

CITY OF NORTH POLE

Regular Meeting September 21, 2020 North Pole Council Chambers 125 Snowman Lane, North Pole, Alaska

www.northpolealaska.com

Tuesday, September 21. 2020 Committee of the Whole: 6:30 PM Regular City Council Meeting: 7:00 PM

<u>MAYOR</u>	<u>CITY CLERK</u>
Michael Welch	

488-8584 488-8583

COUNCIL MEMBERS

Perry Walley – Mayor Pro Tem	347-0135
Santa Claus – Deputy Mayor Pro Tem	388-3836
Aino Welch – Alt. Deputy Mayor Pro Tem	488-5834
DeJohn Cromer	347-2808
David Skipps	750-5106
Thomas McGhee	455-0010

- 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. September 8, 2020
- 6. Communications from the Mayor
- 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 20 20 An Ordinance of the City of North Pole, Alaska to Approve a modifications to US Army Corps of Engineers' Cooperative Agreement W911KB-19-2-5200 to increase funding to pay an Alaska Department of Transportation and Public Facilities permit and to increase funding to PDC Engineers for additional work in support of obtaining environmental covenants in Moose Creek.
- b. Ordinance 20 21 An Ordinance of the City of North Pole, Alaska to Amend the 2020 Water Utility Operating Budget, Professional Services to Finance Site Characterization Work at The 8th Avenue Pump House and Other Tasks
- c. Request City Council to determine final decision on 546 Ouida Way water utility bill appeal.

12. New Business:

- a. Resolution 20-07 of the North Pole City Council designating City Officials authorization to sign on the City of North Pole Accounts.
- b. Ordinance 20 22 An Ordinance of the City of North Pole, Alaska Amending Title 4, Chapter 08.050 Sales Tax Code to Collect Sales Tax from Online Retailers.
- c. Request from North Pole Police Department for approval to use Design Alaska for drafting services utilizing CARES Act Funds.
- d. Request to approve Dispatch Agreement for 2021-2022.
- e. Request to select Municipal Solutions to conduct the Total Compensation Review Project.

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.

How to Offer Public Testimony at Council Meetings

In response to the COVID-19 pandemic and local/state regulations requiring residents to stay at home, practice social distancing, and limit gatherings, the City of North Pole has created a process for citizens to stay connected with the Council regarding agenda items.

Written testimony is encouraged. You may submit your comments by calling the Clerk's Office at 488-8583 or by sending an email to arhoades@northpolealaska.org prior to 1:00 p.m. the day of the meeting. Please indicate which agenda item you are providing written testimony for. Examples: Ordinance or Resolution number, agenda item#, or description of subject.

To sign-up for **telephonic testimony** call the Clerk's Office at 488-8583 or email <u>arhoades@northpolealaska.org</u> prior to 1:00 p.m. the day of the meeting. Please indicate that you wished to be called, for what item you will provide testimony on, and what number you can be reached at.

Council Meetings are aired **live via audio streaming** from the City's website at https://www.northpolealaska.com/citycouncil/page/council-meeting-audio-stream.

Inquiries concerning ADA compliance or accommodations should be directed to the City Clerk.



NORTH POLE CITY COUNCIL REGULAR MEETING MINUTES, September 8, 2020 NORTH POLE CITY COUNCIL CHAMBERS 125 SNOWMAN LANE, NORTH POLE, ALASKA

Mayor Welch called the regular City Council meeting of Monday, September 8, 2020 to order at 7:00 p.m. with the following Council Members in attendance:

Council Members Present: Mayor Welch

Santa Claus

Thomas McGhee David Skipps Aino Welch DeJohn Cromer

Perry Walley – Zooming In

Absent:

Excused:

Also Present: Steve Dutra, Police Chief

Geoff Coon, Fire Chief

William Butler, Director of City Services Tricia Fogarty, Chief Financial Officer Aaron M. Rhoades, City Clerk/HR Manager

PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Welch asked everyone to join him in the Pledge of Allegiance.

INVOCATION

The Invocation was given by Councilwoman Welch.

APPROVAL OF AGENDA

Mr. McGhee moved to approve the agenda of September 8, 2020.

Seconded by Mrs. Welch.

Discussion

Mr. McGhee moved to consent the following items:

Old Business:

None

New Business:

- a. Request from North Pole Police Department for a Wage Determination for New Hire.
- b. Request to Purchase 1 City of North Pole Police Department Dodge Durango.
- c. Request from The North Pole Fire Department to accept EMW-2019-FG-07992 Assistance to Firefighter Grant.
- d. Request to Accept a \$10,000 Fairbanks North Star Borough Public Purpose Grant
- e. Ordinance 20 20 An Ordinance of the City of North Pole, Alaska to Approve a modifications to US Army Corps of Engineers' Cooperative Agreement W911KB-19-2-5200 to increase funding to pay an Alaska Department of Transportation and Public Facilities permit and to increase funding to PDC Engineers for additional work in support of obtaining environmental covenants in Moose Creek.
- f. Ordinance 20 21 An Ordinance of the City of North Pole, Alaska to Amend the 2020 Water Utility Operating Budget, Professional Services to Finance Site Characterization Work at The 8th Avenue Pump House and Other Tasks

Seconded by Mrs. Welch

Discussion

None

On the amendment

PASSED

YES: 7 – Mr. McGhee, Mr. Skipps, Mr. Claus, Mrs. Welch, Mr. Cromer, Mr. Walley Mayor

Welch

NO: 0

ABSTAIN:

Mayor Welch declared the MOTION CARRIED

On the Agenda as amended.

Discussion

None

PASSED

YES: 7 – Mr. McGhee, Mr. Skipps, Mr. Claus, Mrs. Welch, Mr. Cromer, Mr. Walley Mayor

Welch

NO: 0

ABSTAIN:

Mayor Welch declared the MOTION CARRIED

APPROVAL OF MINUTES

Mr. McGhee moved to approve the Minutes of August 17, 2020.

Seconded by Mr. Claus

Discussion

None

PASSED

YES: 7 – Mr. McGhee, Mr. Skipps, Mr. Claus, Mrs. Welch, Mr. Cromer, Mr. Walley, Mayor Welch

NO: 0

ABSTAIN:

Mayor Welch declared the MOTION CARRIED

COMMUNICATIONS FROM THE MAYOR

- August 4 actively participated in AML's District 7 Policy Statements for 2021
- Was out on medical leave August 6-23, returned Monday August 24. My gratitude goes out to Pro-Tem Perry Walley who covered my absence.
- Attended the AML Summer Session which was virtual August 10-13. Senator Dan Sullivan offered advice concerning CARES Act Funding that the Congress will be working on an extension of the deadline to spend monies to go past December 30, 2020. Congressman Don Young offered his assistance to our City concerning a tax penalty matter with the IRS that dates to 2015.
- August 11 first ECHO zoom conference with Dr. Zinke & DHSS staff & AML.
- August 15 Blue Lives Matter at Gene's Chrysler 1400-1700. CNP was represented by Chief Dutra, Officer Sydney Rosenbaum. We carried on indoors after the rain and hail cut 1 hour into the event. Event was packed.
- August 18 Online Sales Tax Seminar by Zoom with AML. There are now 22 communities that participate in Alaska. Expect this to come up on 9/21/20. The link is https://www.akml.org/member-services/online-sales-tax/.
- August 19 accompanied TV news reporter(Alaska Link from ABC/Fox/CW) to EAFB for a mission briefing with 354th Group Commander Col. Zeke Skalecky. Maria also toured the City of North Pole and Santa Claus House and gave us statewide coverage over 2 nights.
- August 20 Lunch with outgoing 354th Wing Commander Col. Shawn Anger concerning the needs for the USAF and LM to fill the high tech vacancies at EAFB.

City of North Pole

- August 25 had a private 1 on 1 with Governor Dunleavy concerning COVID 19 concerns and CARES Act distributions to the constituents of North Pole. Also discussed needing his DECCA folks to contact me concerning a Training Center in North Pole vis a vis the discussion that I had with Colonel Anger.
- Follow-up to that call was with Dr. Coleman Kutchins DHSS Lead Pharmacist concerning Abbott Rapid test in North Pole.
- September 2 Call with Fred Villa of the Workforce Development from the SOA, along with Matt Fagnani, senior executive of Development and Investments with DECCA. We laid out a blueprint to get this initiated.
- September 8 Zoom ECHO meeting with Dr. Zinke and DHSS Staff & AML. We are well into the testing phase and expect to see some refinements to the DASHBOARD about patient care later this week. The 3rd phase will be the POD (Points of Distribution) Plan for the vaccine before it arrives.
- September 23 Planned N.P. Employees Picnic to Escape the Summer, Usher in the Fall, from 11a.m. to 1 p.m.
- Upcoming this week: Review of the 3 submittals for our RFP to conduct an in-depth objective review of our Salaries, Wages, Compensation and Benefits. Companies that responded were Milliman, the Foraker Group, and Municipal Solutions.
- Request that each member of the City Council visit the AML Online Sales Tax portal prior to the next council meeting.

COUNCIL MEMBER QUESTIONS OF THE MAYOR

COMMUNICATIONS FROM DEPARTMENT HEADS, BOROUGH REPRESENTATIVE AND THE CITY CLERK

Fire Department, Chief Coon

- The department is hiring a Fire Lieutenant. The position closes this Thursday at 1300 hours.
- We have gone on 945 emergency calls this year.
- Alaska has had 5,833 Covid-19 cases with 2,137 total recovered and 42 deaths.
- The FNSB area has had 761 cases total.
- These numbers are sent out daily from Alaska Department of Health and Social Services.
- Please continue to work on those three ICS classes.
- Nothing new to report on new command truck.
- We received our ISO (insurance service office) Grading of class 2. This is the same grading as five years ago. At that time, we improved from a class 3 to a class 2. Of the 40,000 fire departments that ISO rates only 1,772 obtain a class 2 rating and only 393 receive a class 1 rating. Deputy Chief Heineken worked very hard to keep our class 2 rating and deserves high praise.

Training:

- We have members completing an online EMT class.
- Fall FF-1 academy starts Sept 15th.
- EMT-1 class starts Sept 28th. Space is still available.
- Council Members need to complete their FEMA ICS Courses as soon as possible

Maintenance Report:

- Medic 22 has returned from the shop for a turbo related issue
- Medic 21 will need to go to the alignment shop for a vibration.

Police Department, Chief Dutra

- Shooting in NP nobody lost their life
- Couple of other Major investigations occurring taxing our Detective who is also still patrolling
- New hires –
- Range dates set outreach will start soon
- Taken car and side by side to auction

Building Department, Bill Butler

Building Department

- Permits issued since last Council meeting:
 - o Condo unit in Bald Eagle Court.
 - o 5 residential projects in plan review stage.
 - o \$19 million in building valuation to date.

Public Works

- Snowplowing invitation to bid released and bids are due September 30.
- Second round of asphalt patching underway—waiting on weather to lay asphalt.
- Minor maintenance around Dougchee Bridge planned for this week.
- Brush cutting planned and/or underway in Highway Park, Stillmeyer and North Star Subdivisions.

Utility Department

- Utility Department staff are routinely supporting Moose Creek project activities.
- Supporting service line installations for residential construction within City.

North Pole Expansion Project

- Of the 480 possible connections in Zones 3 & 4, 445 (93%) have applied for service.
 - o Contractors averaging a total of 25 new service line installations per week.
 - o 359 (72%) of new account applicants' services have been installed in Zones 3 & 4.
 - Goal is to complete all service line installations by September 30—86 installations to go.

Moose Creek Water System Expansion Project.

- Two pipe connections remaining to link City's system with Moose Creek.
 - Auger drilling under Richardson Highway and AK Railroad (in vicinity of Bathing Beauty Pond).
 - o Connecting City's 12 inch circulation main at intersection of Old Richardson Highway and Laurance Road to the transmission main to Moose Creek.
- Pump house pumps, piping and electrical equipment still being installed.
- Installation of water mains in the Northern section of Moose Creek is 100% completed and Southern section water main installation is 98% completed.
- Piping modifications started in water treatment plant to support larger pumps and an additional water filter was delivered and placed within treatment plant.
- PDC to make a presentation at September 21 Council meeting about City's wells and the request to increase the amount of water drawn as part of our water rights.
- Environmental covenant response rate is still low—approximately 20% to date.
- Discussing with USAF mechanisms to increase response rate—will take extra funding and will contract much of this work with PDC Engineers with a focus on community outreach.

Finance, Tricia Fogarty

None

Borough Representative

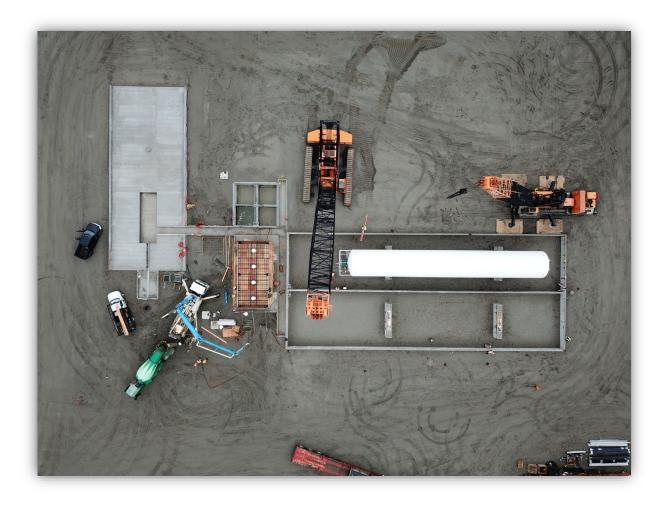
- Liquor License Fat Burger on Airport Road
- Rezoning a Tract on Mitchell Express Way on the Corner of Pegger and 30th to make it Multi Family.

City Clerk

- Updated Website New Election Information
- CARES Act MOU approved and on Borough Website live for the BIG Grant
- FIG will be facilitated by Love Inc. starting Tuesday September 15, 2020.

• September 23, 2020 Employee Appreciation Dinner **ONGOING PROJECTS** • Interior Gas Utility Update by Dan Britton and Mike Miller (See Presentation at end of minutes.) <u>CITIZEN'S COMMENTS – (Limited to Five (5) minutes per Citizen)</u> Water Utility Bill appeal from Toni Brewer No final decision to accept or decline approval. **OLD BUSINESS** None **NEW BUSINESS** None Mr. McGhee moved to adjourn the meeting at 8:27 p.m. Seconded by Mr. Cromer. The regular meeting of September 8, 2020 adjourned at 8:27 p.m. Michael Welch, Mayor





CITY OF NORTH POLE UPDATE SEPTEMBER 8th, 2020

Interior Energy Project

PURPOSE AND GOALS "...to bring low-cost energy to as many residents and businesses of Interior Alaska as possible, as quickly as possible..."

Stabilize the Economy

Help Improve Air Quality

5.25 MM Gallon Storage Tank

Current Inventory as of 9/1/2020

2,200,000 Gallons of LNG





North Pole Storage Site

- Cornerstone Contracting Inc. continues work onsite. Mechanical and electrical work is the primary focus at this time.
- Revised scheduled completion
 November 30, 2020, as a result of Covid-19 related delays

TITAN EXPANSION PAUSE

Based on the review of:

Future Heating Oil Costs

Projected Demand

Security of Supply and impacts on effective capacity

Risks

It was recommended that the IGU Board continue to pause action on Resolution 2020-04 related to the LNG Facility Expansion Investment Decision, and that IGU management continue to advance alternative supply options and monitor changes in the Oil market and demand projections.

It was further recommended that IGU proceed immediately with an approximately \$10 Million dollar Bond Issuance to cover investments related to new customer service lines and meters in North Pole and Fairbanks and related small main line extensions.

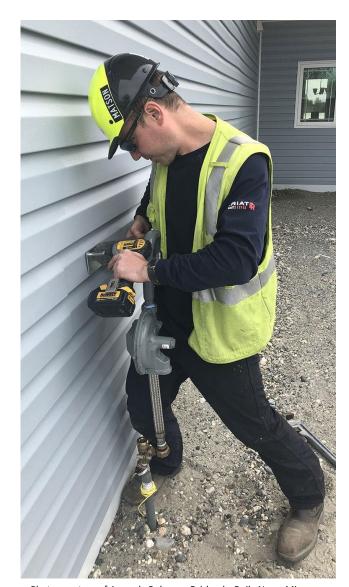


Photo courtesy of Amanda Bohman, Fairbanks Daily News-Miner

Marketing & Service Activities

<u>Current & Upcoming Marketing</u> Activities:

- Video Tour with Mayor Ward
- Social Media
- FNSB Targeted Airshed Grants
- C-PACE
- Conversion Group
- Video Tank Tour

2019 Service Line Installs:

0	Total	50
0	Residential	30
0	Commercial	20

2020 Service Line Applications:

0	Total	240
0	Residential	169
0	Commercial	71

2020 Service Lines Installs Completed:

• Total 65

FINANCING ACTIVITIES

Finalizing \$10MM Bond Offering

Received BBB- Fitch Rating

Bond Issuance Scheduled for 9/24/2020

Next Steps...



- -Complete North Pole Storage Site construction
- -Complete Service & Meter Installs for the 2020 construction season
- -Finalize Gas Supply contracts
- -Monitor markets & economy for Liquefaction Expansion timing



One easy call gets your utility lines marked and helps protect you from injury and expense.

Safe Digging Is No Accident: Always Call 811 Before You Dig

Visit call811.com for more information.



CALL the Alaska
Digline at 811 at
least 72 hours
before you dig and
you can get your
underground utility
lines located and
marked for FREE

Sponsored by: Michael W. Welch Introduced & Advanced: September 8, 2020

CITY OF NORTH POLE 1 2 ORDINANCE NO. 20-20 3 AN ORDINANCE OF THE CITY OF NORTH POLE, ALASKA 4 5 TO APPROVE A MODIFICATIONS TO US ARMY CORPS OF **ENGINEERS' COOPERATIVE AGREEMENT W911KB-19-2-**6 7 5200 TO INCREASE FUNDING TO PAY AN ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC 8 9 FACILITIES PERMIT AND TO INCREASE FUNDING TO PDC ENGINEERS FOR ADDITIONAL WORK IN SUPPORT 10 OF OBTAINING ENVIRONMENTAL COVENANTS IN 11 12 MOOSE CREEK. 13 14 WHEREAS, changes to the public service practices and policies is a continually changing 15 requirement; and, 16 17 WHEREAS, the City of North Pole budget should be amended to conform to the requirements 18 of the City; and, 19 20 WHEREAS, adjustment in the budget are necessary to remain compliant with Council approved 21 authorizations and budget management rules, and 22 23 WHEREAS, fiscal notes are the method prescribed by the code to amend a budget; and, 24 25 WHEREAS, in Ordinance 19-01 the Council approved accepting funding of the Moose Creek 26 Water System Expansion Project, Cooperative Agreement W911KB-19-2-5200 to conduct the 27 initial design study for the extension; and, 28 29 WHEREAS, in Ordinance 19-08 the Council approved an amendment to Cooperative 30 Agreement W911KB-19-2-5200 that provided the balance of funding to complete the 31 engineering and design of the water system extension; and. 32 33 WHEREAS, the City and US Army Corps of Engineers negotiated a mutually agreeable 34 amended Cooperative Agreement W911KB-19-2-5200 for \$1,638,350.00 for the City to manage 35 obtaining environmental covenants within the community of Moose Creek. Environmental 36 covenants are required as part of the Comprehensive Environmental Response, Compensation, 37 and Liability Act (CERCLA) which is providing the legal basis for the Moose Creek Water 38 System Expansion Project; and, 39 40 WHEREAS, the funding contained in this amendment will increase funding to pay an Alaska 41 Department of Transportation and Public Facilities permit totaling \$25,940 and to increase 42 funding by \$13,680 to PDC Engineers for additional work in support of obtaining environmental 43 covenants in Moose Creek.

44

Sponsored by: Michael W. Welch Introduced & Advanced: September 8, 2020

	RDAINED by the Council of the City of North Pole that it
1.	e Agreement W911KB-19-2-5200 for \$39,620 with the US
Army Corps of Engineers to pay ar	n Alaska Department of Transportation and Public Facilities
permit and to better facilitate acqui	isition of environmental covenants within the community of
Moose Creek in support of the water	er system expansion Project.
Section 1 . This ordinance is of a ge	eneral nature and shall not be codified.
Section 2. Effective date.	
This ordinance shall become effect	tive immediately upon passage.
Introduced and Advanced by a de	uly constituted quorum of the North Pole City Council this 8th
Introduced and Advanced by a day of September 2020.	uly constituted quorum of the North Pole City Council this 8th
•	uly constituted quorum of the North Pole City Council this 8th
•	uly constituted quorum of the North Pole City Council this 8th
•	uly constituted quorum of the North Pole City Council this 8th Michael W. Welch, Mayor
•	
day of September 2020.	Michael W. Welch, Mayor
day of September 2020. ATTEST:	Michael W. Welch, Mayor
day of September 2020. ATTEST:	Michael W. Welch, Mayor



City of North Pole, Alaska

Fiscal Note Year:

Accompa	nying Ordinance/Resolution	on:		
Originato	or / sponsor:			
Date:				
Does the	Ordinance or Resolution	have a fiscal impact?	yes	no
FUND	Account Description	Account #	Debit	Credit
	y: (Brief description of proe or resolution. Where did			
Prepared	l By:	Date	.	
Finance .	Approval:	Date		

NOTE- Fiscal notes attached to an ordinance are considered amendments to the budget and do not require an additional approval for insertion into the budget document.



INVOICE

Customer Name: CITY OF NORTH POLE		Page 1
Customer Number: CNP84676	Invoice Number: 200004633	Involce Print Date: February 21, 2020
	Billing Profile: 25:T3000	Due Date; March 19, 2020
	Amount Due: \$25,940.00	Amount Enclosed:

Remit to:

Department of Transportation Administrative Services 2301 Peger Road Fairbanks AK 99709

Bill to:

CITY OF NORTH POLE 125 SNOWMAN LN NORTH POLE AK 99705-7708

Please check if address has changed. Write correct address on back of stub and attach with payment.

Payment Method: Check		Money Order	
Please write Invoice Numb	er on fr	ont of check or	

Please detach the above stub and return with your remittance payable to: State of Alaska - Department of Transportation



Department of Transportation and Public Facilities REPLACEMENT

Page: 1 of 1

				Orig. Inv. I February 2		Orig. Due Date: March 19, 2020	
Customer Name: CITY OF NORTH POLE				Invoice Nu 200004633	mber:	Invoice Print Date: February 21, 2020	
nvoice Charges							
Line Description of Charges		Service Date	Qty	Unit	Unit Price	Charges/ Credit	
1 UTILITY PERMITS UTIL	INV# 3976	02-20-20			\$0.00	\$25,940.00	
				Total In	voice Charges:	\$25,940.00	
Other Charges							
Description					Date	Charges	
Credit Payments Applied						\$0.00	
Total Amount Due By: March	h 19, 2020					\$25,940.00	

Instructions

Please make all checks payable to the State of Alaska. Payment in full is due within 30 days of invoice/statement. Thank you for your business!

If you have any questions, please contact:

Department of Transportation FBK Administrative Services

(907)451-5247



DATE: INVOICE #: January 3, 2020

3976

FOR:

Utility Permit

Department of Transportation & Public Facilities Right of Way, Utility Section 2301 Peger Road · Fairbanks, AK 99709

BILL TO:

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

DESCRIPTION	AMOUNT		
MAJOR Utility Permit 2-188650-19-117	\$ 600.00		
Linear Footage Charge 7,310 LF @\$1.00/ft	\$ 7,310.00		
MAJOR Utility Permit 2-188200-19-118	\$ 600.00		
Linear Footage Charge 380 LF @\$1.00/ft	\$ 380.00		
MAJOR Utility Permit 2-190000-19-119	\$ 600.00		
Linear Footage Charge 10,000 LF @\$1.00/ft	\$ 10,000.00		
MAJOR Utility Permit 2-188100-19-120	\$ 600.00		
Linear Footage Charge 5850 LF @\$1.00/ft	\$ 5,850.00		
Please DO NOT PAY off this Utility Section copy.			
An official invoice will follow referencing this document.	\$ 25,940.00		

[&]quot;Keep Alaska Moving through service and infrastructure".



City of North Pole – Moose Creek Water Expansion Amendment 1

STATEMENT OF SERVICES July 16, 2020

The City of North Pole (Client) requested services to send updated covenant packages to residents in Moose Creek who received incorrect covenant packages, such as no well when there is in fact a well. This effort will include finalizing coordination with the City, US Airforce, and Subconsultant to provide updated packages to residents.

PDC will participate in weekly meetings, produce the packages, and distribute them via U.S. Mail. There will be additional calls and questions from residents associated with these packages, as well as additional coordination.

This Statement of services details the additional scope to be provided by PDC Engineers (ENGINEER) to be added to the Original scope dated January 27, 2020.

ENGINEER REQUIREMENTS

Upon this Agreement becoming effective, the ENGINEER shall perform the following tasks:

Additional Services

- 1. Update mail merge to include new cover letters and revisions to the packages. We estimate up to 50 packets may be provided.
- 2. Participate in weekly meetings to coordinate with project team. This is estimated at 15 meetings.
- 3. Once necessary updates are made to the cover letter and spreadsheet, PDC will produce the packages and distribute. Note that these will be printed by an outside consultant (expense) but packaged and mailed by PDC.
- 4. Respond to additional calls associated with these package updates.

CLIENT RESPONSIBILITIES

Client will provide:

1. All criteria and full information as to OWNER's requirements for the Project.

ASSUMPTIONS

Engineering and Survey Assumptions:

1. No additional assumptions from Original contract.

SCHEDULE

The schedule for the project is as follows:

1. Notice to Proceed: August 1, 2020

2. Fully Executed Covenant Package

July 1, 2021

METHOD OF PAYMENT

The Consultant will perform the above services on a lump sum basis for \$13,680.

END OF STATEMENT OF SERVICES

Appendices:

1. PDC Fee Spreadsheet

7/16/2020

PDC Summary Sheet

#	ŀ	PHASE		CIVIL	NVIR / ANNER	PDC Reimb. Iarkup	Total
14	.1	Additional Services		\$ 12,725	\$ -		\$ 12,725
			Reimbursable	\$ 955	\$ -	\$ 48	\$ 955
			Phase Total	\$ 13,680	\$ -	\$ 48	\$ 13,680

7/16/2020

CIVIL ENGINEERING

			Principal Civil	Senior Civil	Lead Civil	Project Civil	Staff Civil		Senior Engineering		
#	TASK	F	Engineer	Engineer	Engineer	Engineer	Engineer	Civil EIT	Technician		
	Billing Rate	(\$/hr)	\$250.00	\$180.00	\$170.00	\$150.00	\$135.00	\$105.00	\$125.00		
										Hourly	
14.1	Additional Services									Subtotal	Subtotal Cost
	Update to mail merger								50	50	\$ 6,250
	Participate in Weekly meetings		2					15		17	\$ 2,075
	Package and Postage mark							10	10	20	\$ 2,300
	Respond to calls related to the updates							20		20	\$ 2,100
	Hourly Subtotal		2	0	0	0	0	45	60	107	
	Cost		\$ 500	\$ -	\$ -	\$ -	\$ -	\$ 4,725	\$ 7,500		\$ 12,725
							-	_			

7/16/2020

REIMBURSABLE EXPENSES

1 Addit	Additional Services						Civil		Environmental		Total	
Item		unit	un	it cost	#	sub	total	#	subtotal			
Printing	g Packets- Dateline	ea		\$12	50	\$	600		\$	- \$	600	
Copies/	Prints/Scans (11x17)	ea	\$	0.20		\$	-		\$	- \$	-	
Copies/	Prints/Scans (Full Size Drawing)	ea	\$	1.00		\$	-		\$	- \$	-	
Telecor	nference Costing	hr/line	\$	3.00		\$	-		\$	- \$	-	
Mileage		trip	\$	26.40		\$	-		\$	- \$	-	
Separat	te Phone Line	mo	\$	30.00		\$	-		\$	- \$	-	
Survey	GPS Rental	day	\$	309.00		\$	-		\$	- \$	-	
certifie	d mailings	ea	\$	7.10	50	\$	355		\$	\$	355	
Record	ing Fees	ea	\$	125.00	0	\$	-		\$	- \$	-	
Hotel		day	\$	-		\$	-		\$	- \$	-	
Per Die	m	man day	\$	125.00		\$	-		\$	\$	-	
Subtot	al					\$	955		\$	\$	955	



DEPARTMENT OF THE ARMY ALASKA DISTRICT, U.S. ARMY CORPS OF ENGINEERS

P.O. BOX 6898 JBER, AK 99506-0898

August 27, 2020

Contracting / Grants Division

FOR: COOPERATIVE AGREEMENT RECIPIENT W911KB-19-2-5200 ALASKA DISTRICT.

SUBJECT: Request for proposal under Cooperative Agreement W911KB-19-2-5200, POA-M.A.

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

Please reference base Cooperative Agreement no. W911KB-19-2-5200. This is to modify an existing cooperative agreement with the City of North Pole Alaska for unforeseen design issues as shown in the revised SOW which is attached. All terms and conditions of the original agreement apply to this Agreement Order unless the Agreement Order Scope of Work specifically states otherwise. Please submit a proposal for the attached Statement of Work; Moose Creek water supply and distribution line design, Moose Creek Alaska dated 10 January 2019, modified 25 August 2020.

The following information is provided in order for you to prepare your proposal:

- a. Statement of Work (SOW): This task order is for Moose Creek water supply and distribution line design, Moose Creek Alaska dated 10 January 2019, modified 25 August 2020.
- b. Basis of Award: Sole source, Project understanding and Fair and Reasonable Price.
- c. Performance period: 30 January 2021.
- d. Contractor Manpower Reporting Required: No
- e. Proposal due date: NLT 20 September, 2:00PM Alaska Time
- g. Email your proposal to: Olen Northern at <u>Olen.R.Northern@usace.army.mil</u> <u>AND</u>

 <u>Teresa.A.Lee@usace.army.mil</u>. If you have any questions, please contact Mr. Northern at 907-753-2525 or Ms Lee at (907) 753-2681.
- h. There will be substantial government involvement in the performance of this requirement.

SUBJECT: Cooperative Agreement W911KB-19-2-5200, POA-M.A.

Acknowledgement that this document was received is requested.

Sincerely,

Olen R. Northern

Clenk Morth f.

Grants Officer

Attached:

Statement of Work Moose Creek water supply and distribution line design, Moose Creek Alaska dated 10 January 2019, modified 25 August 2020.

Bid Schedule

<u>Description</u>	Estimated Quantity	<u>Unit</u>	Unit <u>Price</u>	<u>Amount</u>
Project Management Support	1	Job	\$	\$
Planning Support	1	Job	\$	\$
Engineering and Design	1	Job	\$	\$
	Tasks Total·	\$		
	Project Management Support Planning Support	DescriptionQuantityProject Management Support1Planning Support1	DescriptionQuantityUnitProject Management Support1JobPlanning Support1JobEngineering and Design1Job	Description Quantity Unit Price Project Management Support 1 Job \$ Planning Support 1 Job \$ Engineering and Design 1 Job \$

WATER SUPPLY AND DISTRIBUTION SYSTEM DESIGN MOOSE CREEK, ALASKA 10 January 2019

Total Project Cost Ceiling \$4,500,692

Modified 16 January 2020

Modified 25 August 2020

1.0 SUBJECT

This Cooperative Agreement is to provide details of work to be performed by the City of North Pole, Alaska (Cooperator) in support of Air Force Civil Engineer Center (AFCEC) through a cooperative agreement administered by the U.S. Army Corps of Engineers, Alaska District (USACE-AK). Activities include the design of a water supply line from North Pole Water Distribution System (WDS) and a local distribution, pump house, and storage system for Moose Creek, Alaska in support of the Eielson Air Force Base (EAFB) Environmental Restoration Program.

In accordance with FAR 7.503(e), projects provided for execution under this cooperative agreement (CA) by USACE do not include any functions to be performed that are inherently governmental. This determination is made with the assessment that places emphasis on the degree to which conditions and facts restrict the discretionary authority, decision-making responsibility, or accountability of Government officials using cooperator services or work products.

2.0 PURPOSE

The purpose of this agreement is to establish the relationships, responsibilities, and activities to design a water supply line from North Pole WDS and a local distribution, pump house, and storage system for Moose Creek, Alaska. The design of the water supply and distribution system is necessary to meet the Remedial Action Objective (RAO) for Moose Creek under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Process.

3.0 AUTHORITY (Additional authorities may be added)

Cooperative Agreements are entered into with USACE under the following authorities:

- 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which includes Office of Management and Budget (OMB) Guidance and Cost Principles (formerly OMB Circular A-110)Title 10 U.S.C. 2701d Environmental Restoration Program;
- Title 32 National Defense, Chapter 1 Office of the Secretary of Defense,
 - o Part 21 DOD Grants and Agreements (32CFR21.100-680);
 - o Part 22 DOD Grants and Agreements Award and Administrations (32CFR22.100-825);
 - o Part 32 DOD Administrative Requirements for Grants and Agreements with

Institutions of Higher Education Hospitals, and Other Non-Profit Organizations (32CFR32.1-73);

• 10 ÙSC 2701

4.0 BACKGROUND

4.1 Project Location

The community of Moose Creek is located adjacent to the northern edge of EAFB, east of Fairbanks, Alaska (Figure 1). The Community of Moose Creek lies approximately 120 miles south of the Arctic Circle, 21 miles southeast of Fairbanks, and 7 miles southeast of the city of North Pole.

Approximately 750 people live in the Community of Moose Creek, and land use includes both residential and commercial activities. Nearby EAFB is an active military installation that has been used for military operations since its establishment in 1944. The community of Moose Creek was originally settled as a result of the growth of EAFB and the nearby community of North Pole, and remains a primarily residential community. Drinking water in the community has historically been supplied by shallow wells located on the individual properties. Future land use is expected to be primarily residential in nature.



4.2 Project Description

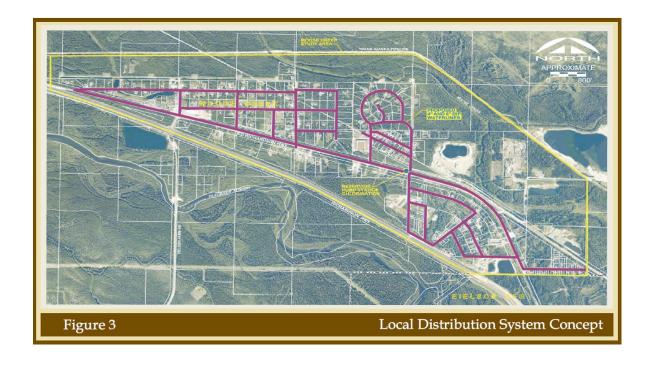
The RAO for Moose Creek is to protect human health by preventing human ingestion of perfluorooctanesulfonic acid (PFOS) or perfluorooctanoic acid (PFOA) contaminated groundwater that exceeds the 2016 lifetime health advisory (LHA) value of 0.07 µg/L and

ADEC groundwater clean-up levels of $0.40~\mu g/L$. In support of this objective, this project, in coordination with multiple stakeholders, shall prepare a complete design of a water supply line from North Pole WDS and local distribution, pumphouse, and storage within Moose Creek. The potable water shall be supplied by the Municipality of North Pole Water Treatment Plant located in North Pole. The design shall include a new water main that will carry water to the Community of Moose Creek as per Figure 2 or an alternative route based upon the Cooperator's engineering recommendation. The North Pole water supply is located approximately 5 miles downgradient of Moose Creek. An additional greensand filter will be provided, and higher capacity pressure pumps may be required, in the North Pole WTP to increase the capacity for the additional demands in Moose Creek. The capacity of the wells and well pump will also be reviewed.



The design shall include a local distribution system, storage tank, and a circulation/heating pumping station (Figure 3). The new storage tank will allow the servicing of local demands and provide emergency storage if the tie to the existing North Pole WTP is temporarily unavailable. The local distribution system will need to be pressurized and circulated with heat input to prevent freezing during winter. Local connections will be made to properties in the Community of Moose Creek.

Prior to the Alaska District Army Corps of Engineers entering into this cooperative agreement the City of North Pole already had an arrangement with PDC Engineers to execute this agreement. The Alaska District Army Corps of Engineers neither endorses or opposes the City of North Poles' use of PDC and did not participate in the selection of PDC for this project. The Corps of Engineers, Alaska District, believe that since PDC was the designing firm of record for the project to which Moose Creek will tie into, the benefit of a more seamless transition is anticipated along with project familiarization. Therefore, the City of North Pole's use of PDC on this project complies with applicable procurement rules.



5.0 TASKS

TASK 1 PROJECT MANAGEMENT SUPPORT

The Cooperator shall designate a Project Manager who shall be the primary technical and managerial interface between the Cooperator, the USACE and AFCEC. The name of this person, and alternate, who shall act for the Cooperator when the Project Manager is absent, shall be designated in writing. The Project Manager or alternate will have full authority to act for the Cooperator on all agreement matters relating to daily operations. The Project Manager or alternate must be available during normal duty hours and to meet with government personnel within 24 hours of the request to discuss problems.

Task 1.1 Schedule

The Cooperator shall develop and maintain a project schedule that fully supports the technical approach and outlines the due dates for all major deliverables and milestones and integrates the Government's associated management, review, and oversight activities. The schedule shall be consistent with all orders, agreements, and regulations applicable to the work described in this SOW. The schedule shall be submitted within thirty (30) days of cooperative agreement award and updated as needed throughout the period of performance.

Task 1.2 Meeting Attendance

Progress Meetings

Progress meetings shall be held weekly at a minimum. In addition to task performance and

progress, Progress Meetings shall include a review of technical and/or programmatic issues, accomplishments, and forecasts. The Cooperator shall prepare an agenda and any relevant presentation materials and submit to the Government at least one (1) working day in advance of the scheduled meeting. The cooperator shall prepare and provide meeting minutes, including a list of all attendees, from progress meetings and submit to the Government within five (5) working days after the meeting.

Task 1.3 Monthly Status Report

The Cooperator shall provide a monthly status report that includes the following information:

- A description of milestones and deliverables
- Funds expended during the reporting period and cumulative to date
- Summary of work accomplished during the reporting period and percent complete
- Any issues or problems encountered along with their ultimate resolution
- Schedule of activities planned and estimated time to complete activities

This report shall be submitted along with the Cooperator's invoice and is due no later than the 10th day of each month. A monthly status report shall be submitted every month whether an invoice is submitted or not.

TASK 2 PLANNING SUPPORT

The overall objective of this task is to assist EAFB and AFCEC personnel and ensure project requests meet validated requirements; are in compliance with all applicable standards; are programmed at the lowest life cycle cost; achieve optimum resource efficiency and minimize damage to the natural and human environments. Work is expected to be performed in support of the following project; design a water supply line from North Pole WDS and a local distribution system, pumphouse, and storage for Moose Creek, Alaska.

The Cooperator shall organize, participate, and facilitate planning charrettes with stakeholders. Deliverables from the planning charrettes will include updated routing for water supply line from North Pole water distribution system, and Moose Creek distribution system, pumphouse, and storage, Project Definition Index Rating (PDRI), and Planning Charrette Minutes.

The Cooperator shall organize, participate, and facilitate public meetings and provide subsequent meeting minutes as necessary.

The Cooperator shall organize, participate, and facilitate review meetings with stakeholders to discuss comments generated at each submittal phase. Meeting minutes shall be provided.

TASK 3 ENGINEERING AND DESIGN

The overall objective of this task is to complete a full design of a water supply line from North Pole WDS and local distribution, pumphouse, and storage within Moose Creek, identification of required easements and assist the Cooperator in the acquisition of the

needed easements, identification and acquisition of permits, coordination and acquisition of environmental covenants, identification of a suitable site for the pump house and storage tank and assist the Cooperator in acquisition of the site. The design shall include a new water main that will carry water to the Community of Moose Creek as depicted in the conceptual site plan. An additional greensand filter will be included, and higher capacity pressure pumps may be required, in the North Pole WTP to increase the capacity for the additional demands in Moose Creek. The system shall be designed in accordance with UFC 3-230-01 and all other applicable laws, criteria, and regulations.

A civil engineer shall be responsible for the civil design. Work shall consist of the complete site design including but not limited to the following: earthwork, grading, drainage, minimal landscaping, utilities, and coordination with other disciplines. The engineer of record shall be licensed in the State of Alaska as a Civil Engineer.

Design shall take into consideration topography and natural characteristics of the area, including climatic conditions, prevailing winds, areas of snow accumulations, ect. Design shall provide a functional system requiring only routine maintenance through its design life.

Materials and installation specifications shall contain appropriate requirements per UFC 3-230-01 and those that have been established by the industry in its technical publications, such as ASTM, AWWA, WEF, and APWA standards. Requirements shall be set forth in the specifications for the pipe and methods of bedding and backfilling so as not to damage the pipe or its joints, impede cleaning operations and future tapping, nor create excessive side fill pressure or deformation of the pipe, nor seriously impair flow capacity. All bends, tees, wyres, plugs and other fittings will be constrained with thrust bolts, constrained joint piping or other approved means to prevent damage from pipe movement.

The Cooperator shall obtain all permits, to include a DOT utility permit, and approvals for the required construction and operation of the system.

The Cooperator shall prepare environmental covenants and updated environmental covenant packages. Environmental covenants to be prepared shall be individualized packets for each property owner in Moose Creek. The Cooperator shall send the packets by US Mail to all identified property owners within the community of Moose Creek. At a minimum, the packets shall include:

- 1) North Pole Cover Letter
- 2) water transition agreement
- 3) well decommissioning agreement
- 4) environmental covenants package prepared by AFLOA.

The Cooperator shall coordinate the signed packets with ADEC for signature and record the covenants with the Recorder's office, Department of Natural Resources, and provide copies of fully executed documents to the property owner and Government. For those properties not responding to the initial mailing within 30 days, the Cooperator shall send a second packet via certified mail. If the packet gets returned, additional research and consultation is required. If the certified mail appears to have been delivered, but the property owner fails to respond within 30 days, a second mailing by certified mailing or other delivery service that requires documentation of delivery shall be sent. If after the

second mailing there is no response from the property owner, the Cooperator shall provide a summary report as part of the project monthly report detailing their efforts.

For those properties with fully executed and recorded environmental covenants, the Cooperator shall pay the agreed upon compensation as cited in the environmental covenant to the property owner within 30 days of (1) that property's connection to the water system, (2) well decommissioning, and (3) removal of the installed treatment system. For property owners that agree to connection to the water system only (i.e., no environmental covenant) they shall not be eligible for any compensation payment.

Property owner receipt of fully executed environmental covenant hardcopy and/or CD deliverables shall be documented via certified mail, signed receipt or a similar signed receipt of delivery from a commercial delivery service. All documentation of delivery will be saved in the project file that shall exist for each property owner.

The Cooperator shall follow all applicable Air Force, UFC, ADEC, state and federal criteria, regulations and requirements. Of particular note are:

Reference No.	Title	Date
ANSI/AWWA C150/A21.50-14	Thickness Design of Ductile-Iron Pipe	01 Sep 2014
ANSI/AWWA C600-17	Installation of Ductile-Iron Mains and Their	01 Jul 2017
	Appurtenances	
ANSI/AWWA C906-15	Polyethylene (PE) Pressure Pipe and Fittings	01 Sep 2015
UFC 3-130-05	Utilities: Arctic and Subarctic Construction	16 Jan 2004
UFC 3-230-01	Water Storage, Distribution, and Transmission with	1 July 2014
	Change 2	
UFC 3-230-03A	Water Supply	16 Jan 2004
UFC 3-230-13A	Water Supply Pumping Stations	16 Jan 2004

6.0 GENERAL SPECIFICATIONS

All reports and data generated under this cooperative agreement are the property of the government and distribution by the Cooperator to any source, unless previously authorized by the Air Force Technical POC, is prohibited.

The Cooperator shall not make available to the news media or publicly disclose any data generated or reviewed under this cooperative agreement. When approached by the news media, the Cooperator shall refer them to the AF Technical POC for response.

7.0 GOVERNMENT FURNISHED MATERIAL

Additional government furnished material includes:

- 1) Historical aerial imagery, if needed;
- 2) Current installation GIS data, if needed
- 3) Available environmental reports upon request
- 4) Community contact information

8.0 REPORTS AND DELIVERABLES

The Cooperator will provide a technical memorandum with concept (15% design) level plan. During the development of the concept memo and plan this contract will be amended so Cooperator will provide design drawings, geotechnical results and specification calculations used during the design process in bid-ready documents. Subsequently, the Cooperator will provide construction documents including drawings, specifications, cost estimates, and design reports for construction of a water supply line from North Pole Water Distribution System and a local distribution system, pumphouse, and storage for Moose Creek, Alaska.

Deliverable	Submission	Deliverable Due	
	Instructions/Details	Date	
Concept Design Documents: 15%	E-mail/CD	two months from date	
design technical memo with	5 hardcopies	of award	
concept plan			
Project Schedule	E-mail	within thirty (30)	
		days of cooperative	
		agreement award	
Meeting minutes	E-mail	within five (5)	
		working days after	
		the meeting	
35% Design: Drawings, List of	E-mail/ 2 CDs	10 June 2019	
ROW and Easements required,	2 hardcopies		
Permitting Plan, Geotechnical			
Recommendations			
Response to USACE, AF, EPA,	Email or ProjNet	30 days	
ADEC, and other Stakeholder			
Comments	T 1/2 CD	10	
65% Design: Drawings, Technical	E-mail/2 CDs	19 August 2019	
Specifications, Cost Estimate,	2 hardcopies		
Easement Documents	TDD	20.1	
Response to USACE, AF, EPA, ADEC, and other Stakeholder	TBD	30 days	
Comments			
95% Design: Drawings, Technical	E-mail/2 CDs	18 October 2019	
and Division 1 Specifications, Cost	2 hardcopies	18 October 2017	
Estimate, ADEC Authorization to			
Construct Application			
Response to USACE, AF, EPA,	TBD	30 days	
ADEC, and other Stakeholder			
Comments			
100% Design: Drawings, Technical	E-mail/CD	1 December 2019	
and Division 1 Specifications,	2 hardcopies		
ADEC Authorization to Construct			
Draft Environmental Covenant	E-mail/CD	31 March 2020	
Package	F 1/6D	******	
Response to Comments	E-mail/CD	Within 14 days of	
		receipt of	
		comments	
Final Environmental Covenant	E-mail/CD	31 April 2020	
Package			

Fully executed Environmental	1 hardcopy delivered to each	1 July 2021
Covenant Package	property owner	,
	E-Mail/CD to both property	
	owner and Government	
	1 hardcopy delivered to the	
	Government	
Property Owner Delivery	E-mail/CD	Within 30 days of
Documentation		final delivery

9.0 POINTS OF CONTACT

9.1 The AF Technical Point of Contact for this project is:

Dawn Rodriguez AFCEC/CZOP 10471 20th Street, Ste 345 JBER AK 99506

Phone: 907-552-8757

Email: dawn.rodriguez.2@us.af.mil

9.2 The USACE POC for Project Management is Teresa Lee. Cooperative Agreement questions should be addressed to the Grants Officer, Olen Northern. Correspondence should be addressed as follows:

Teresa Lee

U.S. Army Corps of Engineers Environmental and Special Projects Branch

ATTN: CEPOA-PM-ESP

P.O. Box 6898

JBER, AK 99506-0898 Phone: 907-753-2681

Email: Teresa.A.Lee@usace.army.mil

Olen Northern

U.S. Army Corps of Engineers

Contracting Division ATTN: CEPOA-CT P.O. Box 6898

JBER, AK 99506-0898 Phone: (907) 753-2525

Email: Olen.R.Northern@usace.army.mil

10.0 PERIOD OF PERFORMANCE

The period of performance shall extend through 15 July 2021. The parties understand that should litigation be required to obtain easements, the period of performance may need to be extended.

11.0 ADDITIONAL TERMS AND CONDITIONS

i. Nondiscrimination

By signing this agreement or accepting funds under this agreement, the recipient assures that it will comply with applicable provisions of the following, national policies prohibiting discrimination. In addition the recipient assures that it will flow down these requirements to sub-recipients:

- a. On the basis of race, color, or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq.), as implemented by DOD regulations at 32 CFR part 195.
- b. On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), as implemented by DOD regulations at 32 CFR part 196.
- c. On the basis of age, in the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90.
- d. On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR part 41 and DOD regulations at 32 CFR part 56.

ii. Debarment and Suspension

The recipient agrees to comply with the requirements regarding debarment and suspension in Subpart C of the OMB guidance in 2 CFR part 180, as implemented by the Department of Defense in 2 CFR part 1125. The recipient also agrees to communicate the requirement to comply with Subpart C to persons at the next lower tier with whom the recipient enters into transactions that are "covered transactions" under Subpart B of 2 CFR part 180 and the DOD implementation in 2 CFR part 1125.

iii. Environmental Standards

By signing this agreement or accepting funds under this agreement, the recipient assures that it will:

a. Comply with applicable provisions of the Clean Air Act (42 U.S.C. 7401, et. seq.) and Clean Water Act (33 U.S.C. 1251, et. seq.), as implemented by Executive Order 11738 [3 CFR, 1971- 1975 Comp., p. 799] and Environmental Protection Agency (EPA) rules at Subpart J of 40 CFR part 32

iv. Drug-Free Workplace

The recipient agrees to comply with the requirements regarding drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 32 CFR part 26,

which implements sec. 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701, et seq.).

v. Officials Not to Benefit

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this agreement, or to any benefit arising from it, in accordance with 41 U.S.C. 22.

1. Additional Administrative Requirements

i. 2 CFR 200.330 Sub-awards

Unless sections of this part specifically exclude sub-recipients from coverage, the provisions of this part shall be applied to sub-recipients performing work under awards if such sub-recipients are institutions of higher education, hospitals or other non-profit organizations.

ii. 2 CFR 200.305 Payments

- (a) For states, payments are governed by Treasury-State CMIA agreements and default procedures codified at 31 CFR Part 205 "Rules and Procedures for Efficient Federal-State Funds Transfers" and TFM 4A-2000 Overall Disbursing Rules for All Federal Agencies.
- (b) For non-Federal entities other than states, payments methods must minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the non-Federal entity whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means. See also § 200.302 Financial management paragraph (f). Except as noted elsewhere in this part, Federal agencies must require recipients to use only OMB-approved standard government-wide information collection requests to request payment.
 - (1) The non-Federal entity must be paid in advance, provided it maintains or demonstrates the willingness to maintain both written procedures that minimize the time elapsing between the transfer of funds and disbursement by the non-Federal entity, and financial management systems that meet the standards for fund control and accountability as established in this part. Advance payments to a non-Federal entity must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the non-Federal entity in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the non-Federal entity for direct program or project costs and the proportionate share of any allowable indirect costs. The non-Federal entity must make timely payment to contractors in accordance with the contract provisions.

- (i) The Federal awarding entity shall pay the Cooperator in a timely fashion to ensure payment of contractors in accordance with federal requirements.
- (ii) The Cooperator cannot accepts any payment method other than advance payment methods as described in paragraph (b)(1) above.
- (2) Whenever possible, advance payments must be consolidated to cover anticipated cash needs for all Federal awards made by the Federal awarding agency to the recipient.
 - (i) Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer and should comply with applicable guidance in 31 CFR part 208.
 - (ii) Non-Federal entities must be authorized to submit requests for advance payments and reimbursements at least monthly when electronic fund transfers are not used, and as often as they like when electronic transfers are used, in accordance with the provisions of the Electronic Fund Transfer Act (15 U.S.C. 1601).
- (3) Reimbursement is the preferred method when the requirements in paragraph (b) cannot be met, when the Federal awarding agency sets a specific condition per § 200.207 Specific conditions, or when the non-Federal entity requests payment by reimbursement. This method may be used on any Federal award for construction, or if the major portion of the construction project is accomplished through private market financing or Federal loans, and the Federal award constitutes a minor portion of the project. When the reimbursement method is used, the Federal awarding agency or pass-through entity must make payment within 30 calendar days after receipt of the billing, unless the Federal awarding agency or pass-through entity reasonably believes the request to be improper.
- (4) If the non-Federal entity cannot meet the criteria for advance payments and the Federal awarding agency or pass-through entity has determined that reimbursement is not feasible because the non-Federal entity lacks sufficient working capital, the Federal awarding agency or pass-through entity may provide cash on a working capital advance basis. Under this procedure, the Federal awarding agency or passthrough entity must advance cash payments to the non-Federal entity to cover its estimated disbursement needs for an initial period generally geared to the non-Federal entity's disbursing cycle. Thereafter, the Federal awarding agency or pass-through entity must reimburse the non-Federal entity for its actual cash disbursements. Use of the working capital advance method of payment requires that the pass-through entity provide timely advance payments to any sub-recipients in order to meet the subrecipient's actual cash disbursements. The working capital advance method of payment must not be used by the pass-through entity if the reason for using this method is the unwillingness or inability of the pass-through entity to provide timely advance payments to the sub-recipient to meet the sub-recipient's actual cash disbursements.
- (5) Use of resources before requesting cash advance payments. To the extent available, the non-Federal entity must disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements,

audit recoveries, and interest earned on such funds before requesting additional cash payments.

- (6) Unless otherwise required by Federal statutes, payments for allowable costs by non-Federal entities must not be withheld at any time during the period of performance unless the conditions of §§ 200.207 Specific conditions, Subpart D—Post Federal Award Requirements of this part, 200.338 Remedies for Noncompliance, or the following apply:
 - (i) The non-Federal entity has failed to comply with the project objectives, Federal statutes, regulations, or the terms and conditions of the Federal award.
 - (ii) The non-Federal entity is delinquent in a debt to the United States as defined in OMB Guidance A-129, "Policies for Federal Credit Programs and Non-Tax Receivables." Under such conditions, the Federal awarding agency or pass-through entity may, upon reasonable notice, inform the non-Federal entity that payments must not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal government is liquidated.
 - (iii) A payment withheld for failure to comply with Federal award conditions, but without suspension of the Federal award, must be released to the non-Federal entity upon subsequent compliance. When a Federal award is suspended, payment adjustments will be made in accordance with § 200.342 Effects of suspension and termination.
 - (iv) A payment must not be made to a non-Federal entity for amounts that are withheld by the non-Federal entity from payment to contractors to assure satisfactory completion of work. A payment must be made when the non-Federal entity actually disburses the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.
- (7) Standards governing the use of banks and other institutions as depositories of advance payments under Federal awards are as follows.
 - (i) The Federal awarding agency and pass-through entity must not require separate depository accounts for funds provided to a non-Federal entity or establish any eligibility requirements for depositories for funds provided to the non-Federal entity. However, the non-Federal entity must be able to account for the receipt, obligation and expenditure of funds.
 - (ii) Advance payments of Federal funds must be deposited and maintained in insured accounts whenever possible.
- (8) The non-Federal entity must maintain advance payments of Federal awards in interest-bearing accounts, unless the following apply.
 - (i) The non-Federal entity receives less than \$120,000 in Federal awards per year.

- (ii) The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances.
- (iii) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.
- (iv) A foreign government or banking system prohibits or precludes interest bearing accounts.(9) Interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services, Payment Management System, Rockville, MD 20852. Interest amounts up to \$500 per year may be retained by the non-Federal entity for administrative expense.
- (9) Except as noted elsewhere in this part, only the following forms shall be authorized for the recipients in requesting advances and reimbursements. DOD Components shall not require more than an original and two copies of these forms.
 - (i) SF–270, Request for Advance or Reimbursement. Each DOD Component shall adopt the SF–270 as a standard form for all non-construction programs when electronic funds transfer or predetermined advance methods are not used. DOD Components, however, have the option of using this form for construction programs in lieu of the SF–271,4 "Outlay Report and Request for Reimbursement for Construction Programs."
 - (ii) Payment Request. Payment Requests shall be submitted to the address below:

U.S. Army Corps of Engineers – Alaska District Attn: CEPOA-PM-ESP (Lee) P.O. Box 6898 Elmendorf AFB AK 99506-0898

Physical Address: 2204 Third Street Elmendorf AFB, AK 99506)

(iii) Payment will be made via check and/or EFT from the following office:

U.S. Army Engineer District, Alaska C/O USACE Finance Center 5720 Integrity Drive Millington, TN 38054-5005

iii. 2 CFR 200.403 Allowable costs

(a) General. For each kind of recipient or sub-recipient of a cost-type assistance award, or each contractor receiving a. cost-type contract under an assistance award, there is a set of Federal principles for determining allowable costs. Allowability of costs shall be determined in accordance with the cost principles applicable to the entity incurring the costs.

- (b) Higher educational institutions. The allowability of costs incurred by institutions of higher education that may be recipients, sub-recipients, or contractors is determined in accordance with the provisions of 2 CFR 220, "Cost Principles for Educational Institutions,"
- (c) State, Local and Indian Tribal Governments. The allowability of costs incurred by State, Local and Indian Tribal Governments that may be recipients, sub-recipients, or contractors is determined in accordance with the provisions of 2 CFR 225, "Cost Principles for State, Local and Indian Tribal Governments,"
- (f) The Federal entity shall promptly evaluate all submitted costs and notify the Cooperator in a timely fashion of any disputed costs.

iv. 2 CFR 200.308 Revision of budget and program plans

- (a) The approved budget for the Federal award summarizes the financial aspects of the project or program as approved during the Federal award process. It may include either the Federal and non-Federal share (see §200.43 Federal share) or only the Federal share, depending upon Federal awarding agency requirements. It must be related to performance for program evaluation purposes whenever appropriate.
- (b) Recipients are required to report deviations from budget or project scope or objective, and request prior approvals from Federal awarding agencies for budget and program plan revisions, in accordance with this section.
- (c)(1) For non-construction Federal awards, recipients must request prior approvals from Federal awarding agencies for one or more of the following program or budget-related reasons:
- (i) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).
 - (ii) Change in a key person specified in the application or the Federal award.
- (iii) The disengagement from the project for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.
- (v) The transfer of funds budgeted for participant support costs as defined in §200.75 Participant support costs to other categories of expense.
- (vi) Unless described in the application and funded in the approved Federal awards, the sub-awarding, transferring or contracting out of any work under a Federal award, including fixed amount sub-awards as described in §200.332 Fixed amount sub-awards. This provision does not apply to the acquisition of supplies, material, equipment or general support services.

- (vii) Changes in the approved cost-sharing or matching provided by the non-Federal entity.
 - (viii) The need arises for additional Federal funds to complete the project.
- (2) No other prior approval requirements for specific items may be imposed unless an exception has been approved by OMB. See also §\$200.102 Exceptions and 200.407 Prior written approval (prior approval).
- (d) Except for requirements listed in paragraph (c)(1) of this section, the Federal awarding agency is authorized, at its option, to waive prior written approvals required by paragraph (c) this section. Such waivers may include authorizing recipients to do any one or more of the following:
- (1) Incur project costs 90 calendar days before the Federal awarding agency makes the Federal award. Expenses more than 90 calendar days pre-award require prior approval of the Federal awarding agency. All costs incurred before the Federal awarding agency makes the Federal award are at the recipient's risk (i.e., the Federal awarding agency is under no obligation to reimburse such costs if for any reason the recipient does not receive a Federal award or if the Federal award is less than anticipated and inadequate to cover such costs). See also §200.458 Pre-award costs.
- (2) Initiate a one-time extension of the period of performance by up to 12 months unless one or more of the conditions outlined in paragraphs (d)(2)(i) through (iii) of this section apply. For one-time extensions, the recipient must notify the Federal awarding agency in writing with the supporting reasons and revised period of performance at least 10 calendar days before the end of the period of performance specified in the Federal award. This one-time extension may not be exercised merely for the purpose of using unobligated balances. Extensions require explicit prior Federal awarding agency approval when:
 - (i) The terms and conditions of the Federal award prohibit the extension.
 - (ii) The extension requires additional Federal funds.
- (iii) The extension involves any change in the approved objectives or scope of the project.
 - (3) Carry forward unobligated balances to subsequent periods of performance.
- (e) The Federal awarding agency may, at its option, restrict the transfer of funds among direct cost categories or programs, functions and activities for Federal awards in which the Federal share of the project exceeds the Simplified Acquisition Threshold and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget as last approved by the Federal awarding agency. The Federal awarding agency cannot permit a transfer that would cause any Federal appropriation to be used for purposes other than those consistent with the appropriation.
- (f) All other changes to non-construction budgets, except for the changes described in paragraph (c) of this section, do not require prior approval (see also §200.407 Prior written approval (prior approval)).

- (g) For construction Federal awards, the recipient must request prior written approval promptly from the Federal awarding agency for budget revisions whenever paragraph (g)(1), (2), or (3) of this section applies.
- (1) The revision results from changes in the scope or the objective of the project or program.
 - (2) The need arises for additional Federal funds to complete the project.
- (3) A revision is desired which involves specific costs for which prior written approval requirements may be imposed consistent with applicable OMB cost principles listed in Subpart E—Cost Principles of this part.
- (4) No other prior approval requirements for budget revisions may be imposed unless an exception has been approved by OMB.
- (5) When a Federal awarding agency makes a Federal award that provides support for construction and non-construction work, the Federal awarding agency may require the recipient to obtain prior approval from the Federal awarding agency before making any fund or budget transfers between the two types of work supported.
- (h) When requesting approval for budget revisions, the recipient must use the same format for budget information that was used in the application, unless the Federal awarding agency indicates a letter of request suffices.
- (i) Within 30 calendar days from the date of receipt of the request for budget revisions, the Federal awarding agency must review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of 30 calendar days, the Federal awarding agency must inform the recipient in writing of the date when the recipient may expect the decision.

v. 2 CFR 200.310 through 2 CFR 200.316 property.

2 CFR 200.310 through 2 CFR 200.316 set forth uniform standards governing management and disposition of property furnished by the Federal Government and property whose cost was charged to a project supported by a Federal award. DOD Components shall require recipients to observe these standards under awards and shall not impose additional requirements, unless specifically required by Federal statute. The recipient may use its own property management standards and procedures provided it observes the provisions of 2 CFR 200.310 through 2 CFR 200.316

vi. 2 CFR 200.310 & 2 CFR 200.447 Insurance coverage.

The non-Federal entity must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to property owned by the non-Federal entity. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award.

vii. 2 CFR 200.311 Real property.

- (a) *Title*. Subject to the obligations and conditions set forth in this section, title to real property acquired or improved under a Federal award will vest upon acquisition in the non-Federal entity.
- (b) *Use.* Except as otherwise provided by Federal statutes or by the Federal awarding agency, real property will be used for the originally authorized purpose as long as needed for that purpose, during which time the non-Federal entity must not dispose of or encumber its title or other interests.
- (c) *Disposition*. When real property is no longer needed for the originally authorized purpose, the non-Federal entity must obtain disposition instructions from the Federal awarding agency or pass-through entity. The instructions must provide for one of the following alternatives:
 - (1) Retain title after compensating the Federal awarding agency. The amount paid to the Federal awarding agency will be computed by applying the Federal awarding agency's percentage of participation in the cost of the original purchase (and costs of any improvements) to the fair market value of the property. However, in those situations where non-Federal entity is disposing of real property acquired or improved with a Federal award and acquiring replacement real property under the same Federal award, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.
 - (2) Sell the property and compensate the Federal awarding agency. The amount due to the Federal awarding agency will be calculated by applying the Federal awarding agency's percentage of participation in the cost of the original purchase (and cost of any improvements) to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the Federal award has not been closed out, the net proceeds from sale may be offset against the original cost of the property. When non-Federal entity is directed to sell property, sales procedures must be followed that provide for competition to the extent practicable and result in the highest possible return.
 - (3) Transfer title to the Federal awarding agency or to a third party designated/approved by the Federal awarding agency. The non-Federal entity is entitled to be paid an amount calculated by applying the non-Federal entity's percentage of participation in the purchase of the real property (and cost of any improvements) to the current fair market value of the property.

viii. 2 CFR 200.312 Federally-owned and exempt property.

(a) Title to federally-owned property remains vested in the Federal government. The non-Federal entity must submit annually an inventory listing of federally-owned property in its custody to the Federal awarding agency. Upon completion of the Federal award or when the property is no longer needed, the non-Federal entity must report the property to the Federal awarding agency for further Federal agency utilization.

- (b) If the Federal awarding agency has no further need for the property, it must declare the property excess and report it for disposal to the appropriate Federal disposal authority, unless the Federal awarding agency has statutory authority to dispose of the property by alternative methods (e.g., the authority provided by the Federal Technology Transfer Act (15 U.S.C. 3710 (i)) to donate research equipment to educational and non-profit organizations in accordance with Executive Order 12999, "Educational Technology: Ensuring Opportunity for All Children in the Next Century."). The Federal awarding agency must issue appropriate instructions to the non-Federal entity.
- (c) Exempt federally-owned property means property acquired under a Federal award the title based upon the explicit terms and conditions of the Federal award that indicate the Federal awarding agency has chosen to vest in the non-Federal entity without further obligation to the Federal government or under conditions the Federal agency considers appropriate. The Federal awarding agency may exercise this option when statutory authority exists. Absent statutory authority and specific terms and conditions of the Federal award, title to exempt federally-owned property acquired under the Federal award remains with the Federal government.

ix. 2 CFR 200.313 Equipment.

See also § 200.439 Equipment and other capital expenditures.

- (a) *Title*. Subject to the obligations and conditions set forth in this section, title to equipment acquired under a Federal award will vest upon acquisition in the non-Federal entity. Unless a statute specifically authorizes the Federal agency to vest title in the non-Federal entity without further obligation to the Federal government, and the Federal agency elects to do so, the title must be a conditional title. Title must vest in the non-Federal entity subject to the following conditions:
 - (1) Use the equipment for the authorized purposes of the project until funding for the project ceases, or until the property is no longer needed for the purposes of the project.
 - (2) Not encumber the property without approval of the Federal awarding agency or pass-through entity.
 - (3) Use and dispose of the property in accordance with paragraphs (b), (c) and (e) of this section.
- (b) A state must use, manage and dispose of equipment acquired under a Federal award by the state in accordance with state laws and procedures. Other non-Federal entities must follow paragraphs (c) through (e) of this section.
- (c) *Use*. (1) Equipment must be used by the non-Federal entity in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the Federal award, and the non-Federal entity must not encumber the property without prior approval of the Federal awarding agency. When no longer needed for the original program or project, the equipment may be used in other activities supported by the Federal awarding agency, in the following order of priority:
 - (i) Activities under a Federal award from the Federal awarding agency which funded the original program or project, then

- (ii) Activities under Federal awards from other Federal awarding agencies. This includes consolidated equipment for information technology systems.
- (2) During the time that equipment is used on the project or program for which it was acquired, the non-Federal entity must also make equipment available for use on other projects or programs currently or previously supported by the Federal government, provided that such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use must be given to other programs or projects supported by Federal awarding agency that financed the equipment and second preference must be given to programs or projects under Federal awards from other Federal awarding agencies. Use for non-federally-funded programs or projects is also permissible. User fees should be considered if appropriate.
- (3) Notwithstanding the encouragement in § 200.307 Program income to earn program income, the non-Federal entity must not use equipment acquired with the Federal award to provide services for a fee that is less than private companies charge for equivalent services unless specifically authorized by Federal statute for as long as the Federal government retains an interest in the equipment.
- (4) When acquiring replacement equipment, the non-Federal entity may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.
- (d) *Management requirements*. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award, until disposition takes place will, as a minimum, meet the following requirements:
 - (1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
 - (2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
 - (3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.
 - (4) Adequate maintenance procedures must be developed to keep the property in good condition.
 - (5) If the non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.
- (e) *Disposition*. When original or replacement equipment acquired under a Federal award is no longer needed for the original project or program or for other activities currently or previously supported by a Federal awarding agency, except as otherwise provided in

Federal statutes, regulations, or Federal awarding agency disposition instructions, the non-Federal entity must request disposition instructions from the Federal awarding agency if required by the terms and conditions of the Federal award. Disposition of the equipment will be made as follows, in accordance with Federal awarding agency disposition instructions:

- (1) Items of equipment with a current per unit fair market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further obligation to the Federal awarding agency.
- (2) Except as provided in § 200.312 Federally-owned and exempt property, paragraph (b), or if the Federal awarding agency fails to provide requested disposition instructions within 120 days, items of equipment with a current per-unit fair-market value in excess of \$5,000 may be retained by the non-Federal entity or sold. The Federal awarding agency is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the Federal awarding agency's percentage of participation in the cost of the original purchase. If the equipment is sold, the Federal awarding agency may permit the non-Federal entity to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses.
- (3) The non-Federal entity may transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the non-Federal entity must be entitled to compensation for its attributable percentage of the current fair market value of the property.
- (4) In cases where a non-Federal entity fails to take appropriate disposition actions, the Federal awarding agency may direct the non-Federal entity to take disposition actions.

x. 2 CFR 200.314 Supplies.

See also § 200.453 Materials and supplies costs, including costs of computing devices.

(a) Title to supplies will vest in the non-Federal entity upon acquisition. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other Federal award, the non-Federal entity must retain the supplies for use on other activities or sell them, but must, in either case, compensate the Federal government for its share. The amount of compensation must be computed in the same manner as for equipment. See § 200.313 Equipment, paragraph (e)(2) for the calculation methodology.

(b) As long as the Federal government retains an interest in the supplies, the non-Federal entity must not use supplies acquired under a Federal award to provide services to other organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute.

xi. 2 CFR 200.315 Intangible property.

- (a) Title to intangible property (see § 200.59 Intangible property) acquired under a Federal award vests upon acquisition in the non-Federal entity. The non-Federal entity must use that property for the originally-authorized purpose, and must not encumber the property without approval of the Federal awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property must occur in accordance with the provisions in § 200.313 Equipment paragraph (e).
- (b) The non-Federal entity may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. The Federal awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so. (c) The non-Federal entity is subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Awards, Contracts and Cooperative Agreements." (d) The Federal government has the right to:(1) Obtain, reproduce, publish, or otherwise use the data produced under a Federal award; and(2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.
- (e) Freedom of Information Act (FOIA).(1) In addition, in response to a Freedom of Information Act (FOIA) request for research data relating to published research findings produced under a Federal award that were used by the Federal government in developing an agency action that has the force and effect of law, the Federal awarding agency must request, and the non-Federal entity must provide, within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA. If the Federal awarding agency obtains the research data solely in response to a FOIA request, the Federal awarding agency may charge the requester a reasonable fee equaling the full incremental cost of obtaining the research data. This fee should reflect costs incurred by the Federal agency and the non-Federal entity. This fee is in addition to any fees the Federal awarding agency may assess under the FOIA (5 U.S.C. 552(a)(4)(A)).(2) Published research findings means when:
 - (i) Research findings are published in a peer-reviewed scientific or technical journal; or
 - (ii) A Federal agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law. "Used by the Federal government in developing an agency action that has the force and effect of law" is defined as when an agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law.
- (3) Research data means the recorded factual material commonly accepted in the scientific community as necessary to validate research findings, but not any of the following: preliminary analyses, drafts of scientific papers, plans for future research, peer reviews, or communications with colleagues. This "recorded" material excludes physical objects (e.g., laboratory samples). Research data also do not include:
 - (i) Trade secrets, commercial information, materials necessary to be held confidential by a researcher until they are published, or similar information which is protected under law; and

(ii) Personnel and medical information and similar information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, such as information that could be used to identify a particular person in a research study.

xii. 2 CFR 200.316 Property trust relationship.

Real property, equipment, and intangible property, that are acquired or improved with a Federal award must be held in trust by the non-Federal entity as trustee for the beneficiaries of the project or program under which the property was acquired or improved. The Federal awarding agency may require the non-Federal entity to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a Federal award and that use and disposition conditions apply to the property.

xiii. 2 CFR 200.317 through 2 CFR 200.326 Procurement standards.

2 CFR 200.317 through 2 CFR 200.326 set forth standards for use by recipients in establishing procedures for the procurement of supplies and other expendable property, equipment, real property and other services with Federal funds. These standards are furnished to ensure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and executive orders.

Recipient responsibilities.

The standards contained in this section do not relieve the recipient of the contractual responsibilities arising under its contract(s). The recipient is the responsible authority, without recourse to the DOD Component that made the award, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of an award or other agreement. This includes disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of statute are to be referred to such Federal, State or local authority as may have proper jurisdiction.

Codes of conduct.

The recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to sub-agreements. However, recipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.

xiv. 2 CFR 200.319 Competition.

- (a) All transactions must be conducted in a manner that provides competition to the maximum extent practicable. In order to ensure objective contractor performance and eliminate unfair competitive advantage, Master Cooperative Agreement recipients that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such requirements. Some of the situations considered to be restrictive of competition include but are not limited to:
 - (1) Placing unreasonable requirements on firms in order for them to qualify to do business:
 - (2) Requiring unnecessary experience and excessive bonding;
 - (3) Noncompetitive pricing practices between firms or between affiliated companies;
 - (4) Noncompetitive contracts to consultants that are on retainer contracts;
 - (5) Organizational conflicts of interest;
 - (6) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and
 - (7) Any arbitrary action in the procurement process.
- (b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
- (c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:
 - (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and
 - (2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

xv. 2 CFR 200.320 Procurement procedures.

The non-Federal entity must use one of the following methods of procurement.

- (a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$3,000 (or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.
- (b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.
- (c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.
 - (1) In order for sealed bidding to be feasible, the following conditions should be present:
 - (i) A complete, adequate, and realistic specification or purchase description is available;
 - (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and
 - (iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
 - (2) If sealed bids are used, the following requirements apply:
 - (i) The invitation for bids will be publicly advertised and bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids;
 - (ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
 - (iii) All bids will be publicly opened at the time and place prescribed in the invitation for bids;
 - (iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors

such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

- (v) Any or all bids may be rejected if there is a sound documented reason.
- (d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
 - (1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
 - (2) Proposals must be solicited from an adequate number of qualified sources;
 - (3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
 - (4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
 - (5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(e) [Reserved]

- (f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:
 - (1) The item is available only from a single source;
 - (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
 - (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
 - (4) After solicitation of a number of sources, competition is determined inadequate.

xvi. 2 CFR 200.323 Contract cost and price.

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract

modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

- (b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
- (c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.
- (d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

xvii. 2 CFR 200.326 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to 2 CFR Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

xviii. 32 CFR 32.49 Resource Conservation and Recovery Act.

Under the Resource Conservation and Recovery Act (RCRA) (section 6002, Pub. L. 94–580, 42 U.S.C. 6962), any State agency or agency of a political subdivision of a State which is using appropriated Federal funds must comply with section 6002. Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency (EPA) (40 CFR parts 247–254). Accordingly, State and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal awards or other Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to the EPA guidelines.

xix. 2 CFR 200.333 through 2 CFR 200.337, Records

Sections 32.51 through 32.52 set forth the procedures for monitoring and reporting on the recipient's financial and program performance and the necessary standard reporting forms. They also set forth record retention requirements.

xx. 2 CFR 200.328 Monitoring and reporting program performance.

- (a) Monitoring by the non-Federal entity. The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-Federal entity must cover each program, function or activity. See also § 200.331 Requirements for pass-through *entities*.
- (b) *Non-construction performance reports*. The Federal awarding agency must use standard, OMB-approved data elements for collection of performance information (including performance progress reports, Research Performance Progress Report, or such future collections as may be approved by OMB and listed on the OMB Web site).
 - (1) The non-Federal entity must submit performance reports at the interval required by the Federal awarding agency or pass-through entity to best inform improvements in program outcomes and productivity. Intervals must be no less frequent than annually nor more frequent than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes. Annual reports must be due 90 calendar days after the reporting period; quarterly or semiannual reports must be due 30 calendar days after the reporting period. Alternatively, the Federal awarding agency or pass-through entity may require annual reports before the anniversary dates of multiple year Federal awards. The final performance report will be due 90 calendar days after the period of performance end date. If a justified request is submitted by a non-Federal entity, the Federal agency may extend the due date for any performance report.
 - (2) The non-Federal entity must submit performance reports using OMB-approved government-wide standard information collections when providing performance information. As appropriate in accordance with above mentioned information collections, these reports will contain, for each Federal award, brief information on the following unless other collections are approved by OMB:
 - (i) A comparison of actual accomplishments to the objectives of the Federal award established for the period. Where the accomplishments of the Federal award can be quantified, a computation of the cost (for example, related to units of accomplishment) may be required if that information will be useful. Where performance trend data and analysis would be informative to the Federal awarding agency program, the Federal awarding agency should include this as a performance reporting requirement.
 - (ii) The reasons why established goals were not met, if appropriate.
 - (iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.
- (c) Construction performance reports. For the most part, onsite technical inspections and certified percentage of completion data are relied on heavily by Federal awarding agencies and pass-through entities to monitor progress under Federal awards and subawards for

construction. The Federal awarding agency may require additional performance reports only when considered necessary.

- (d) Significant developments. Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, the non-Federal entity must inform the Federal awarding agency or pass-through entity as soon as the following types of conditions become known:
 - (1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
 - (2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.
- (e) The Federal awarding agency may make site visits as warranted by program needs.
- (f) The Federal awarding agency may waive any performance report required by this part if not needed.

xxi. 2 CFR 200.327 Financial reporting.

Unless otherwise approved by OMB, the Federal awarding agency may solicit only the standard, OMB-approved government-wide data elements for collection of financial information (at time of publication the Federal Financial Report or such future collections as may be approved by OMB and listed on the OMB Web site). This information must be collected with the frequency required by the terms and conditions of the Federal award, but no less frequently than annually nor more frequently than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes, and preferably in coordination with performance reporting.

xxii. 2 CFR 200.333 Retention requirements for records.

Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a sub-recipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. The only exceptions are the following:

(a) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

- (b) When the non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.
- (c) Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.
- (d) When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the non-Federal entity.
- (e) Records for program income transactions after the period of performance. In some cases recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.
- (f) Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).
 - (1) If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.
 - (2) If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

xxiii. 2 CFR 200.334 Requests for Transfer of Records

The Federal awarding agency must request transfer of certain records to its custody from the non-Federal entity when it determines that the records possess long-term retention value. However, in order to avoid duplicate recordkeeping, the Federal awarding agency may make arrangements for the non-Federal entity to retain any records that are continuously needed for joint use.

xxiv. 2 CFR 200.335 Methods for Collection, Transmission and Storage of Information

In accordance with the May 2013 Executive Order on Making Open and Machine Readable the New Default for Government Information, the Federal awarding agency and the non-Federal entity should, whenever practicable, collect, transmit, and store Federal award-related information in open and machine readable formats rather than in closed formats or on paper. The Federal awarding agency or pass-through entity must always provide or accept

paper versions of Federal award-related information to and from the non-Federal entity upon request. If paper copies are submitted, the Federal awarding agency or pass-through entity must not require more than an original and two copies. When original records are electronic and cannot be altered, there is no need to create and retain paper copies. When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable.

xxv. 2 CFR 200.336 Access to records.

- (a) Records of non-Federal entities. The Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the non-Federal entity's personnel for the purpose of interview and discussion related to such documents.
- (b) Only under extraordinary and rare circumstances would such access include review of the true name of victims of a crime. Routine monitoring cannot be considered extraordinary and rare circumstances that would necessitate access to this information. When access to the true name of victims of a crime is necessary, appropriate steps to protect this sensitive information must be taken by both the non-Federal entity and the Federal awarding agency. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by the head of the Federal awarding agency or delegate.
- (c) Expiration of right of access. The rights of access in this section are not limited to the required retention period but last as long as the records are retained. Federal awarding agencies and pass-through entities must not impose any other access requirements upon non-Federal entities.

xxvi. 2 CFR 200.339 Termination.

- (a) The Federal award may be terminated in whole or in part as follows:
 - (1) By the Federal awarding agency or pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award;
 - (2) By the Federal awarding agency or pass-through entity for cause;
 - (3) By the Federal awarding agency or pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or
 - (4) By the non-Federal entity upon sending to the Federal awarding agency or passthrough entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated.

However, if the Federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entirety.

- (b) When a Federal award is terminated or partially terminated, both the Federal awarding agency or pass-through entity and the non-Federal entity remain responsible for compliance with the requirements in §§ 200.343 Closeout and 200.344 Post-closeout adjustments and continuing responsibilities.
- (c) In the event of the termination of the Federal award by the Federal entity for any reason, the Federal entity shall pay all allowable costs as defined in this agreement incurred by the non-Federal entity prior to the termination of the agreement.

xxvii. 2 CFR 200.338 Remedies for noncompliance.

If a non-Federal entity fails to comply with Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or pass-through entity may impose additional conditions, as described in § 200.207 Specific conditions. If the Federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

- (a) Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity.
- (b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- (c) Wholly or partly suspend or terminate the Federal award.
- (d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).
- (e) Withhold further Federal awards for the project or program.
- (f) Take other remedies that may be legally available.

xxviii. 2 CFR 200.341 Opportunities to object, hearings and appeals.

Upon taking any remedy for non-compliance, the Federal awarding agency must provide the non-Federal entity an opportunity to object and provide information and documentation challenging the suspension or termination action, in accordance with written processes and procedures published by the Federal awarding agency. The Federal awarding agency or pass-through entity must comply with any requirements for hearings, appeals or other administrative proceedings which the non-Federal entity is entitled under any statute or regulation applicable to the action involved.

xxix. 2 CFR 200.343 Closeout.

The Federal agency or pass-through entity will close-out the Federal award when it determines that all applicable administrative actions and all required work of the Federal award have been completed by the non-Federal entity. This section specifies the actions the non-Federal entity and Federal awarding agency or pass-through entity must take to complete this process at the end of the period of performance.

- (a) The non-Federal entity must submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by or the terms and conditions of the Federal award. The Federal awarding agency or pass-through entity may approve extensions when requested by the non-Federal entity.
- (b) Unless the Federal awarding agency or pass-through entity authorizes an extension, a non-Federal entity must liquidate all obligations incurred under the Federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award.
- (c) The Federal awarding agency or pass-through entity must make prompt payments to the non-Federal entity for allowable reimbursable costs under the Federal award being closed out.
- (d) The non-Federal entity must promptly refund any balances of unobligated cash that the Federal awarding agency or pass-through entity paid in advance or paid and that is not authorized to be retained by the non-Federal entity for use in other projects. See OMB Circular A-129 and see § 200.345 Collection of amounts due for requirements regarding unreturned amounts that become delinquent debts.
- (e) Consistent with the terms and conditions of the Federal award, the Federal awarding agency or pass-through entity must make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.
- (f) The non-Federal entity must account for any real and personal property acquired with Federal funds or received from the Federal government in accordance with §§ 200.310 Insurance coverage through 200.316 Property trust relationship and 200.329 Reporting on real property.
- (g) The Federal awarding agency or pass-through entity should complete all closeout actions for Federal awards no later than one year after receipt and acceptance of all required final reports.

xxx. 2 CFR 200.344 Post-closeout adjustments and continuing responsibilities.

- (a) The closeout of a Federal award does not affect any of the following.
 - (1) The right of the Federal awarding agency or pass-through entity to disallow costs and recover funds on the basis of a later audit or other review. The Federal awarding agency or pass-through entity must make any cost disallowance determination and notify the non-Federal entity within the record retention period.

- (2) The obligation of the non-Federal entity to return any funds due as a result of later refunds, corrections, or other transactions including final indirect cost rate adjustments.
- (3) Audit requirements in Subpart F—Audit Requirements of this part.
- (4) Property management and disposition requirements in Subpart D—Post Federal Award Requirements of this part, §§ 200.310 Insurance Coverage through 200.316 Property trust relationship.
- (5) Records retention as required in Subpart D—Post Federal Award Requirements of this part, §§ 200.333 Retention requirements for records through 200.337 Restrictions on public access to records.
- (b) After closeout of the Federal award, a relationship created under the Federal award may be modified or ended in whole or in part with the consent of the Federal awarding agency or pass-through entity and the non-Federal entity, provided the responsibilities of the non-Federal entity referred to in paragraph (a) of this section including those for property management as applicable, are considered and provisions made for continuing responsibilities of the non-Federal entity, as appropriate.

xxxi. 2 CFR 200.345 Collection of amounts due.

- (a) Any funds paid to the non-Federal entity in excess of the amount to which the non-Federal entity is finally determined to be entitled under the terms of the Federal award constitute a debt to the Federal government. If not paid within 90 calendar days after demand, the Federal awarding agency may reduce the debt by:
 - (1) Making an administrative offset against other requests for reimbursements;
 - (2) Withholding advance payments otherwise due to the non-Federal entity; or
 - (3) Other action permitted by Federal statute.
- (b) Except where otherwise provided by statutes or regulations, the Federal awarding agency will charge interest on an overdue debt in accordance with the Federal Claims Collection Standards (31 CFR parts 900 through 999). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

2. Reporting

i. Quarterly and Annual Reporting Requirements

Awardees must provide progress reports that validate progress on the required tasks to the USACE project manager on a quarterly basis at a minimum. Communications in person, by phone, and by email shall supplement the progress reporting requirements whenever key, complex, or high-profile activities are underway to ensure that USACE is never lacking pertinent project information.

Progress reports and invoices must match, i.e. quarterly invoices should be delivered with

quarterly progress reports. Monthly invoices will require monthly progress reports.

Final reports must be provided to USACE at the end of the Agreement Order or upon request. Quarterly reports should accompany invoices since they are reviewed prior to processing invoices. File nomenclature should follow the format:

YYMMDD_AgreementOrder#_EntityAbbreviation.pdf

Example: 180417 AO546 USACE.pdf

ii. OMB Guidance, Grants and Agreements, Guidelines to Agencies on Governmentwide Debarment and Suspension 2 CFR 180 Subpart C .335-.350

2 CFR 180.335-.350 provides answers to questions an applicant may have regarding information an applicant must provide before entering into a covered transaction with a federal agency.

Sponsored by: Mayor Michael W. Welch Introduced and Advanced: September 8, 2020

CITY OF NORTH POLE 1 2 **ORDINANCE 20-21** 3 AN ORDINANCE OF THE CITY OF NORTH POLE, ALASKA TO AMEND THE 2020 WATER UTILITY OPERATING BUDGET, 4 5 PROFESSIONAL SERVICES TO FINANCE SITE CHARATIZATION WORK AT THE 8TH AVENUE PUMP HOUSE AND OTHER TASKS 6 7 8 WHEREAS, changes to the public services practices and policies is a continually changing 9 requirement; and, 10 11 WHEREAS, the City of North Pole budget should be amended to conform to the requirements 12 of the City; and, 13 14 WHEREAS, adjustment in the budget are necessary to remain compliant with council approved 15 authorizations and budget management rules, and 16 17 WHEREAS, fiscal notes are the method prescribed by the code to amend a budget; and, 18 WHEREAS, fiscal notes have been reviewed by the Accountant and Mayor for accuracy and 19 20 will be recorded as amendments to the budget upon approval, 21 22 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of North Pole that it 23 approves changes as listed in the fiscal notes attached to this ordinance for the purpose managing 24 the City budget. 25 26 **Section 1**. This ordinance is of a general nature and shall not be codified. 27 28 **Section.** Effective date. 29 This ordinance shall become effective immediately upon passage. 30 31 **Introduced and advanced** by a duly constituted quorum of the North Pole City Council this 8th 32 day of September, 2020. 33 34 35 36 Michael W. Welch, Mayor 37 ATTEST: 38 39 40 Aaron Rhodes, North Pole City Clerk 41 42 43 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: August 31, 2020

Subject: Shannon & Wilson terms of service to perform site Phase 3 characterization work

related to the 8th Avenue Pump House heating fuel oil spill.

Approve

Scope of service, additional site characterization, City of North Pole 8th Avenue fire well pump house, ADEC file number 100.38.224 for \$14,313.

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.

The Phase 2 site characterization started in 2019 and was completed in early summer 2020 and contract expenses were invoiced in summer 2020. The work identified an approximately northern and western limit to the plume. The next stage of work expected by the ADEC Contaminated Sites is to

determine if there is vapor intrusion into the three homes immediately north of the 8th Avenue Pump House. This work requires approval of the property owners and the installation of vapor sampling equipment in their homes. Shannon and Wilson's attached professional services agreement details the work they will perform in early fall 2020.

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.



City of North Pole, Alaska

Fiscal Note Year:

Accomp	anying Ordinance/Resolution	on:		
Originate	or / sponsor:			
Date:				
Does the	e Ordinance or Resolution	have a fiscal impact?	yes	no
FUND	Account Description	Account #	Debit	Credit
	ry: (Brief description of procee or resolution. Where did	_	-	
Prepare	ed By:	Date	:	
Finance	Approval:	Date		

NOTE- Fiscal notes attached to an ordinance are considered amendments to the budget and do not require an additional approval for insertion into the budget document.



August 19, 2020

Mr. Bill Butler City of North Pole 125 Snowman Lane North Pole, Alaska 99705

RE:

PROPOSED SCOPE OF SERVICES, 2020 WORK PLAN IMPLEMENTATION, CITY OF NORTH POLE 8TH AVENUE FIRE-WELL PUMP HOUSE, NORTH POLE, ALASKA

ADEC FILE #: 100.38.224

We are pleased to present our proposal to support the City of North Pole by implementing services described in the 8th Avenue Fire-Well Pump House Vapor Intrusion Investigation Work Plan (WP) dated August 2020. The WP was submitted to the Alaska Department of Environmental Conservation (DEC) on August 13, 2020. We received WP approval from DEC on August 14, 2020.

PROJECT PURPOSE AND OBJECTIVES

The project purpose is to further investigate the potential for vapor intrusion risk at the residences on the north side of 8th Avenue, downgradient of the pump house site. Our objective is to obtain additional information on soil gas and indoor air conditions downgradient of the site to better delineate the contaminant plume and determine the risk to off-site receptors from contamination identified near the fire-well pump house. The overall goal of this project is to determine whether further monitoring and/or corrective actions may be necessary.

SCOPE OF SERVICES

The following sections summarize our proposed scope of services; additional details regarding each task is described in the WP. Our cost estimate, presented as an attachment, includes a breakdown of the labor and expenses for the project.

TASK 1- FIELD ACTIVITIES

Upon receiving notice to proceed, we will coordinate sampling schedules with the property owners of 107, 115, and 123 8th Avenue. We anticipate field activities will be conducted as

soon as coordination efforts are complete and sampling equipment is received, in late fall 2020 (September or October). If we are unable to coordinate access to a residential property, we will notify you immediately and provide you with alternative options, for approval by DEC. We will collect soil-gas, indoor-air, and outdoor-air samples as described in Section 5 of the WP, for the analytes described in Sections 4 and 6 of the WP.

TASK 2 – REPORTING

We will review analytical data generated by the laboratory and prepare a summary report in which we will document field activities, summarize air and soil-gas sampling results, and evaluate those results in the context of DEC residential target 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, DEC data-review checklists, and copies of COC records with the report.

We will submit a draft summary report to you approximately 45 days from receipt of the final laboratory report. Any comments from the CoNP will be incorporated in the report and a final report will be submitted to the DEC 60 days from receipt of the final laboratory report.

PROJECT TEAM

Mark Lockwood will serve as the Shannon & Wilson's Principal-in-Charge, and Sheila Hinckley will serve as the Project Manager. Shannon & Wilson's project team also includes other State of Alaska Qualified Environmental Professionals from our Fairbanks office as needed, to support the various field and reporting tasks required to achieve project objectives.

SCHEDULE

We will begin work upon your acceptance of this proposal. Dependent on temperatures and residential property schedules, we anticipate sampling be completed in September or October 2020.

ASSUMPTIONS

Our costs assume residential property access will be granted and/or sampling activities can be completed without the use of a vacuum truck as described on our May 18, 2020 *Coordinate Access to Residential Properties and Prepare Work Plan* Proposal.

TERMS AND CONDITIONS

Our fee for conducting the scope of services described above will be on a time and materials basis. Estimated costs associated with each task are listed in the attached Project Cost Estimate.

Our fee for the above services and the terms and conditions under which our services are offered will be in accordance with our Standard General Terms and Conditions (All Purpose), attached to and an integral part of our proposal. If you are unwilling or unable to accept these terms and conditions, we are willing to negotiate these terms and conditions and their associated impacts on our approach, scope of services, schedule, and price. At the time you accept our proposal, you must notify us in writing of your intent to negotiate. If you do not submit written notification to the contrary, we will proceed on the basis you accept our proposal as stated.

If this proposal meets with your approval, please sign in the space provided and return one signed copy of this letter, which will constitute your authorization for us to proceed with the services. The estimated fee and schedule for this work is firm for 60 days from the date of this proposal. Should acceptance and authorization for this work come after 60 days, we will review our estimate to determine if any changes have occurred that would affect the cost or schedule.

We have attached to this proposal a document titled "Important Information about your Environmental Proposal" which explains the limitations on our services. Please read it carefully so that you understand what our services can and cannot do for you.



We are pleased to have the opportunity to assist you with this project. Please contact me at 907-458-3151 if you have any questions.

Sincerely,

SHANNON & WILSON

Sheila Hinckley

Senior Environmental Scientist

SMH:MSL/smh

Enc. Project Cost Estimate

Standard Terms and Conditions (All Purpose)

Important Information about your Environmental Proposal

ACCEPTANCE

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

Title: _____ Date: _____

By:	Printed Name:	

SUMMARY OF PROBABLE COSTS

SHANNON & WILSON, INC. GEOTECHNICAL AND ENVIRONMENTAL CONSULTANTS	Proposal: Date: Client: Project:	105636-P1 August 19, 2020 City of North Pole 8th Avenue Fire-M	e :Well Pump House \	105636-P1 August 19, 2020 City of North Pole 8th Avenue Fire-Well Pump House Vapor Intrusion Investigation	stigation
Professional Services Summary	Labor	Other Direct Costs	Subcontract	Expense Total	M/U on Subcontracts
Task 1: Field Activities	\$3,410	\$537	\$2,936	\$3,473	\$440
Task 2: Reporting	\$6,940	\$50	\$0	\$50	\$0
Total Fee	\$10,350	\$587	\$2,936	\$3,523	\$440

\$6,990

\$7,323

Totals

\$14,313

SUMMARY OF PROBABLE COSTS

SHANNON & WILSON, INC.

Proposal: 105636-P1

Date: August 19, 2020 Client: City of North Pole Project: 8th Avenue Fire-Well Pump House Vapor Intrusion Inves

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					Labor Hours				
Task 1: Field Activities	Officer	Sr. Associate	Sr. Associate Sr. Scientist Sr. Scientist I	Sr. Scientist I	Scientist IV	Scientist III 8	Sr. Tech	Office Svcs IV	Totals
Preparation and DEC Building Inventory Completion				9					9
Fall 2020 Activities (Installation and Sampling)				16					16
Sampling in the Right-of-Way (If Required)	-	1		2					4
Task Subtotal Hours	1	1		24					26
Hourly Rate	\$225.00	\$185.00	\$140.00	\$125.00	\$110.00	\$100.00	\$95.00	\$85.00	62 440
Task Subtotal Labor	\$225	\$185	\$0	\$3,000	\$0	\$0	\$0	\$0	93,410
Other Direct Costs	Number	Unit	Unit Rate	Sets	Amount	Comments:			
Water Sounder	0.5	0.5 day	\$25		\$13	Sudantana Padal	tional labor	James one to	thor of
BaroLogger	•	week	\$50		\$50	of way along with a subcontractor for a private utility.	iioiiai iaboi	noi one sample	in the right
AMS Gas Vapor Probe System	-	day	\$50		\$50	loots Those those those included in the prior of	tome ore in	nuacioi ioi a p	Ivale ullily
Sampling Pump and helium detector		day	\$149		\$149	princip appropriate monage of DEC		ciudeu III lille e	
Bosch Rotohammer	-	day	\$50		\$50	private property refuses access and DEC	y reiuses a	cess and DEC	
Vehicle	_	day	\$75		\$75	requests/requires a replacement sample.	res a repiac	ement sampre	
Pump Tubing and Sampling Supplies	_	LS	\$150		\$150				
						High Level Sample Preprincipled in Subconfractor	nole Pren ir	odiia di babilor	Ontractor
ODC Subtotal					\$537	costs only if required by the Jahoraton, "Additional	ii yo i oldiii	e laboratory "	Aditional
Subcontracts	Number	Unit	Unit Rate	Sets	Amount	comple proper	quilida by til	e rabulatol y.	יס ממנים מ
Laboratory Analysis						bigh long matrix into former in the case of	alloll IIIay D	e required in u	בי כפים פים כפים פים כפים
Soil-Gas Samples (TO-15 Modified)	4	sample	\$135.00		\$540	iigii level iilatiix iiiterterence.	iz illellele	<u>.</u> 2	
Soil-Gas Samples (ASTM D-1946)	4	sample	\$90.00		\$360				
Indoor/Outdoor Air Samples (TO-15 Modified)	5	5 sample	\$135.00		\$675	1	ASK COST	TASK COST SUMMARY	
Laboratory Media Preparation (canisters, flow controllers, etc.)	_	1 LS	\$716.00		\$716				
High Level Sample Prep (If Required)	13	13 sample	\$15.00		\$195	Labo	Labor Subtotal		\$3,410
Laboratory Shipping	-	LS	\$200.00		\$200	000	ODC Subtotal		\$537
Utility Locates						Sub	Subcontracts		\$2,936
Star Electric - private utility locates (If Required)	1	LS	\$250.00		\$250	Total	Total Expenses		\$3,473
Subcontract Subtotal					\$2,936	Subcon	Subcontract M/U	15%	\$440.40
TASK SUBTOTAL									\$7,323

SUMMARY OF PROBABLE COSTS

SHANNON & WILSON, INC. GEOTECHNICAL AND ENVIRONMENTAL CONSULTANTS				Proposal: Date:	Proposal: 105636-P1 Date: August 19, 2020)20 Pole			
				Project:	8th Avenue F	ire-Well Pump	House Vapor	8th Avenue Fire-Well Pump House Vapor Intrusion Inves	
					Labor Hours				
Task 2: Reporting	Officer	Sr. Associate	Sr. Scientist Sr. Scientist II	Sr. Scientist I	Scientist IV	Scientist III	Sr. Tech	Office Svcs IV	Totals
Eall 2020 Data Review and Validation				4	œ				12
August 2020 Report (Draft and Final)	2			. 12	20			-	: 88
Regulatory Comments and Coordination (If Required)	-		-	4				-	7
Task Subtotal Hours			-	23	28			2	27
Hourly Rate Task Support	\$225.00	\$185.00	\$140.00	\$125.00	\$110.00	\$100.00	\$95.00	\$85.00	\$6,940
Other Direct Costs	Num	Unit	Unit Rate	Sets	Amount	Comments:			
Misc. phone, copies (Includes up to 1 revision if required)		2 reports	\$25		\$50	Additional Is comment re required.	sponses and	Additional labor included for one set of Regulatory comment responses and one report revision, if required.	egulatory ion, if
ODC Subtotal					\$50				
Subcontracts	Number	Unit	Unit Rate	Sets	Amount				
							TASK COST SUMMARY	SUMMARY	
						La	Labor Subtotal		\$6,940
						O 4	ODC Subtotal		\$50
						2 01	Subcontracts Total Expenses		\$50
Subcontract Subtotal					\$0	Subc	Subcontract M/U	15%	\$0.00
TASK SUBTOTAL									\$6,990



Attachment to and part of Proposal: 105636

Date: August 19, 2020

City of North Pole

Attn: Mr. Bill Butler

8th Ave Fire-Well Pump House: Work Plan Implementation

Standard General Terms and Conditions

To:

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 that 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-FEES AND EXPENSES FOR RENDERING SERVICES

Fees for Professional Services

Fees for Shannon & Wilson's services are based on the actual time expended on the project, including travel, by our personnel and will be computed by multiplying the actual number of hours worked times the following rates. These rates are for the 2020 calendar year. At the end of each calendar year, our rates will be adjusted for the next calendar year.

Officers/Associates		Engineer/Geologist/Hydrolog	gist/Environmental	Field and Lab Technician/Drafter/Technical Assistant		Overtime
Officers/VP	\$225.00	Senior Professional III	\$160.00	Senior Technical Services (Senior, IV)	\$90.00	\$112.50
Senior/Associate	\$185.00	Senior Professional II	\$140.00	Technical Services (III, II, I)	\$85.00	\$106.25
Associate	\$170.00	Senior Professional I	\$125.00	• • • •		
		Professional IV	\$110.00	Word Processing/Reproduction/Records/Clerical		
Special Services		Professional III	\$100.00	Senior Office Services (Senior, V, IV)	\$95.00	\$118.75
Computer Analyst	\$200.00	Professional II	\$92.00	Office Services (III, II, I)	\$75.00	\$93.75
Information Resources Specialist	\$135.00	Professional I	\$80.00	, . , ,		

Expert Testimony

Hourly rates will be doubled for time spent actually providing expert testimony in court or depositions.

Reimbursable Expenses

Expenses other than salary costs that are directly attributable to our professional services will be invoiced at our cost plus 15%. Examples include, but are not limited to, expenses for out-of-town travel and living, information processing equipment, instrumentation and field equipment rental, special fees and permits, premiums for additional or special insurance where required, telecommunication charges, local mileage and parking, use of rental vehicles, taxi, reproduction, local and out-of-town delivery service, express mail, photographs, laboratory equipment fees, shipping charges, and supplies.

ARTICLE 4-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 by more than 10% 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 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 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 5-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 6-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 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, and indemnify and hold Shannon & Wilson and its subcontractors harmless from any claims, liability, or expenses (including reasonable attorneys' fees and costs) 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, and indemnify and hold Shannon & Wilson and its subcontractors harmless from any claims, liability, or expenses (including reasonable attorneys' fees and costs) arising from damage to buried structures and/or utilities caused by Shannon & Wilson's sampling, 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, and indemnify and hold Shannon & Wilson and its subcontractors harmless from any claims, liability, or expenses (including reasonable attorneys' fees and costs) arising from cross-contamination caused by Shannon & Wilson's sampling, 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 that 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 that 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 that 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, and indemnify and hold Shannon & Wilson harmless from any claims, liability, or expenses (including reasonable attorneys' fees and costs) arising from the implementation of Shannon & Wilson's design recommendations, 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 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 contractors means, methods, sequences, procedures, or safety precautions; or that contractor's subcontractors, laborers, and suppliers have been paid.

ARTICLE 7-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, and indemnify and hold Shannon & Wilson and its subcontractors harmless from any claims, liability, or expenses (including reasonable attorneys' fees and costs) arising from such reuse, 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 is 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 8-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

\$4,000,000 Bodily Injury/Property Damage combined Single Limit in excess of Commercial General Liability, Auto Liability, and Employer's Liability.

Workers' Compensation

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

Professional Liability

\$5,000,000 per claim/\$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.

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 Employer's 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 9-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 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

Except to the extent caused by Shannon & Wilson's and its subcontractor's negligent or wrongful acts, errors, omissions, or breach of contract, and only to the maximum extent permitted by law, Client shall indemnify and hold harmless Shannon & Wilson, its subcontractors, and their 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 arrangement for and/or ownership, operation, generation, labeling, transportation, storage, disposal, treatment, release, or threatened release of any hazardous or toxic materials, as defined by CERCLA, MTCA, or similar federal, state, or local environmental laws, on and/or from the project site.

ARTICLE 10-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, 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, workers' 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. Absent your prior written notification to the contrary, we will proceed on the basis that our total liability is limited as set forth above.

B. Professional Liability Limited to \$50,000 or 10% of Fee

With respect to professional errors or omissions only, 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, 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 professional errors or omissions of Shannon & Wilson, its subcontractors, or their partners, officers, directors, employees, agents or, or any of them, shall not exceed the aggregate total amount of \$50,000.00 or 10% of the total compensation actually paid to Shannon & Wilson under this Agreement, whichever is greater. If you are unwilling or unable to limit our professional liability to these sums, we will negotiate the amount of 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 the amount of 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 professional liability is limited to \$50,000.00 or 10% of the total compensation actually paid to Shannon & Wilson under this Agreement, whichever is greater.

ARTICLE 11-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 that 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 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 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 that is invalid or unenforceable, and this Agreement shall then be construed without reference to the void or unenforceable provisions.



Attachment to and part of Proposal: 105636-P

Date: August 19, 2020

City of North Pole

Attn: Mr. Bill Butler

Important Information About Your Environmental Proposal

To:

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 that 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, conduct additional tests if required, and when necessary, 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 may be 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

Sponsored by: Mayor Welch Introduced & Adopted: September 21, 2020

	ITY OF NORTH POLE RESOLUTION 20-07
	POLE CITY COUNCIL DESIGNATING CITY OFFICIALS IGN ON CITY OF NORTH POLE ACCOUNTS
	nancial responsibilities of city government the City Council must sign and endorse checks, drafts or other orders on behalf of the
	nnel on the North Pole City Council and it is necessary for the tho will be authorized to sign and endorse checks, drafts or other; and
	o seek financial services that safeguard the financial resources of rvice at the most affordable cost and best interest rates.
	that the following city officials are hereby designated and drafts or other orders on behalf of the City of North Pole. This ted in writing.
	e city officials listed below are authorized to receive information ms paid or items returned on City accounts. This authority will
Michael W. Welch	
DeJohn Cromer	
Thomas McGhee	
Perry Walley	
Santa Claus	
David A. Skipps Sr.	
Aaron M. Rhoades	
PASSED AND APPROVED by a duly of Alaska this 21 st day of September, 2020.	constituted quorum of the City Council of the City of North Pole,
	Michael W. Welch, Mayor
ATTEST:	
Aaron M. Rhoades, City Clerk	PASSED Yes: No: Abcent:

CITY OF NORTH POLE 1 2 **ORDINANCE 20-22** 3 4 AN ORDINANCE OF THE CITY OF NORTH POLE, ALASKA 5 AMENDING TITLE 4, CHAPTER 08.050 SALES TAX CODE TO COLLECT 6 SALES TAX FROM ONLINE RETAILERS 7 8 WHEREAS, changes to the North Pole Municipal Code is a continuously changing 9 requirement; and, 10 11 WHEREAS, catalog, multi-level marketing, and online retail sellers making deliveries to 12 buyers in the City of North Pole benefit from our North Pole citizen's; and, 13 14 WHEREAS, exempting catalog and internet retailers from the obligation to collect and 15 remit sales taxes provides these retailers an unfair competitive advantage over local 16 retailers in brick and mortar stores which by doing business must pay property taxes, 17 insurance, utilities, and collect and remit sales taxes to the City of North Pole; and, 18 19 WHEREAS, in order to pursue a new revenue stream the City of North Pole will remove 20 the exemption for goods and services purchased through mail order catalogs or the internet; 21 and, 22 23 WHEREAS, to continuously provide quality services to our citizens, businesses and to 24 attract future growth to our community; and, 25 26 WHEREAS, to continuously provide quality services to our citizens, businesses and to 27 attract future growth of our community; and, 28 29 WHEREAS, the City of North Pole Municipal Code should be amended to conform to the 30 Requirements of the City and to provide clarification as needed. 31 32 **NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of North Pole: 33 Section 1. This ordinance is of a general and permanent nature and shall be codified, Section 2. General Provisions of the North Pole Municipal Code of Ordinances are 34 35 amended as follows: [deleted text in red strikethrough font]: 36 37 **4.08.050** Exemptions. 38 A. The following classes of sales, rentals, and services are exempt from the tax imposed by 39 this chapter: 40 1. Casual and isolated sales not exceeding \$1,000 (one thousand dollars) per calendar year and 41 not requiring the seller to hold a current City or State business license;

- 2. Sales, services, rentals, and transactions which the municipality is prohibited from taxing
- 2 under the Constitution of the United States or the State of Alaska, including but not limited to:
- a. Sales of insurance bonds of guaranty, fidelity, and the commissions thereon,
- 4 b. Sales to Federally chartered credit unions,
- 5 c. Sales of goods made with food coupons, food stamps, or other type of certificate issued
- 6 under 7 USC 2011 through 2025 (Food Stamp Act), or made with food coupons, food vouchers,
- or other type of certificate issued under <u>42 USC 1786</u> (Special Supplemental Food Program for
- 8 Women, Infants, and Children);
- 9 3. Sales, rentals, or services provided to the United States, to the State of Alaska, and any
- 10 public corporation or political subdivision thereof;
- 4. Sales, rentals, or services provided to any volunteer ambulance, fire, or law enforcement
- organization providing service to the public and to public international organizations designated
- by the President of the United States;
- 5. Sales of professional medical services performed by a person, clinic, or hospital licensed
- and certified under the State of Alaska:
- a. The preparation of controlled substances prescribed and supplied by a State licensed and
- 17 certified medical professional,
- b. Counseling services provided by State licensed and certified psychologists or psychological
- associates, clinical social workers, alcohol and drug counselors, or marital and family therapists,
- 20 c. Assisted living services provided in accordance with State regulations, and licensed by
- 21 such.
- d. Sales and rentals of hearing aids, crutches, wheelchairs, and other personal property
- 23 specifically manufactured for a patient;
- 6. Sales of newspapers or other periodicals by carrier made directly to consumers where the
- carrier is responsible for the collection of sales revenue;
- 7. Membership dues, fees, or assessments paid to clubs, labor unions, fraternal organizations,
- and other nonprofit organizations that have obtained Exemption Certificate 501(c) from the
- 28 Internal Revenue Service;

- 1 8. Sales, services, and rentals to a buyer, or made by a seller, for functions organized and
- 2 administered solely by an organization holding a current 501(c)(3) or 501(c)(4) exemption
- 3 ruling or equivalent from the Internal Revenue Service which has a physical or mailing address
- within City limits and a resolution or letter from the board, naming up to a maximum of six 4
- 5 individuals, authorized to make purchases on behalf of the organization. This exemption does
- 6 not apply to the sale of pull-tab games;
- 7 9. Sales of school admission tickets, goods, services, and rentals for school entertainment,
- 8 athletic activities, and all other activities conducted by school sanctioned groups;
- 9 Sales of food and beverages in public or private school and college cafeterias or
- 10 lunchrooms which are not operated for profit;
- 11 Rentals of real property where the term of tenancy is monthly or longer;
- 12 12. Sales, rentals, or leases/purchase agreements of automobiles by a dealer made outside City
- 13 limits;
- 14 13. Sales for resale (wholesale) of tangible personal or real property, other than tobacco, to a
- buyer for reselling in its original form; 15
- 16 The commission earned on real estate sales;
- 17 Air, train, bus and boat fares, lodging, adventure and similar and related services and the
- 18 commission earned by licensed agents in the sale thereof;
- 19 16. Sales of food and merchandise in the farmer's market. City business licenses are required
- 20 by vendors;
- 21 Sales of services to include but not limited to architectural, carpentry, electrical,
- 22 engineering, financial, general contractor, landscaping, legal, plumbing, snow removal, etc. City
- 23 business licenses are required; the sale of goods and products associated with the service is not
- 24 exempt unless previously described in this chapter
- 26 **Section 1.** Effective Date. This ordinance shall be effective at 5:00 pm on the first
- 27 business day following its adoption.
- 29 **Introduced and advanced** by a duly constituted quorum of the North Pole City Council this
- 30 21st day of September, 2020.

25

28

Sponsored by: Mayor Michael W. Welch and Councilman Santa Claus Introduced and Advanced: September 21, 2020

1			
2 3		_	Michael W. Welch, Mayor
4	ATTEST:		
5			
6			
7			
8	Aaron M. Rhoades, North Pole Ci	ty Clerk	
9			
10		PASSED/FAILED	
11		Yes:	
12		No:	
13		Absent:	



North Pole Police Department



Chief Steve Dutra 125 Snowman Ln. North Pole, AK 99705 907-488-6902 Northpolepolice.org

September 14, 2020

To: Honorable Mayor Welch

North Pole City Council

Re: CARES ACT – NPPD Health and Safety Funding

Honorable Mayor Welch and Council members:

The North Pole Police department requires a COVID-19 processing and decontamination area to keep the public and officers safe. This is a capability that we do not currently have available today to address coronavirus pandemic. The proposed structure provides a separate processing of detained individuals in an area that limits the risk of infecting other police force members as well as the other detainees. This separation philosophy will better help to address COVID-19 as well as other emergency situations that may arise.

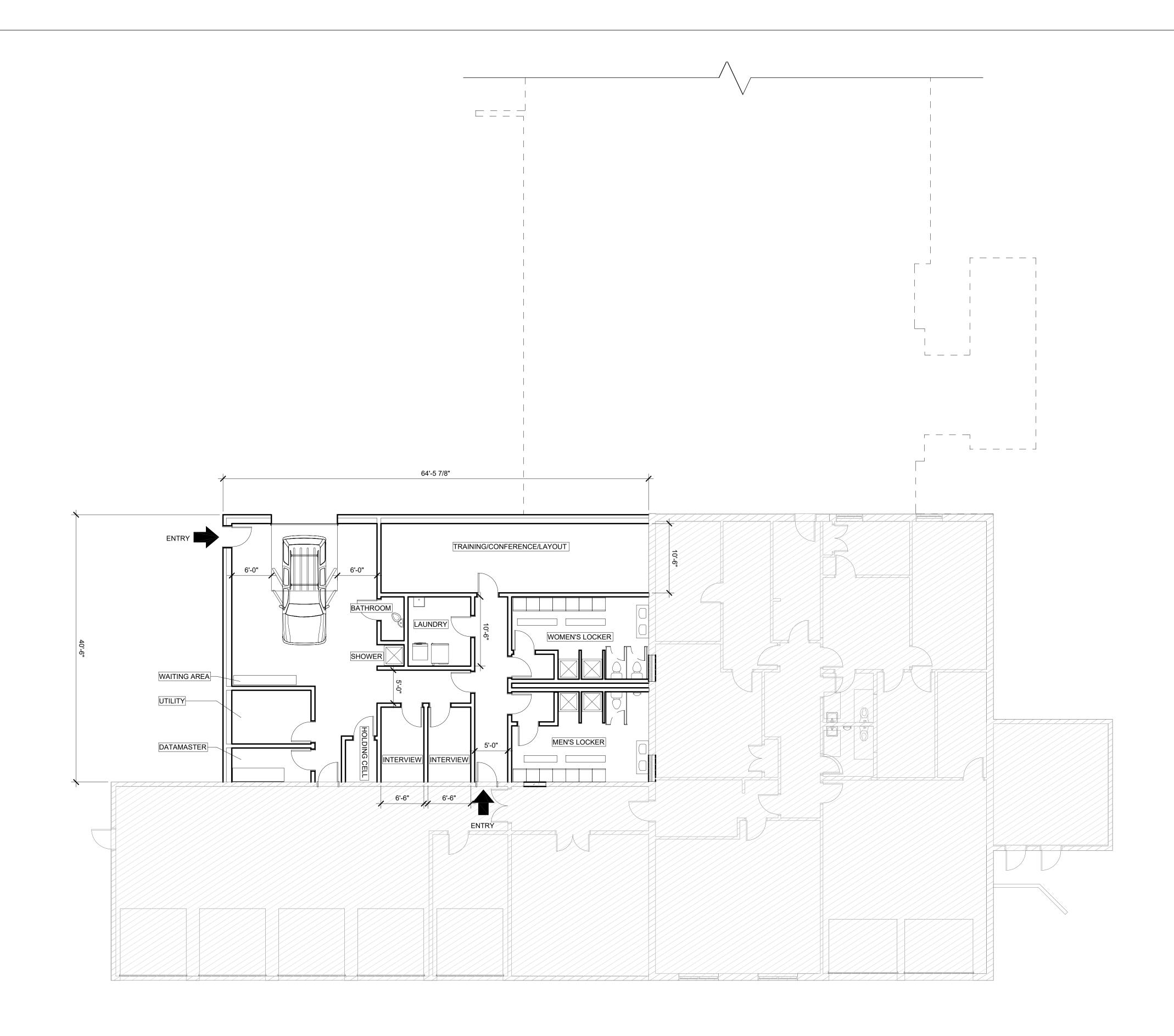
These separate processing, cleaning, decontamination, interviewing areas are critical to isolate staff and stop commingling of suspects, prisoners, interviewees, from the police department office and administrative areas while allowing proper disinfecting and decontamination processes to occur and not endanger the remaining building. Employees, specifically patrol officers must be given an adequate and safe place to decontaminate at the end of their shifts, to receive shift briefings and training without commingling with administrative staff and areas.

The North Pole CARES ACT Committee has authorized funding to help address these concerns. It is clear that the officers at the North Pole Police Department do not have adequate facilities to accomplish proper decontamination in case of an exposure or to routine decontamination procedures.

We ask that the North Pole City Council authorize \$95,000, of CARES Act Funding to initiate the design and RFP drafting services from Design Alaska. Please see proposed narrative and design proposals.

Thank you for your time.

Chief Steve Dutra



Resign Alaska
/ \

Architects · Engineers · Surveyors 601 College Road Fairbanks AK 99701 907.452.1241 AECC511 designalaska.com

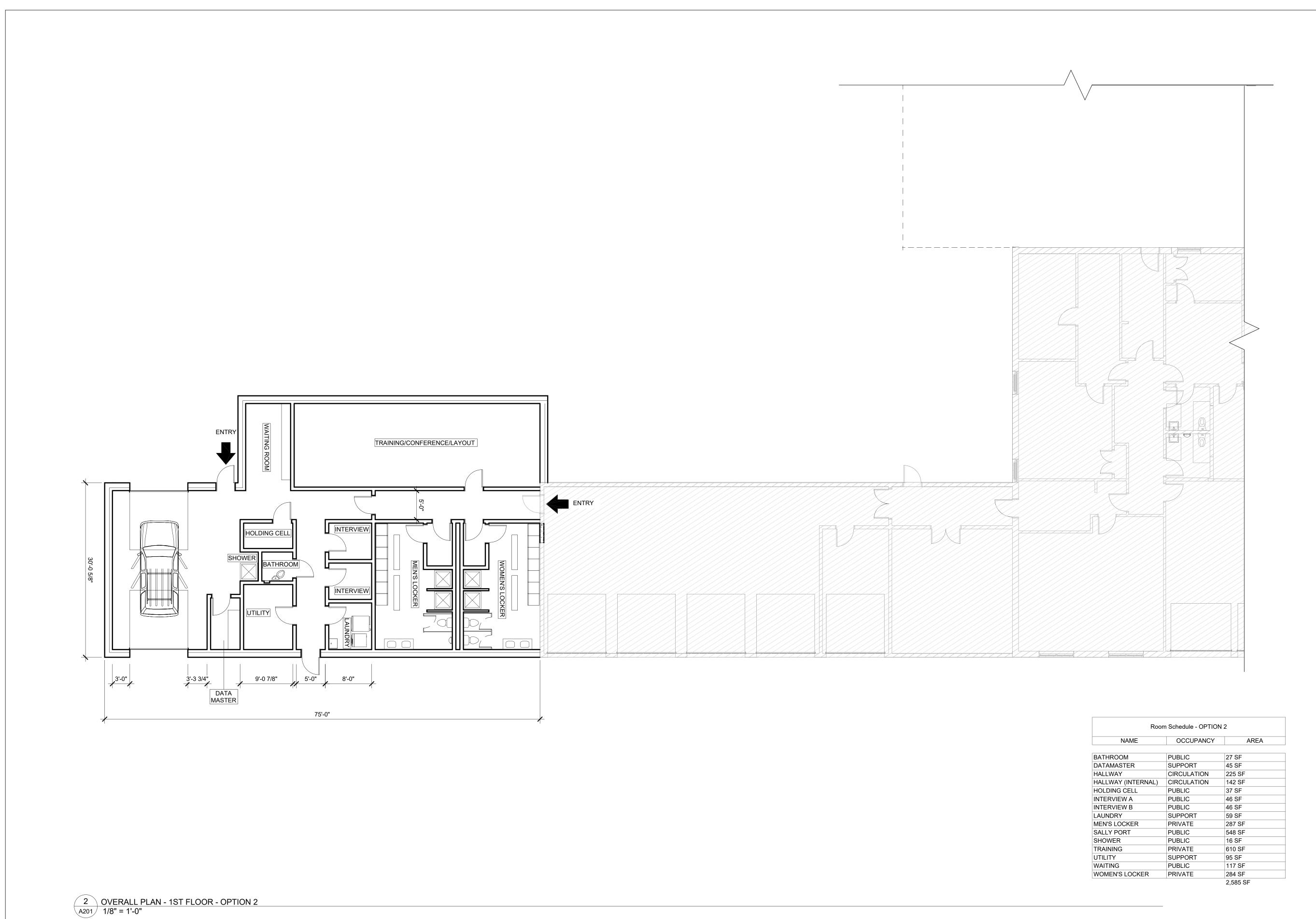
NORTH POLE POLICE DEPARTMENT

COVID PROCESSING AND DECONTAMINATION FACILITY

Roo	m Schedule - OPTION	N 1
NAME	OCCUPANCY	AREA
BATHROOM	PUBLIC	23 SF
DATAMASTER	SUPPORT	62 SF
HALLWAY	CIRCULATION	71 SF
HALLWAY (INTERNAL)	CIRCULATION	140 SF
HOLDING CELL	PUBLIC	30 SF
INTERVIEW A	PUBLIC	74 SF
INTERVIEW B	PUBLIC	74 SF
LAUNDRY	SUPPORT	100 SF
MEN'S LOCKER	PRIVATE	281 SF
SALLY PORT	PUBLIC	641 SF
SHOWER	PUBLIC	13 SF
TRAINING	PRIVATE	426 SF
UTILITY	SUPPORT	98 SF
WOMEN'S LOCKER	PRIVATE	256 SF

1 OVERALL PLAN - 1ST FLOOR - OPTION 1 A200 1/8" = 1'-0" OVERALL PLAN -1ST FLOOR -OPTION 1

A200



Resign Alaska

Architects · Engineers · Surveyors 601 College Road Fairbanks AK 99701 907.452.1241 AECC511 designalaska.com

NORTH POLE POLICE DEPARTMENT

COVID PROCESSING AND DECONTAMINATION FACILITY

OVERALL PLAN -1ST FLOOR -OPTION 2

A201



North Pole Police Department



Chief Steve Dutra 125 Snowman Ln. North Pole, AK 99705 907-488-6902 Northpolepolice.org

September 9	, 2020
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To: Honorable Mayor Welch

North Pole City Council

Re: City of Fairbanks and City of North Pole Dispatch agreement for 2021-2022

Honorable Mayor Welch and Council members:

Please see attached contract for dispatch services with the City of Fairbanks. This agreement has been vetted by our city attorney and they have authorized it to be sent to council for approval.

Thank you for your time.

Chief Steve Dutra



City of North Pole

Office of the City Clerk

125 Snowman Lane

North Pole, AK 99705

(907)488-8583 Fax (907) 488-3002

September 15, 2020

To: Honorable Mayor Welch and North Pole City Council Members

RE: Total Compensation Review Project Cost Quotes and Recommendation

Request to select Municipal Solutions to perform the Total Compensation Review Project to conduct a localized Alaska Compensation and Benefits Analysis and propose where adjustments are needed and best practices. Also to create a new Classification system that is legally defensible, objective and simple. Last of all to provide us a Job Description tool and process to standardize job descriptions and make them more accurate, up to date, legally defensible, objective and measureable for performance and compensation purposes.

Request for Quotes sent to:

Municipal Solutions \$22,047.00 Firm Fixed Price 30 days

Information Insights: Declined to busy not enough staff to help. Foraker Group: Submitted Proposal \$8,750 to \$11,250 Range TBD.

Milliman: \$39,000 5-10 Weeks.

Reason to choose Municipal Solutions:

- Timeliness
- Price
- Quality/Legally Defensible/Ensures correct classification for all positions.
- Experience and benchmarks examples provided are exactly what the City of North Pole needs.

We will utilize funds already budgeted from the HR Budget for 2020 to pay for these services.

Thank you for hearing my request and recommendation.

Aaron M. Rhoades,

City Clerk – Human Resources Manager



City of North Pole

Office of the City Clerk

125 Snowman Lane

North Pole, AK 99705

(907)488-8583 Fax (907) 488-3002

4.16.030 Purchase limits.

A. The limit of purchase of an article of personal property, supplies, services or construction items without prior Mayoral approval shall be \$3,000 (three thousand dollars). The limit of purchase of an article of personal property, supplies, services or construction items without prior City Council approval shall be \$15,000 (fifteen thousand dollars). A review of available sources and quotations to ascertain the most cost-effective means will be conducted prior to the purchase. In the event of an emergency, the Mayor shall be authorized to purchase personal property exceeding the maximum dollar limit; providing, such purchase shall not be subject to Section 12.3(c) of the Home Rule Charter. "Emergency" shall be defined in accordance with Section 1.6(k) of the Home Rule Charter. "Emergency" as defined in Charter Section 1.6(k) means a situation in which there exists a necessity to preserve public peace, health or safety. A record of each emergency procurement shall be made listing the business name and items or services purchased.

B. The limit of purchase of personal property, supplies, services or construction items with the approval of the City Council shall be limited to \$50,000 (fifty thousand dollars). When practical, no less than three businesses shall be solicited to submit quotations. Award shall be made to the business offering the lowest acceptable quotation. The name of the business submitting the quotation and the date and amount of each quotation shall be recorded and maintained as a public record. Purchases of personal property exceeding this amount shall be subject to Section 12.3(c) of the Home Rule Charter. In the event of an emergency, or seasonal construction deadlines or other deadlines that place financial hardships on the City, the City Council may waive the requirements of Section 12.3(c). "Emergency" shall be defined in accordance with Section 1.6(k) of the Home Rule Charter. (Ord. 14-11 § 2, 2014; Ord. 99-13 § 2, 1999; Ord. 84-3 § 2-11, 1984)