely on the accuracy and completeness of requirements, programs, instructions, reports, data, and other information furnished by Client to Shannon & Wilson. Client shall, only to the fullest extent permitted by law, waive any claims against Shannon & Wilson and its subcontractors, and indemnify and hold Shannon & Wilson and its subcontractors harmless from any claims, liability, or expenses (including reasonable attorneys' fees and costs) arising from Shannon & Wilson's reliance on Client-furnished information, except to the extent of Shannon & Wilson's and its subcontractor's negligent or wrongful acts, errors, omissions, or breach of contract.

Site Damage

Shannon & Wilson shall take reasonable precautions to minimize damage to the project site, but it is understood by Client that, in the normal course of Shannon & Wilson's services, some project site damage may occur, and the correction of such damage is not part of this Agreement unless so stated in Shannon & Wilson's Proposal. Client shall, only to the fullest extent permitted by law, waive any claims against Shannon & Wilson and its subcontractors, arising from any project site damage caused by Shannon & Wilson, except to the extent of Shannon & Wilson's and its subcontractor's negligent or wrongful acts, errors, omissions, or breach of contract.

Buried Structures

If there are any buried structures and/or utilities on the project site where subsurface explorations are to take place, Client shall provide Shannon & Wilson with a plan showing their existing locations. Shannon & Wilson shall contact a utility locator service to request that they identify any public utilities. Shannon & Wilson shall use reasonable care and diligence to avoid contact with buried structures and/or utilities as shown. Shannon & Wilson shall not be liable for any loss or damage to buried structures and/or utilities resulting from inaccuracy of the plans, or lack of plans, or errors by the locator service relating to the location of buried structures and/or utilities. Client shall, only to the fullest extent permitted by law, waive any claims against Shannon & Wilson and its subcontractors, except to the extent of Shannon & Wilson's and its subcontractor's negligent or wrongful acts, errors, omissions, or breach of contract.

Aquifer Cross-Contamination

Despite the use of due care, unavoidable contamination of soil or groundwater may occur during subsurface exploration when drilling or sampling tools are advanced through a contaminated area, linking it to an aquifer, underground stream, or other hydrous body not previously contaminated and capable of spreading contaminants off the project site. Because Shannon & Wilson is powerless to totally eliminate this risk despite use of due care, and because sampling is an essential element of Shannon & Wilson's services, Client shall, only to the fullest extent permitted by law, waive any claims against Shannon & Wilson and its subcontractors, except to the extent of Shannon & Wilson's and its subcontractor's negligent or wrongful acts, errors, omissions, or breach of contract.

Opinions of Probable Construction Costs

If opinions of probable construction costs are included in Shannon & Wilson's Proposal, Shannon & Wilson's opinions of probable construction costs shall be made on the basis of its experience and qualifications and represent its judgment as a professional generally familiar with the industry. Opinions of probable construction costs are based, in part, on approximate quantity evaluations that are not accurate enough to permit contractors to prepare bids. Further, since Shannon & Wilson has no control over: the cost of labor, materials, equipment, or services furnished by others; the contractor's actual or proposed construction methods or methods of determining prices; competitive bidding; or market conditions, Shannon & Wilson cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from opinions of the components of probable construction cost prepared by Shannon & Wilson. If Client or any contractor wishes greater assurance as to probable construction cost, Client or contractor shall employ an independent cost estimator.

Review of Contractor's Shop Drawings and Submittals

If review of a contractor's shop drawings and submittals are included in Shannon & Wilson's Proposal, Shannon & Wilson shall review and take appropriate action on the contractor's submittals, such as shop drawings, product data, samples, and other data, which the contractor is required to submit, but solely for the limited purpose of checking for general overall conformance with Shannon & Wilson's design concept. This review shall not include a review of the accuracy or completeness of details, such as quantities; dimensions; weights or gauges; fabrication processes; construction means, methods, sequences or procedures; coordination of the work with other trades; or construction safety precautions, all of which are the sole responsibility of the contractor. Shannon & Wilson's review shall be conducted with reasonable promptness while allowing sufficient time, in Shannon & Wilson's judgment, to permit adequate review. Review of a specific item shall not be construed to mean that Shannon & Wilson has reviewed the entire assembly of which the item is a component. Shannon & Wilson shall not be responsible for any deviations by the contractor in the shop drawings and submittals from the construction documents, which are not brought to the attention of Shannon & Wilson by the contractor in writing.

Construction Observation

If construction observation is included in Shannon & Wilson's Proposal, Shannon & Wilson shall visit the project site at intervals Shannon & Wilson deems appropriate, or as otherwise agreed to in writing by Client and Shannon & Wilson, in order to observe and keep Client generally informed of the progress and quality of the work. Such visits and observations are not intended to be an exhaustive check or a detailed inspection of any contractor's work, but rather are to

allow Shannon & Wilson, as a professional, to become generally familiar with the work in progress in order to determine, in general, whether the work is progressing in a manner indicating that the work, when fully completed, will be in accordance with Shannon & Wilson's general overall design concept. Shannon & Wilson's authority shall be limited to observing, making technical comments regarding general overall compliance with Shannon & Wilson's design concept, and rejecting any work which it becomes aware of that does not comply with Shannon & Wilson's general overall design concept. Shannon & Wilson's acceptance of any non-conforming work containing latent defects or failure to reject any non-conforming work not inspected by Shannon & Wilson shall not impose any liability on Shannon & Wilson or relieve any contractor from complying with their contract documents. All construction contractors shall be solely responsible for construction site safety, the quality of their work, and adherence to their contract documents. Shannon & Wilson shall have no authority to direct any contractor's actions or stop any contractor's work.

If Shannon & Wilson is not retained to provide construction observation of the implementation of its design recommendations, Client shall, only to the fullest extent permitted by law, waive any claims against Shannon & Wilson, except to the extent of Shannon & Wilson's and its subcontractor's negligent or wrongful acts, errors, omissions, or breach of contract.

No Responsibility for Site Safety

Except for its own subcontractors and employees, Shannon & Wilson shall not: supervise, direct, have control over, or authority to stop any contractor's work; have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by any contractor; be responsible for safety precautions and programs incident to any contractor's work; or be responsible for any failure of any contractor to comply with laws and regulations applicable to the contractor, all of which are the sole responsibility of the construction contractors. This requirement shall apply continuously, regardless of time or place, and shall in no way be altered because a representative of Shannon & Wilson is present at the project site performing his/her duties. Notwithstanding anything to the contrary, Shannon & Wilson shall never be deemed to have assumed responsibility for the project's site safety by either contract or conduct. No act or direction by Shannon & Wilson shall be deemed the exercise of supervision or control of any contractor's employees or the direction of any contractor's performance. Any direction provided by Shannon & Wilson shall be deemed solely to ensure the contractor's general overall compliance with Shannon & Wilson's design concept.

No Responsibility for Contractor's Performance

Except for its own subcontractors and employees, Shannon & Wilson shall not be responsible for safety precautions, the quality of any contractor's work, or any contractor's failure to furnish or perform their work in accordance with their contract documents.

Except Shannon & Wilson's own employees and its subcontractors, Shannon & Wilson shall not: be responsible for the acts or omissions of any contractor, subcontractor or supplier, or other persons at the project site, or otherwise furnishing or performing any work; or for any decision based on interpretations or clarifications of Shannon & Wilson's design concept given without the consultation and concurrence of Shannon & Wilson.

Approval of Contractor's Applications for Payment

If approval of a contractor's applications for payment are included in Shannon & Wilson's Proposal, Shannon & Wilson shall review the amounts due the contractor and issue a recommendation about payment to Client. Shannon & Wilson's review and approval shall be limited to an evaluation of the general progress of the work and the information contained in the contractor's application for payment and a representation by Shannon & Wilson that to the best of the Shannon & Wilson's knowledge, the contractor has performed work for which payment has been requested, subject to further testing and inspection upon substantial completion. The issuance of a recommendation for payment shall not be construed as a representation that: Shannon & Wilson has made an exhaustive check or a detailed or continuous inspection check of the quality or quantity of the contractor's work; approved the contractor's means, methods, sequences, procedures, or safety precautions; or that contractor's subcontractors, laborers, and suppliers have been paid.

ARTICLE 6 – CONFIDENTIALITY AND USE OF DOCUMENTS

Confidentiality

Shannon & Wilson agrees to keep confidential and to not disclose to any person or entity (other than Shannon & Wilson's employees and subcontractors), without the prior consent of Client, all information furnished to Shannon & Wilson by Client or learned by Shannon & Wilson as a result of its work on the project; provided however, that these provisions shall not apply to information that: is in the public domain through no fault of Shannon & Wilson; was previously known to Shannon & Wilson; or was independently acquired by Shannon & Wilson from third-parties who were under no obligation to Client to keep said information confidential. This paragraph shall not be construed to in any way restrict Shannon & Wilson from making any disclosures required by law. Client agrees that Shannon & Wilson may use and publish Client's name and a general description of Shannon & Wilson's services with respect to the project in describing Shannon & Wilson's experience and qualifications to others.

Copyrights and Patents – Shannon & Wilson shall indemnify, hold harmless, and defend Client from any and all actions, damages, demands, expenses (including reasonable attorneys' fees and costs), losses, and liabilities arising out of any claims that any goods or services furnished by Subcontractor infringe any patent, trademark, trade name, or copyright.

Use of Documents

All documents prepared by Shannon & Wilson are instruments of service with respect to the project, and Shannon & Wilson shall retain a copyrighted ownership and property interest therein (including the right of reuse) whether or not the project is completed.

Shannon & Wilson grants to Client a non-exclusive, irrevocable, unlimited, royalty-free license to use any documents prepared by Shannon & Wilson for Client. Client may make and retain copies of such documents for their information and use. Such documents are not intended or represented to be suitable for reuse by Client, or others, after the passage of time, on extensions of the project, or on any other project. Any such reuse without written verification or adaptation by Shannon & Wilson, as appropriate for the specific purpose intended, shall be at Client's sole risk, and Client shall, only to the fullest extent permitted by law, waive any claims against Shannon & Wilson and its subcontractors, except to the extent of Shannon & Wilson's and its subcontractor's negligent or wrongful acts, errors, omissions, or breach of contract. Any verification or adaptation of the documents for extensions of the project or for any other project by Shannon & Wilson shall entitle Shannon & Wilson to additional compensation to be agreed upon by Client and Shannon & Wilson.

Copies of documents that may be relied upon by Client are limited to the printed copies (also known as hard copies) that are signed or sealed by Shannon & Wilson. Text, data, or graphics files in electronic media format are furnished solely for the convenience of Client. Any conclusion or information obtained or derived from such electronic files shall be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

Because data stored in electronic media can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving an electronic file agrees that it shall perform acceptance tests or procedures within 60 days after its receipt, after which, unless notice of any errors are given in

writing to the delivering party, the receiving party shall be deemed to have accepted the data thus transferred. Any errors reported within the 60-day acceptance period shall be corrected by the party delivering the electronic files at their sole expense. Shannon & Wilson shall not be responsible for maintaining documents stored in electronic media format after acceptance by Client.

When transferring documents in electronic media format, neither Client nor Shannon & Wilson makes any representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used for the document's creation.

ARTICLE 7 - INSURANCE

Shannon & Wilson shall purchase and maintain during the term of this contract, the following insurance coverage at its sole expense:

Commercial General Liability - \$1,000,000 each occurrence/\$2,000,000 annual aggregate Bodily Injury/Property Damage Combined Single Limit including Blanket Contractual Liability, Broad Form Products and Completed Operations, Explosion/Collapse/Underground (XCU) Exposures, and Washington Stop Gap coverage.

Auto Liability - \$1,000,000 Bodily Injury/Property Damage Combined Single Limit including Owned, Hired, and Non-Owned Liability coverage.

Umbrella Liability - \$10,000,000 Bodily Injury/Property Damage combined Single Limit in excess of Commercial General Liability, Auto Liability, and Employers' Liability.

Workers' Compensation - Statutory in monopolistic states and \$500,000 per accident/\$500,000 per disease/\$500,000 disease policy aggregate Employers' Liability in non-monopolistic including if applicable, U.S. Longshore & Harbor Workers coverage.

Professional Liability - \$5,000,000 per claims/\$5,000,000 annual aggregate for professional errors and omissions including Pollution Liability coverage.

If requested in writing by Client, Shannon & Wilson shall name Client as an additional insured on its Commercial General Liability policy. We so request.

If requested in writing by Client, Shannon & Wilson shall deliver to Client certificates of insurance evidencing such coverage. Such certificates shall be furnished before commencement of Shannon & Wilson's services.

Client shall cause Shannon & Wilson and its subcontractors to be listed as additional insureds on any Commercial General Liability insurance carried by Client that is applicable to the project.

Client shall require the project owner to require the general contractor on the project to purchase and maintain Commercial General Liability, Automobile Liability, Workers Compensation, and Employers Liability insurance, with limits no less than set forth above, and to cause Shannon & Wilson and its subcontractors to be listed as additional insureds on that Commercial General Liability insurance. Client shall require the project owner include the substance of this paragraph in the prime construction contract.

All insurance policies shall contain a waiver of subrogation.

ARTICLE 8 - HAZARDOUS ENVIRONMENTAL CONDITIONS

Disclosure of the Existence of Hazardous Environmental Conditions

Client has disclosed to Shannon & Wilson all data known to Client concerning known or suspected hazardous environmental conditions, including but not limited to, the existence of all asbestos, PCBs, petroleum, hazardous waste, or radioactive material, if any, located at or near the project site, including its type, quantity, and location, or has represented to Shannon & Wilson that, to the best of Client's knowledge, no hazardous environmental conditions exist at or near the project site.

If any hazardous environmental condition is encountered or believed to exist, Shannon & Wilson shall notify Client and, to the extent required by applicable laws and regulations, the project site owner, and appropriate governmental officials.

Disposal of Non-Hazardous Samples and Hazardous or Toxic Substances

All substances on, in, or under the project site, or obtained from the project site as samples or as byproducts (e.g., drill cuttings and fluids) of the sampling process are the project site owner's property. Shannon & Wilson shall preserve such samples for forty-five (45) calendar days after Shannon & Wilson's issuance to Client of the final instrument of service that relates to the data obtained from them. Shannon & Wilson shall dispose of all non-hazardous samples and sampling process byproducts in accordance with applicable law; provided however, any samples or sampling process byproducts that are, or are believed to be, affected by regulated contaminants shall be packaged by Shannon & Wilson in accordance with applicable law, and turned over to Client or left on the project site. Shannon & Wilson shall not transport store, treat, dispose of, or arrange for the transportation, storage, treatment, or disposal of, any substances known, believed, or suspected to be affected by regulated contaminants, nor shall Shannon & Wilson subcontract for such activities.

Shannon & Wilson shall, at Client's request (and for additional compensation, if not already included in Shannon & Wilson's Proposal), help Client or the project site owner identify appropriate alternatives for transportation, storage, treatment, or disposal of such substances, but Shannon & Wilson shall not make any independent determination about the selection of a transportation, storage, treatment, or disposal facility.

Client or the project site owner shall sign all manifests for the transportation, storage, treatment, or disposal of substances affected by regulated contaminants; provided however, notwithstanding any other provisions of this Agreement to the contrary if Client directs Shannon & Wilson, Shannon & Wilson's employees, or Shannon & Wilson's agents to sign such manifests and/or to hire for Client or the project site owner a contractor to transport store, treat, or dispose of the contaminated substances, Shannon & Wilson shall do so only as Client's disclosed agent.

Contaminated Equipment and Consumables

Client shall reimburse Shannon & Wilson for the cost of decontaminating field or laboratory equipment that is contaminated by regulated materials encountered at the project site and for the cost of disposal and replacement of contaminated consumables. In some instances, the cost of decontamination may exceed the fair market value of the equipment, were it not contaminated, together with the cost of properly transporting and disposing of the equipment. In such instances, Shannon & Wilson will notify Client and give Client the option of paying for decontamination or purchasing the equipment at its fair market value immediately prior to contamination. If Client elects to purchase equipment, Client and Shannon & Wilson will enter into a specific agreement for that purpose. Any equipment that cannot be decontaminated shall be considered a consumable.

Client's Liability for Hazardous or Toxic Materials

ARTICLE 9 - ALLOCATION OF RISK

Indemnification of Client

To the maximum extent permitted by law, Shannon & Wilson shall: indemnify and hold harmless Client, its appointed and elected officials, partners, officers, directors, employees, and agents; from and against any and all actions (whether sounding in tort, contract (express or implied), warranty (express or implied), statutory liability, strict liability, or otherwise), claims (including, but not limited to, claims for bodily injury, death, property damage, (including bodily injury, death, or property damage to Shannon & Wilson's own employees) or arising under CERCLA, MTCA, or similar federal, state, or local environmental laws), costs, damages (including without limitation, economic, non-economic, general, special, incidental, consequential), demands, expenses (including, but not limited to, reasonable attorneys' fees and costs of defense), fines, judgments, liens, liabilities, and penalties of any kind whatsoever; arising from the negligent or wrongful acts, errors, or omissions, or breach of contract or warranty express or implied, by Shannon & Wilson or any of its subcontractors; but only to the extent of Shannon & Wilson's and its subcontractor's relative degree of fault. In furtherance of these obligations, and only with respect to Client, its appointed and elected officials, partners, officers, directors, employees and agents, Shannon & Wilson waives any immunity it may have or limitation on the amount or type of damages imposed under any industrial insurance, worker's compensation, disability, employee benefit, or similar laws. Shannon & Wilson acknowledges that this waiver of immunity was mutually negotiated.

Limitation of Shannon & Wilson's Liability

A. Total Liability Limited to Insurance Proceeds

Notwithstanding any other provisions of this Agreement, and only to the maximum extent permitted by law, the total liability, in the aggregate, of Shannon & Wilson, its subcontractors, and their partners, officers, directors, employees, agents and, or any of them, to Client and/or anyone claiming by, through, or under Client, for any and all actions (whether sounding in tort, contract (express or implied), warranty (express or implied), statutory liability, strict liability, or otherwise), claims (including, but not limited to, claims for bodily injury, death, property damage, (including bodily injury, death, or property damage to Shannon & Wilson's own employees) or arising under CERCLA, MTCA, or similar federal, state, or local environmental laws), costs, damages (including without limitation, economic, non-economic, general, special, incidental, consequential), demands, expenses (including, but not limited to, reasonable attorneys' fees and costs of defense), fines, judgments, liens, liabilities, and penalties of any kind whatsoever, arising out of, resulting from, or in any way related to the project or this Agreement, shall be limited to the insurance proceeds payable on behalf of or to Shannon & Wilson by any insurance policies applicable thereto. If you are unwilling or unable to limit our liability in this manner, we will negotiate this limitation and its associated impact on our approach, scope of work, schedule, and price, with you. You must notify us in writing before we commence our work of your intention to negotiate this limitation and its associated impact on our approach, scope of work, schedule, and price. Absent your prior written notification to the contrary, we will proceed on the basis that our total liability is limited as set forth above.

ARTICLE 10 – MISCELLANEOUS

Termination

This Agreement may be terminated without further obligation or liability by either party, with or without cause (for convenience), upon 30 days prior written notice to the other. Shannon & Wilson shall be entitled to compensation for all services performed prior to the termination of this Agreement. This Agreement may be terminated by the non-breaching party upon any breach of this Agreement that remains uncured after 10 days notice to the breaching party by the non-breaching party. Upon payment of all amounts due Shannon & Wilson, Client shall be entitled to copies of Shannon & Wilson's files and records pertaining to services performed prior to the termination of this Agreement.

Successors, Assigns, and Beneficiaries

This Agreement shall be binding upon each party's assigns, successors, executors, administrators, and legal representatives.

Neither Client nor Shannon & Wilson may assign or transfer any rights under or interest in this Agreement without the written consent of the other. No assignment shall release or discharge the assignor from any duty or responsibility under this Agreement.

Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Client or Shannon & Wilson to any third-party. All duties and responsibilities undertaken under this Agreement shall be for the sole and exclusive benefit of Client and Shannon & Wilson. There are no intended third-party beneficiaries. Notwithstanding the foregoing, should a court find a third-party to be a beneficiary of this Agreement, it is the intent of the parties that the judicially created third-party beneficiary be bound by and subject to all of the terms and conditions of this Agreement.

Jurisdiction, Venue, and Choice of Law

Any applicable Statute of Limitation shall be deemed to commence running on the date which the claimant knew, or should have known, of the facts giving rise to their claims, but in no event later than the date of substantial completion of Shannon & Wilson's services under this Agreement. To the maximum extent

permitted by law, as a condition precedent to commencing a judicial proceeding, a party shall give written notice of their claims, including all amounts claimed, and the factual basis for their claims, to the other party within one (1) year of when the claimant knew, or should have known, of the facts giving rise to their claims, but in no event later than one (1) year from the date of substantial completion of Shannon & Wilson's services under this Agreement. As a condition precedent to commencing a judicial proceeding, a party shall first submit their claims to non-binding mediation through and in accordance with the rules of the American Arbitration Association.

This Agreement shall be construed in accordance with and governed by the laws (except choice and conflict of law provisions) of the state in which the Project is located.

Any judicial action shall be brought in the state in which the Project is located.

Attorneys' Fees

Should any dispute or claims arise out of this Agreement, whether sounding in tort, contract (express or implied), warranty (express or implied), statutory liability, strict liability, or otherwise, the prevailing party shall be entitled to an award of their reasonable attorneys' fees and costs, including upon appeal and in the enforcement of any judgment. Should neither party prevail on all of their claims or receive all of the relief they sought, then the substantially prevailing party shall be awarded their reasonable attorneys' fees and costs, including upon appeal and in the enforcement of any judgment.

Waiver

A waiver of any of the terms and conditions or breaches of this Agreement shall not operate as a subsequent waiver.

Headings

The headings used in this agreement are for general ease of reference only. They have no meaning and are not part of this Agreement.

Integration

This Agreement, together with all attachments hereto, are incorporated by reference into each other, and supersede all prior written and oral discussions, representations, negotiations, and agreements on the subject matter of this Agreement and represent the parties' complete, entire, and final understanding of the subject matter of this Agreement.

Survival

Notwithstanding completion or termination of this Agreement for any reason, all representations, warranties, limitations of liability, and indemnification obligations contained in this Agreement shall survive such completion or termination and remain in full force and effect until fulfilled.

Severability

If any of the terms or conditions of this Agreement are found to be void or unenforceable for any reason, the remainder of this Agreement shall continue in full force and effect, and the court shall attempt to judicially reform the void or unenforceable provisions to the maximum extent possible, consistent with the original intent expressed in the provisions, to render it valid and enforceable. If the court is unable to reform the provisions to render it valid and enforceable, the court shall strike only that portion which is invalid or unenforceable, and this Agreement shall then be construed without reference to the void or unenforceable provisions.