

Mayor Edna B. DeVries  
Deputy Mayor Linda Combs  
Council Member Julie Berberich  
Council Member Richard W. Best  
Council Member Steve Carrington  
Council Member Sabrena Combs  
Council Member Jill Valerius

City Attorney Michael Gatti  
City Clerk Norma I. Alley, MMC  
City Manager Nathan Wallace

**City of Palmer, Alaska**  
**City Council Meeting**  
**March 10, 2020, at 7:00 PM**  
City Council Chambers  
231 W. Evergreen Avenue, Palmer  
[www.palmerak.org](http://www.palmerak.org)

## AGENDA

### A. CALL TO ORDER

### B. ROLL CALL

### C. PLEDGE OF ALLEGIANCE

### D. APPROVAL OF AGENDA

1. Approval of Consent Agenda
  - a. Introduction to **Ordinance No. 20-002:** Amending Palmer Municipal Code Chapter 3.16 Sales Tax and Adopting Remote Seller Sales Tax Code, By Reference, to Create Uniform Provisions for Collection and Remittance of Sales Tax ..... Page 3
  - b. **Action Memorandum No. 20-018:** Authorizing the City Manager to Negotiate and Execute a New Lease Agreement with Hageland Aviation Services, Inc. for Continued Operations on Lot 2, Block 3, Palmer Municipal Airport..... Page 59
2. Approval of Minutes of Previous Meetings
  - a. February 25, 2020, Regular Meeting ..... Page 101

### E. REPORTS

1. City Manager’s Report
2. City Clerk’s Report
3. Mayor’s Report ..... Page 105
4. City Attorney’s Report

### F. AUDIENCE PARTICIPATION

### G. NEW BUSINESS

1. **Action Memorandum No. 20-019:** Authorizing the Mayor to Execute an Employment Agreement with City Clerk Norma Alley ..... Page 107
2. **Action Memorandum No. 20-020:** Directing the City Manager to Notify the State of Alaska of the City Council’s Statement of Non-Objection to Liquor License No. 1436 for Pizzeria Delphi Restaurant, Located at 103 W. Arctic Avenue..... Page 113
3. **Action Memorandum No. 20-021:** Approving a Council Community Grant in the Amount of \$2,000.00 to the Organizers of the Mayor’s Green Day Gallop ..... Page 117
4. **Action Memorandum No. 20-022:** Approving a Council Community Grant in the Amount of \$1,000.00 to the Organizers of the Palmer Spring Classic..... Page 123
5. **Information Memorandum No. 20-004:** Committee of the Whole for Discussion on General Election Matters (note: action may be taken following the committee of the whole) ..... Page 131

### H. RECORD OF ITEMS PLACED ON THE TABLE

### I. AUDIENCE PARTICIPATION

**J. COUNCIL COMMENTS**

**K. ADJOURNMENT**

**Tentative Future Palmer City Council Meetings**

<b>Meeting Date</b>	<b>Meeting Type</b>	<b>Time</b>	<b>Notes</b>
<b>Mar 24</b>	Regular	7 pm	
<b>Mar 31</b>	Special	6 pm	City Manager Recruitment
<b>Apr 7</b>	Special	6 pm	City Manager Recruitment
<b>Apr 14</b>	Regular	7 pm	
<b>Apr 21</b>	Joint	7 pm	PZC
<b>Apr 28</b>	Regular	7 pm	
<b>May 12</b>	Regular	7 pm	Palmer High School Graduation
<b>May 26</b>	Regular	7 pm	
<b>Jun 9</b>	Regular	7 pm	
<b>Jun 23</b>	Regular	7 pm	

**City of Palmer  
Ordinance No. 20-002**

**Subject:** Amending Palmer Municipal Code Chapter 3.16 Sales Tax and Adopting Remote Seller Sales Tax Code, By Reference, to Create Uniform Provisions for Collection and Remittance of Sales Tax

**Agenda of:** March 10, 2020 – Introduction

**Council Action:**     **Adopted**                       **Amended:** \_\_\_\_\_  
                                   **Defeated**




**Originator Information:**

**Originator:**    City Manager

**Department Review:**

Route to:	Department Director:	Signature:	Date:
_____	Community Development	_____	_____
_____	Finance	_____	_____
_____	Fire	_____	_____
_____	Police	_____	_____
_____	Public Works	_____	_____

**Approved for Presentation By:**

	Signature:	Remarks:
City Manager		_____
City Attorney		_____
City Clerk		_____

**Certification of Funds:**


Total amount of funds listed in this legislation:    \$ Unknown

This legislation (√):

- Creates revenue in the amount of:                      \$ Unknown
- Creates expenditure in the amount of:                      \$ \_\_\_\_\_
- Creates a saving in the amount of:                      \$ \_\_\_\_\_
- Has no fiscal impact

Funds are (√):

- Budgeted                      Line item(s): 01-00-00-3130
- Not budgeted

Director of Finance Signature: 

**Attachment(s):**

- Ordinance No. 20-002
- Alaska Uniform Remote Sellers Sales Tax Code
- Remote Sellers Alaska Municipal League FAQ

**Summary Statement/Background:**

On February 12, 2019, the City Council authorized AM No. 19-021 for the City Manager to contribute \$5,000.00 to the Alaska Municipal League to support a working group charged with establishing a centralized sales tax administrator for remote sellers.

On November 12, 2019, the City Council passed Resolution No. 19-020 authorizing the City of Palmer to join the Alaska Remote Seller Sales Tax Commission (the Commission) for purpose of developing, implementing and enforcing a remote sellers sales tax code.

On November 18, 2019, 15 signatory communities inaugurated the Commission under the Alaska Intergovernmental Remote Sellers Sales Tax Agreement (the Agreements). There are currently 24 municipalities in Alaska that are members of the Commission including the City of Palmer. The functions and powers of the Commission are set forth in the Agreement between Commission members.

Under terms of the Agreement, in order to maintain membership in the Commission, local governments must enact the Alaska Uniform Remote Sellers Sales Tax Code as adopted by the Commission's Board of Directors.

On January 6, 2020, the Commission passed the Alaska Uniform Remote Seller Sales Tax Code (Uniform Code) that will govern the collection and remittance of sales taxes on remote sales. While the Uniform Code does not set rates or exemptions, the definitions and practices in the Uniform Code for remote sales must be equally applied to local sales in order to remain compliant with the *Wayfair* decision. The Uniform Codes will provide for streamlined remote sales tax collection and remittance processes which is necessary to avoid claims that local municipal tax unduly burdens interstate sellers.

This ordinance adopts the Alaska Uniform Remote Sellers Sales Tax Code as section 3.16.300 Alaska uniform remote sellers tax code adopted by reference, provides amendments to PMC 3.16 Sales Tax for consistency, and authorizes the Commission to administer remote sales tax collection and remittance. Considering the *Wayfair* decision, failure to adopt a uniform, streamlined, remote sellers sales tax code will jeopardize the ability of the City of Palmer to collect sales tax on remote sales and could nullify membership in the Commission.

The effective date of April 1, 2020, is suggested to notify the Commission of adoption, allow for the Commission's administrative software program to be implemented with City of Palmer information and notifications to be submitted as necessary. The City of Palmer will also need time to notify local businesses of these changes and would be able to implement the changes by May 1, 2020, contingent on any Commission software updates/changes required

**Administration's Recommendation:**

Adopt Ordinance No. 20-002

**LEGISLATIVE HISTORY**

Introduced by: City Manager Wallace

Date: March 10, 2020

Public Hearing:

Action:

Vote:

Yes:

No:

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CITY OF PALMER, ALASKA

**Ordinance No. 20-002**

**An Ordinance of the Palmer City Council Amending Palmer Municipal Code Chapter 3.16 Sales Tax and Adopting Remote Seller Sales Tax Code, By Reference, to Create Uniform Provisions for Collection and Remittance of Sales Tax**

WHEREAS, the inability to effectively collect sales tax on sales of property, products or services transferred or delivered into Alaska is seriously eroding the sales tax base of communities, causing revenue losses and imminent harm to residents through the loss of critical funding for local public services and infrastructure; and

WHEREAS, the harm from the loss of revenue is especially serious in Alaska because the State has no income tax, and sales tax revenues are one of the primary sources of funding for services provided by local governments; and

WHEREAS, the failure to collect sales tax on remote sales creates market distortions by creating an unfair tax advantage for businesses that limit their physical presence in the taxing jurisdictions but still sell goods and services to consumers, which becomes easier and more prevalent as technology advances; and

WHEREAS, the failure to tax remote sales results in the creation of incentives for businesses to avoid a physical presence in the state and its respective communities, resulting in fewer jobs and increasing the share of taxes to those consumers who buy from competitors with a physical presence in the state and its cities; and

WHEREAS, the structural advantages for remote sellers, including the absence of point-of-sale tax collection, along with the general growth of online retail, make clear that erosion of the sales tax base is and has been occurring; and

WHEREAS, remote sellers who make a substantial number of deliveries into or have large gross revenues from Alaska benefit extensively from the Alaska market, affecting the economy as well as burdening local infrastructure and services; and

WHEREAS, delivery of goods and services into local municipalities rely on and burden local transportation systems, emergency and police services, waste disposal, utilities and other infrastructure and services; and,

WHEREAS, given modern computing and software options, it is neither unusually difficult nor burdensome for remote sellers to collect and remit sales taxes associated with sales into Alaska taxing jurisdictions; and

WHEREAS, due to a recent decision by the United States Supreme Court and the lack of a state sales tax it is appropriate for the municipalities to collectively amend their sales tax codes to account for remote sellers who do not have a physical presence either in the State of Alaska or in a specific taxing jurisdiction, but do have a taxable connection with the State of Alaska or taxing jurisdiction; and

WHEREAS, this ordinance is not retroactive in its application; and

WHEREAS, this ordinance provides a safe harbor to those who transact limited sales in Alaska; and

WHEREAS, amending local sales tax codes reflects the 2018 Supreme Court "*Wayfair*" decision to allow for the application of the taxing jurisdiction's sales tax code requirements to sellers without a physical presence in the State of Alaska or taxing jurisdiction; and

WHEREAS, the intent is to levy municipal sales tax to the maximum limit of federal and state constitutional doctrines; and

WHEREAS, through the adoption of Resolution 19-020, the City of Palmer has entered into a cooperative agreement with other local governments called the Alaska Intergovernmental Remote Seller Sales Tax Agreement ("the Agreement"); and

WHEREAS, the terms of the Agreement require adoption of certain uniform provisions for collection and remittance of municipal sales tax applicable to sales made by remote sellers similar to the Streamlined Sales and Use Tax Agreement; and

WHEREAS, on February 12, 2019, the City Council authorized AM No. 19-021 for the city manager to contribute \$5,000.00 to the Alaska Municipal League to support a working group charged with establishing a centralized sales tax administrator for remote sellers; and

WHEREAS, on November 12, 2019, the City Council passed Resolution No. 19-020 authorizing the City of Palmer to join the Alaska Remote Seller Sales Tax Commission (the Commission) for purpose of developing, implementing and enforcing a remote sellers sales tax code.

THE CITY OF PALMER, ALASKA, ORDAINS:

Section 1. Classification. This ordinance shall be permanent in nature and shall be incorporated into the Palmer Municipal Code.

Section 2. Severability. If any provisions of this ordinance or application thereof to any person or circumstances are held invalid, the remainder of this ordinance and the application to the other persons or circumstances shall not be affected thereby.

Section 3. Palmer Municipal Code is hereby amended to read as follows (new language is underlined and deleted language is stricken):

## Chapter 3.16 Sales Tax

Sections:

- 3.16.010 Authority.
- 3.16.020 Definitions.
- 3.16.030 Tax levied – Rate.
- 3.16.033 Maximum tax per transaction.
- 3.16.035 Sales tax application. Transactions in the city.
- 3.16.040 Rules applicable to particular businesses or occupation. Examples of taxed transactions.
- 3.16.050 Exceptions Exemptions.
- 3.16.055 Sales tax certificate of exemption.
- 3.16.056 Determination whether transaction is exempt.
- 3.16.065 Collection of sales tax. Application of sales tax payments.
- 3.16.070 Seller accountability.
- 3.16.080 Taxable sales and sales tax returns.
- 3.16.081 Alaska State Fair and special events sales tax returns.
- 3.16.083 Taxes levied and interest for delinquency.
- 3.16.085 Information to be confidential.
- 3.16.087 Tax records— Inspection and audit.
- 3.16.090 Estimated tax. Tax records— Final tax return.
- 3.16.095 Liability of third parties.
- 3.16.100 Returns – filing contents. Collection upon sale.
- 3.16.110 Refunds.
- 3.16.120 Amended returns. City manager regulation promulgation authority.
- 3.16.130 Extension of time to file tax return.
- 3.16.140 Audits.
- 3.16.150 Protest. Public statement of tax required— Exception for coin-operated machines.
- 3.16.160 Penalties and interest of late filing. Liability for payment— Protest of tax.
- 3.16.170 Repayment plans. Tax return— Extension of time.
- 3.16.180 Seller record retention. Estimated tax.
- 3.16.190 Cessation or transfer of business. Delinquent taxes— Notice.
- 3.16.200 Use of information on tax returns. Lien for tax, interest and administration costs and penalties.
- 3.16.210 Violations. Delinquent taxes— Foreclosure— Time limit.
- 3.16.220 Penalties for violation. Delinquent taxes— Foreclosure— Sale of property— Redemption.
- 3.16.230 Certificate of sale— Other than real property.
- 3.16.240 Certificate of sale— Real property.
- 3.16.250 City manager regulation promulgation authority. Delinquent taxes— Seizure of additional property Chapter nonexclusive.
- 3.16.260 Violation— Remedies.
- 3.16.270 Refund of sales tax— Interest. 3.16.280— Appeal.
- 3.16.300 Alaska Uniform remote seller sales tax code adopted by reference.

### 3.16.010 Authority.

This sales tax is imposed and collected pursuant to the authority granted by the Alaska Constitution, Art. X and this code.

### 3.16.020 Definitions.

- A. ~~“Bulk sales” means sale of unpackaged items in large quantities.~~
- B. ~~“Buyer or purchaser” means a includes persons whom a sale are purchasers of property or~~

product is made or to whom ~~and a services and~~ is furnished. ~~lessees of property.~~

G. "Calendar year" means the period from January 1st through December 31st or any portion thereof ending December 31st.

D. ~~"Distraint" means to seize and hold property as security for a debt.~~

"Delivered Electronically" means delivered to the purchaser by means other than tangible storage media.

"Food Stamps" means obligations of the United States government issued or transferred by means of food coupons or food stamps to enable the purchase of food for the eligible household.

"Gaming" means a right to participate in a game of chance regulated under AS 5.15, including without limitation a right to participate that is represented by a pull-tab, bingo card, or raffle or lottery ticket.

"Goods for resale" means:

A. The sale of goods by a manufacturer, wholesale or distributor to a retail vendor; sales to a wholesale or retail dealer who deals in the property sold, for the purpose of resale by the dealer.

B. Sales of personal property as raw material to a person engaged in manufacturing components for sale, where the property sold is consumed in the manufacturing process of, or becomes an ingredient or component part of, a product manufactured for sale by the manufacturer.

C. Sale of personal property as construction material to a licensed building contractor where the property sold becomes part of the permanent structure.

E. "Mail order sales and sales made by personal solicitation" means sales to consumers made by mail order houses or other sellers having a place of business within the city or having a place of business elsewhere, but who solicit sales within the city, are taxable if the order is accepted within the city and delivery is made by the seller at such place of business or elsewhere within the city.

"Marketplace facilitator" means a person that contracts with remote sellers to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale of the remote seller's property or services through a physical or electronic marketplace operated by the person, and engages:

A. Directly or indirectly, through one or more affiliated persons in any of the following:  
1. Transmitting or otherwise communicating the offer or acceptance between buyer and remote seller;

2. Owning or operating the infrastructure, electronic or physical, or technology that brings buyers and remote sellers together;

3. Providing a virtual currency that buyers are allowed or required to use to purchase products from the remote seller; or

4. Software development or research and development activities related to any of the activities described in (B) of this subsection, if such activities are directly related to a physical or electronic marketplace operated by the person or an affiliated person; and

B. In any of the following activities with respect to the seller's products:

1. Payment processing services;

2. Fulfillment or storage services;

3. Listing products for sale;

4. Setting prices;

5. Branding sales as those of the marketplace facilitator;

6. Order taking

7. Advertising or promotion; or

1-8. Providing customer service or accepting or assisting with returns or exchanges.

F. "Medical services" means hospital services and those professional medical services rendered



performed by the following persons duly licensed under the laws of by the state of Alaska to practice for the providing of such services: medicinal doctors, surgery, dentistrys, osteopathics, optometrists, chiropracticers, podiatry, and psychologists and other professional services rendered by a licensed midwife, certified registered nurse, practioners, and psychiatric and mental health nurse clinical specialists, and appliances, ; retail sales of medicinal preparations, drugs, medicines, supplies and nursing care necessary in connection with the services, or the expense for services, appliances, drugs, medicines, supplies and care, as may be specified in any nonprofit medical service plan, or appliances under a written prescription from one of the foregoing.

"Monthly" means occurring once per calendar month.

"Newspaper" means a publication of general circulation bearing a title, issued regularly at stated intervals at a minimum of not more than two weeks, and formed of printed paper sheets without substantial binding. It must be of general interest, containing information of current events. The word does not include publications devoted solely to a specialized field. It shall include school newspapers, regardless of the frequency of the publication, where such newspapers are distributed regularly to a paid subscription list.

"Nonprofit organization" means a business that has been granted tax-exempt status by the Internal Revenue Service (IRS); means an associate, corporation, or other organization where no part of the net earnings of the organization inures to the benefit of any member, shareholder, or other individual, as certified by registration with the IRS.

"Periodical" means any bound publication other than a newspaper that appears at stated intervals, each issue of which contains news or information of general interest to the public, or to some particular organization or group of persons. Each issue must bear a relationship to prior or subsequent issues with respect to continuity of literary character or similarity of subject matter, and sufficiently similar in style and format to make it evident that it is one of a series.

G. "Person" means includes an individuals, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or other legal entity. and every person recognized in law, and every group of the aforesaid who act as a unit.

"Physical presence" means a seller who establishes any one or more of the following within a local taxing jurisdiction:

1. Has any office, distribution or sales house, warehouse, storefront, or any other place of business within the boundaries of the local taxing jurisdiction;
2. Solicits business or receiving orders through any employee, agent, salesman, or other representative within the boundaries of the local taxing jurisdiction or engages in activities in this state that are significantly associated with the seller's ability to establish or maintain a market for its products in the state;
3. Provides services or holds inventory within the boundaries of the local taxing jurisdiction;
4. Rents or leases property located within the boundaries of the local taxing jurisdiction. A seller that establishes a physical presence within the local taxing jurisdiction in any calendar year will be deemed to have a physical presence within the local taxing jurisdiction for the following calendar year.

"Point of delivery" means the location at which property or product is delivered or service rendered.

- A. When the product is not received or paid for by the purchaser at a business location in the city, the sale is considered delivered to the location where receipt by the purchaser (or the purchaser's recipient, designated as such by the purchaser) occurs, including the location indicated by instructions for delivery as supplied by the purchaser (or recipient) and as known to the seller;
- B. When the product is received or paid for by a purchaser who is physically present at a business location in the city, the sale is considered to have been made in the city

where the purchaser is present even if delivery of the product takes place in another Taxing Jurisdiction. Such sales are reported, and tax remitted directly to the city;

- C. For products transferred electronically, or other sales where the delivery of the purchase address is unknown, the point of delivery shall be the billing address of the buyer.

"Property" and "Product" means both tangible property, an item that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses; and intangible property, anything that is not physical in nature (i.e.; intellectual property, brand recognition, goodwill, trade, copyright and patents).

"Quarter" means trimonthly periods of a calendar year; January – March, April – June, July – September, and October – December.

"Receive or receipt" means

- A. Taking possession of property;
- B. Making first use of services;
- C. Taking possession or making first use of digital goods, whichever comes first.

The terms "receive" and "receipt" do not include temporary possession by a shipping company on behalf of the purchaser.

"Remote Sales" means sales of goods, or services by a remote seller or marketplace facilitator.

"Remote Seller" means a seller or marketplace facilitator making sales of goods or services delivered within the State of Alaska, without having a physical presence in a taxing jurisdiction, or conducting business between taxing jurisdictions, when sales are made by internet, mail order, phone or other remote means. A marketplace facilitator shall be considered the remote seller for each sale facilitated through its marketplace.

"Resale of services" means sales of intermediate services to a business the charge for which will be passed directly by that business to a specific buyer.

H. "Rentals" means any transfer of the right to use or occupy includes every letting or renting of property for consideration.

"Residential rentals" means rental of a dwelling designed for living or sleeping purposes.

I. "Sale" or "Retail sale" means any the transfer of title to tangible personal property for consideration ~~un~~ ~~um~~ ~~pt~~ ~~ion~~ for any purpose other than ~~or use,~~ and not for resale., in substantially the same form or condition. "Retail sale" includes every sale of property, regardless of quantity or price, except the following:

- ~~1. Sales to wholesale and retail dealers in the property sold, for the purpose of resale within the city by such dealer;~~
- ~~2. Sales of tangible personal property as raw materials to a person engaged in manufacturing for sale, which property becomes an ingredient or component part of the manufactured product or a container thereof, or enters directly into the manufacturing container thereof, or enters directly into the manufacturing process. A building or construction contractor or subcontractor is not a "person engaged in manufacturing."~~

J. "Sale or purchase price" includes all retail sales, rentals and all services. Installment, credit and conditional sales are included within the term.

K. "Sales price" means the total amount of consideration including cash, credit, property, product and services, for which paid by the buyer in terms of money and, in the case of a sale involving an exchange of property, product, or services sold, leased, or rented, the fair market valued in money, whether received in money or otherwise, without deduction for the following: of the property exchanged, all without any deduction for delivery costs, taxes or any other expenses whatsoever; provided, however, seller's cash discount at the time of payment in exchange for a coupon having a cash value of no more than one twentieth of one cent is not part of the sales price.

- A. The seller's cost of the property or product;
- B. The cost of materials used, labor or service cost, interest, losses, all costs of

transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

C. Changes by the seller for any services necessary to complete the sale, other than delivery and installation changes;

D. Delivery charges;

E. Installation charges; and

F. Credit for any trade-in, as determined by state law.

~~L. "Seller" means includes a persons making sales or their agents who are vendors of and lessors of property, products, or and persons furnishing services, or a marketplace facilitator facilitating sales on behalf of a seller, and every person making sales.~~

~~M. "Services" means includes all services of every manner and description which are performed or furnished for compensation, whether delivered physically or electronically, and, by way of illustration, includinges but not limited to: the following:~~

~~1A. Professional services;~~

~~2B. Services in which a product or sale of property may also be involved, including personal property made to order;~~

~~3C. Utilities and utility services not constituting a sales of property or products, including but not limited to sewer, water, solid waste collection or disposal, electrical, telephone services and, repair, natural gas, cable or satellite television, and Internet services; construction, transportation, banking, advertising, maintenance, recreation, amusement, contracting and craftsmen's services;~~

~~D. The sale of transportation services;~~

~~4E. Services rendered for compensation by any person who furnishes any such service or services in the course of his trade, business or occupation, including all services rendered for commission; who has a state or city business license and whose gross revenue exceeds \$1,500 during the calendar year of January 1st to December 31st;~~

~~5F. Advertising, maintenance, recreation, amusement and craftsman Sservices; wherein labor and materials are used to accomplish a specified result;~~

~~6. Services dispensed by machines and amusement devices including those which are coin-operated;~~

~~7G. "Services" does not include services rendered to an employer by his employee.~~

"Transferred electronically" means obtained by purchaser by means other than tangible storage media

### **3.16.030 Tax levied – Rate.**

A. A sales tax shall be established by the city council and adopted as a part of the city budget.

B. ~~The adopted sales tax shall be levied by this chapter applies to on the sales price or charge for all sales, rentals and services made within the city, except those that this chapter expressly exempts from tax. Exemptions from the tax levied by this chapter are to be construed narrowly. The buyer shall pay the tax to the seller for the use and benefit of the city; provided, however, that the seller need not collect sales tax but the seller must in any event pay the tax to the city whether collected or not.~~

### **3.16.033 Maximum tax per transaction.**

~~CA. *Maximum Tax.* The adopted sales tax shall be applied ~~Only~~ to the first \$1,000.00 of each separate sale of an item or items, rent or service transaction shall be subject to sales tax; provided, that a single payment for the sale or rental of property or rendering of a service, The payment of rent, whether for real or personal property, in excess of \$1,000 and for more than over a period exceeding one month shall be allocated pro rata to each one-month period or part thereof during the term of the transaction, and the first \$1,000.00 of the price allocated to each such period shall be subject to sales tax, treated as several separate transactions covering the rental for one month each. A transaction involving payment for services or personal property to~~

~~be rendered or delivered over a period of more than one month for a consideration in excess of \$1,000 shall be treated as several separate transactions occurring one each month over the period of time that the service or property is rendered or delivered.~~

~~B. The payment of rent, whether for real or personal property, in excess of \$1,000.00 and for more than one month shall be treated as separate transactions covering the rental for one month each. A transaction involving payment for services to be rendered or delivered over a period of more than one month for a consideration in excess of \$1,000.00 shall be treated as a separate transaction occurring one month over the period of time that the service is rendered.~~

~~C. Each night of each individual room rental shall be considered a separate transaction and therefore the maximum tax computation shall be calculated on a per room per night basis.~~

~~D. Capital leases. Contract to purchase the property at the end of a lease shall be treated as a sale on the effective date of the contract and are subject to the maximum tax per transaction pursuant to subsection (A) of this section.~~

~~E. Other lease types. Leases that have an option to purchase at the end of the lease are taxed on the principle amount of each lease payment for the term of the lease. If the purchase is made at the end of the lease, the purchase transaction would be treated as another separate transaction. Interest and financing charges related to the lease payment are not subject to tax.~~

~~F. Installment payments. When payments for a single transaction are made on an installment basis the sales tax on the transaction shall be collected on the first payment.~~

### **3.16.035 Sales Tax Application. Transactions in the city.**

~~Sales tax is applicable to both local sales and remote sales if delivery occurs within the city. The following rules determine whether a transaction is made within the city:~~

~~A. Local Sales. The seller has a physical presence in the city, under this chapter, that establishes one or more of the following and a point of delivery in the city: A sale or rental is made within the city if delivery occurs in the city and the seller either:~~

- ~~1. Has an office, distribution or sales house, warehouse, storefront, or any other place of business within the boundaries of~~ Maintains a place of business, or an agent or employee, in the city; or
- ~~2. Solicits business or receives orders through any employee, agent, salesman, or other representative within the boundaries of the city or engages in activities in the city that are significantly associated with the seller's ability to establish or maintain a market for its products in the city; or Regularly or repeatedly promotes sales or rentals in the city by means such as advertising, promotional events or solicitation of sales.~~
- ~~3. Provides services or holds inventory within the boundaries of the city; or~~
- ~~4. Rents, sells or leases property located within the boundaries of the city; or~~
- ~~5. Constructs, repairs, renovates, improves real property if the property is located within the boundaries of the city.~~

~~A seller that establishes a physical presence and point of delivery within the city in any calendar year will be deemed to have a physical presence within the city for the following calendar year.~~

~~B. Remote Sales. Remote Seller or marketplace facilitator without a physical presence in the city, that makes sales of products, rentals or provides services transferred electronically or delivered to a point of delivery located within the city shall be subject to the Alaska Uniform Remote Seller Sales Tax Code as provided in PMC3.16.300.~~

~~B.—A service is made within the city if all or a substantial part of the service is rendered in the city.~~

~~C.—A rental of real property is made in the city if the real property is located in the city.~~

~~D.—A service involving the construction, repair, renovation, improvement, sale or rental of real property is made in the city if the real property is located in the city.~~

**3.16.040 Rules applicable to particular businesses or occupations. ~~Examples of taxed transactions.~~**

A. Real Estate Sales Commissions.

1. Commissions and/or realtor fees for the sale, rental or management of real property located in the city are subject to sales tax, regardless of the location of the person to whom the commission and/or fee is payable.

2. Commission and/or fees for the sale, rental or management of real property payable to a person who maintains an office in the city are subject to sales tax, regardless of the location of property.

B. Gaming. An amount equal to the gross receipts of the seller from sales of games of chance, less the cost of the prize awarded on each series, set of games or contest for which the game of chance has been sold, shall be subject to sales tax.

C. Sales from coin-operated machines. An amount equal to the gross receipts from each coin-operated machine that the seller operates in the city shall be subject to sales tax.

~~Illustrative examples of transfers of ownership or possession, and rendering of services, which are taxed under this chapter include, but are not limited to, the following:~~

~~A.—Rentals of all tangible personal property, including vending machines, typewriters, office furniture and equipment, tools, automobiles, construction equipment and aircraft, including all maintenance and repair contracts in connection therewith;~~

~~B.—Supplying natural or artificial gas, electricity, ice, steam, water and all services by a public or private utility;~~

~~C.—Transportation for hire of persons by common carrier within the city or to the city from another location, including motor transportation, taxicab companies and all other means of transportation for hire;~~

~~D.—Service by telephone companies to subscribers or users, including transmission of messages, whether local or long distance. This shall include all services and rental charges having any connection with telephone service, but shall not include deposits;~~

~~E.—Printing or printed matter of all types, kinds and characters and the service of printing or overprinting;~~

~~F.—Renting rooms or living quarters or offices or other commercial space of whatever name or nature by hotels, apartments, roominghouses, public lodging houses or by firms or individuals renting single or multiple unit residences or offices or other commercial space, including state or federally subsidized rentals. For purposes of computing the maximum tax, a rental of property for a period in excess of one month shall be deemed as a series of rentals with each rental transaction terminating as a rental payment is made. The maximum sales tax payable shall be applicable to each deemed rental with tax payments to accrue and become payable at the time of filing the next monthly return to be submitted following receipt of the rental;~~

~~G.—Foods, confections, and all liquors, beverages and drinks sold and dispensed by retail stores, restaurants or other dispensers, and sold for immediate consumption upon the premises or delivered or carried away from the premises for consumption elsewhere;~~

~~H.—Advertising of all kinds, types and characters contracted for or sold in the city, including any and all devices used for advertising purposes and the servicing of advertising devices;~~

~~I.—Gross proceeds derived from the operation of punchboards, slot machines, marble machines, jukeboxes, merchandise vending machines, pull tabs, games of chance, or amusement devices of any kind, and~~

~~self-service laundry and dry cleaning machines;~~

~~J.—The sale of tickets or admissions to places of amusement, entertainment, recreational or athletic events, or dues or fees for the privilege of having access to or use of amusement, entertainment, athletic or recreational facilities, including free or complimentary passes and tickets, admissions dues or fees. Such free or complimentary passes and tickets, dues or fees are declared to have a value equivalent to the sale price or value of the tickets, passes, admissions~~

dues or fees;

~~K.—Subject to PMC 3.16.050(S), sales of tangible personal property and services made for the purpose of developing and improving real estate, even though such real estate is intended for resale as real property;~~

~~L.—Services of drycleaners, laundries (including self-service laundry and dry cleaning machines), garages, barbershops, beauty shops and cold storage and locker plants;~~

~~M.—Retail sales of motor fuels, oils and lubricants;~~

~~N.—The provision of services rendered by lawyers, accountants, shoe repair shops, carpenters and cabinetmakers, house painters and decorators, tinsmiths and sheet iron workers, watchmakers, radio and television advertising, photographers (including all film development), computer programmers, printing establishments, garages, mechanics and machinists, plumbers and electricians, welders and stove cleaners, and services of all other tradesmen, craftsmen and professional practitioners and service fees (except commissions) charged by travel agencies; and~~

~~O.—The provision of electrical, telephone, water, garbage, sewer, natural gas and cablevision utility services including the installation and connection charges and fees.~~

### **3.16.050 Exemption exceptions.**

A. The following transactions are exempt from sales tax: The tax levied shall not apply to the following:

1. Sales of real property and interest in real property.

~~A2. Casual and isolated sales of goods or services and not made in regular course of business, ie: garage sales not exceeding \$50.00 and not made in the regular course of business;~~

~~B3. Sales of securities, insurance and bonds of guaranty, fidelity and surety.;~~

~~C4. Gross receipts or proceeds derived from funeral charges and services, medical or dental services rendered and hospital services;~~

~~D5. Gross receipts or proceeds derived from the transportation of students to and from grade or high schools in motor or other vehicles.;~~

~~E6. Gross receipts or proceeds derived from the sales of food in public, common, high school or college cafeterias or lunchrooms in elementary, secondary or post-secondary schools that are operated primarily for the convenience of school students and faculty public and not operated for profit.;~~

~~F7. Gross receipts or proceeds derived from sales or services which the municipality is prohibited from taxing under the laws of the state or under the laws of the United States.;~~  
~~or gross receipts or proceeds from the transportation, loading, unloading or storing of cargo from vessels or aircraft in foreign or interstate commerce, or on goods in transit or awaiting and being processed for shipment;~~

~~G8. Gross receipts or proceeds derived from carrier sales made directly to consumers or users Sales of newspapers or any other periodicals.;~~

~~H9. Gross receipts or proceeds derived from sales, rentals and services by or to the United States Government, or the state of Alaska, or any of their agencies, instrumentalities or any political subdivisions and federally recognized Indian tribes. This exemption does not apply to the following: thereof, including the city; provided, however, that the exemption shall not apply to the sale of materials and supplies to contractors for the manufacture or production of property or rendering services for sale to such government units or agencies on a contract bid award, in which event the contractor shall be deemed the buyer, subject to the payment of the tax;~~

A. Sales of gaming by federally recognized Indian tribes, political subdivision, and municipalities; or

B. Retail sales, services, or rentals by the city as follows:

1. Sewer and water utility sales, services and rentals;

2. Palmer Municipal Airport sales, services and rentals;
  3. Palmer Museum and visitor sales;
  - 1.4. Rents for commercial properties owned by the city.
- ~~I10. Dues or fees to nonprofit clubs, labor unions or fraternal organizations.;~~  
~~J. Real estate agent's gross receipts received on behalf of the owner and derived from sale of real property, but excepting the real estate agent's fee earned as commission for sale of such property, which fee or commission shall be taxable up to the maximum taxable amount set out in PMC 3.16.030(C);~~
- ~~K11. Sales of admission tickets for school entertainments, school athletic events and activities (excluding, without limitation, those of the type described in PMC 3.16.040(I)) conducted for charitable purposes or community benefits.;~~ Retail sales by a school sanctioned activity group raising funds for its approved purpose. This exemption does not apply to sales of gaming.
- ~~L12. Bulk sale of feed, seed and fertilizer to farmers.;~~
- ~~M13. Sales of air, train, boat, cruise line or bus tour transportation, car rentals, or accommodations, or admission to entertainment events, where the service is provided outside the city, and fees or commission related to such sales. where the underlying service is provided outside the city, and commissions related to such sales;~~
14. Sales related to orbital space facilities, space propulsion systems, space vehicles, satellites or stations, to the extent of the exemption required by AS 29.45.650(h).
- ~~N15. Medical services. Receipts from filling of doctors' prescriptions by licensed pharmacists;~~
16. Medical equipment and supplies and prescribed by a health care provider licensed to practice in the state of Alaska. Sales and rentals of hearing aids, crutches, wheelchairs and personal apparatus specifically manufactured for a patient.
- ~~O17. Prescription Sales of drugs prescribed by a health care provider licensed to practice in the state of Alaska for human consumption. and medicines for use in hospitals and clinics;~~
18. Food coupons, food stamps and other allotments issued under 7 U.S.C. 2011 through 2036 (Food Stamp Program) or food instruments, food vouchers or other type of certificate issued under 42 U.S.C. 1786 (Special Supplemental Food Program for Women, Infants and Children).
19. Gross receipts or proceeds received by those schools that comply with AS 14.45.100 through 14.45.130, to include religious schools and other private schools, that are derived from the provision of educational services to children at least five years of age; provided, however, such gross receipts or proceeds for other services, to include without limitation, education services to children less than five years of age and day care for children of any age, are not exempt from the tax, except to the extent such comparable services are provided for free by the Matanuska-Susitna Borough School District to children similarly situated;
20. U.S. postage; and shipping and freight hauling services that originate in the city, but the end destination is outside the city limits. Excluding warehouse, storage services, and delivery services that begin and end within the city.
21. Sales of transportation service by taxicabs, limousine companies, and rideshare companies.
22. Sales of goods and services provided under warranty or service contract, whether performed by the manufacturer or authorized representative of the manufacturer, and charged to a third-party warrantor for repairs, major maintenance, or both. The initial purchase of warranty or service contract would be taxed at the time of purchase. Any portion of repair paid by the customer through a deductible or other means would not be exempt under this section.
23. The following sales and services by banks, savings and loan associations, credit unions and investment banks:

1. Services associated with any deposit accounts, including service fees, NSF fees and attachment fees,
2. Fees for the purchase of bank checks, money orders, travelers' checks and similar products for payment,
3. Loan fees and points associated with loan transactions,
4. Pass-through charges on loan transactions which include sales tax, and
5. Services associated with the sale, exchange or transfer of currency, stocks, bonds and other securities;

24. Sales of aviation fuel (Jet A, Jet B, low lead and others) at the Warren "Bud" Woods Palmer Municipal Airport.

B. The following transactions are exempt from sales tax; provided; that the buyer presents to the seller at the time of the sale transaction a valid certificate of exemption applicable to the transaction, issued to the buyer under PMC 3.16.055.

1. Sales to wholesale or retail dealer in the property sold, for the purpose of resale by the dealer located or making sales inside the city and registered with a city business license.

2. Sales of raw material to manufacturer located or making sales inside the city and registered with a city business license, which raw materials becomes an ingredient of component part of a manufactured product or container thereof or is consumed in the manufacturing process.

3. Sales of tangible personal property that either will be consumed in the course of construction or become part of real property, and rentals of equipment or services by a licensed contractor under AS 8.18, to an owner of real property for use in the original construction of, or renovations to, improvements to real property located in the city. This exemption does not apply to sales of tangible personal property, or rentals of equipment, that are to be used in the repairing or maintaining real property.

4. Sales of tangible personal property that either will be consumed in the course of construction or become part of real property, and rentals of equipment or services by a licensed contractor under AS 8.18, to a person licensed as a contractor under AS 8.19 for use in the original construction, or renovations to, improvements to real property. The exemption does not apply to sales of tangible personal property, or rentals of equipment, that are to be used in repairing or maintaining real property.

~~P5. Subject to PMC 3.16.055(A), sSales of food supplies to cafes, restaurants and other establishments where food is sold to the public for use in the normal course of business of cafes, restaurants and other food service such establishments;~~

~~Q6. Subject to PMC 3.16.055(A), sSales of food supplies to hospitals, institutions housing children's homes having six or more residents charges, recreational camps and schools located inside the city and registered with a city business license.~~

~~R. Construction Materials:~~

~~1. Subject to PMC 3.16.055(A), sales of tangible personal property which property is to be used in the construction of or renovations to improvements to real property and is to be physically incorporated into and to become a part of the real property. Among other things, this subsection does not include tangible personal property used for repairs or maintenance (and thus materials for repairs or maintenance shall be subject to tax, unless otherwise exempted).~~

~~2. Subject to PMC 3.16.055(A), sales of tangible personal property to a person currently and duly licensed as a contractor under AS 8.18, which property is to be used in the construction of or renovations to improvements to real property and is to be physically incorporated into and to become a part of the real property;~~

~~S. Services by an individual which do not exceed \$1,500 per calendar year of January 1st to December 31st and are not licensed by the state;~~



~~T. Food coupons, food stamps and other allotments issued under 7 U.S.C. 2011 through 2036 (Food Stamp Program) or food instruments, food vouchers or other type of certificate issued under 42 U.S.C. 1786 (Special Supplemental Food Program for Women, Infants and Children). For purposes of this subsection, the value of a food stamp allotment paid in the form of a wage subsidy as authorized under AS 47.25.975(b) is not considered to be an allotment issued under 7 U.S.C. 2011 through 2036 (Food Stamp Program);~~

~~U. Gross receipts or proceeds received by those schools that comply with AS 14.45.100 through 14.45.130, to include religious schools and other private schools, that are derived from the provision of educational services to children at least five years of age; provided, however, such gross receipts or proceeds for other services, to include without limitation, education services to children less than five years of age and day care for children of any age, are not exempt from the tax, except to the extent such comparable services are provided for free by the Matanuska-Susitna Borough School District to children similarly situated;~~

~~7. Sales, rentals and services to a church that is organized as a nonprofit corporation under the laws of the state of Alaska.~~

~~8. Services sold for resale when the services are directly integrated into services or goods sold by the buyer located within the city and registered with a city business license, to another purchaser in the normal course of business; provided , that the services are purchased separately for resale, and the services is identified, charged for and billed separately without markup from any other services.~~

~~V. Subject to PMC 3.16.055(A), purchases of utility services (other than cable television), including the installation and connection charges and fees, by an organization holding a current, valid 501(c)(3) or 501(c)(4) exemption letter from the Internal Revenue Service;~~

~~W9. Subject to PMC 3.16.055(A), sSales, services and rentals to a person buyer that the Internal Revenue service recognizes as an organization described in Section 501(c)(3) or 501 (c)(4) of the Internal Revenue code; provided, that the sale, rental or service is not for use in an "unrelated trade or business" of the person, as the term is defined in Section 513 of the has a current, valid 501(c)(3) or 501(c)(4) exemption ruling from the Internal Revenue Code Service;~~

~~X10. Subject to PMC 3.16.055(A), sSales, services and rentals made by a person seller that the Internal Revenue Service recognizes as an organization described in Section 501(c)(3) or 501(c)(4) of has a current, valid 501(c)(3) or 501(c)(4) exemption ruling from the Internal Revenue Code Service; provided, that this exemption does not apply to the following:~~

- ~~1. Sales, services, rentals, and gaminges of chance including pull tabs occurring at the fairgrounds of the Alaska State Fair a fair with annual attendance over 50,000 people, and~~
- ~~2. Sales, services or rentals made on a regular basis from a fixed location that is open more than 20 hours per week,;and~~
- ~~3. Sales, rental or services is not part of an "unrelated trade or business" as the term is defined in section 513 of the Internal Revenue Code.~~

~~Y. The following sales and services by banks, savings and loan associations, credit unions and investment banks:~~

- ~~1. Services associated with any deposit accounts, including service fees, NSF fees and attachment fees;~~
- ~~2. Fees for the purchase of bank checks, money orders, travelers' checks and similar products for payment;~~
- ~~3. Loan fees and points associated with loan transactions;~~
- ~~4. Pass through charges on loan transactions which include sales tax, and~~
- ~~5. Services associated with the sale, exchange or transfer of currency, stocks, bonds and other securities;~~

~~Z. Sales of aviation fuel (Jet A, Jet B, low lead and others) at the Warren "Bud" Woods Palmer~~

Municipal Airport.

### **3.16.055 Sales tax certificate of exemption.**

~~A.~~—No sales in the city shall be exempted from sales tax under PMC 3.16.050(Q), (R), (S), (W), (X), and (Y) unless and until the person obtains from the director of finance a certificate of exemption.

~~BA.~~ A person ~~shall~~may apply to the ~~director of finance~~ director for a certificate of exemption that is required for an exemption from sales tax under PMC 3.16.050(B) on a form approved by the ~~director of finance~~ director. This application shall be accompanied by any applicable fee that is required in the current adopted budget. The ~~director of finance~~ director may require additional information ~~from~~of the applicant as necessary to determine whether the application should be granted, including without limitation documentation of Internal Revenue Service recognition of the applicant as an exempt organization, or the organization of a church as a nonprofit corporation under the laws of the state of Alaska. A certificate of exemption is issued for a calendar year, and expires on December 31 of the calendar year for which it was issued.

~~CB.~~ The ~~director of finance~~ director may revoke a certificate of exemption after notice to the holder of the certificate and a hearing, if the ~~director of finance~~ director finds that the holder of the certificate:

1. Gave materially false information when applying for the certificate of exemption;
2. Used the certificate of exemption in a transaction that was not exempt from sales tax under PMC 3.16.050;
3. Permitted the use of the certificate of exemption by a person other than an authorized agent or employee of the holder of the certificate; or
4. Ceased to be entitled to exemption from sales tax.

~~DC.~~ Prior to revocation of a certificate of exemption, the holder of the certificate shall be provided a notice of the alleged violation not less than 15 days prior to the proposed effective date of revocation of the certificate. The person or entity to whom the certificate was issued may request a hearing before the city manager regarding the alleged violation by filing a written request with the city prior to the effective date for revocation. If requested, the hearing shall be held within 20 days after the date of receipt of the request, and the certificate shall not be revoked prior to the hearing date. ~~If the director of finance revokes a person's license, that person is not exempt from paying sales tax under PMC 3.16.050 until the person obtains a new certificate of exemption, which may not occur sooner than one year after the revocation.~~

~~D.~~ A decision under subsection (C) of this section revoking a certificate of exemption may be appealed to the superior court as provided in the Alaska Rules of Appellate Procedure.

~~E.~~ If a certificate of exemption is revoked, a new certificate may not be issued to the same person or entity for a period of one year from the date of revocation.

~~EF.~~ If the ~~director of finance~~ director revokes a person's certificate of exemption license, that person must pay sales tax, interest, penalties, etc., on all sales made to or by the person which were not duly exempt.

~~D.~~—A contractor duly licensed under AS 8.18 may obtain a sales tax certificate of exemption for one calendar year upon payment of the fee established in the current, adopted budget.

~~E.~~—A buyer who proposes to undertake the construction of or renovations to improvements to real property within the city may, at the time of applying and receiving the building permit, apply for a certificate of exemption and pay the sales tax in the amount established by the current, adopted budget in the year in which the building permit is issued. The buyer may renew the certificate for only one additional calendar year for an additional amount which will be collected based on the current, adopted budget, and after that year purchases for the original construction shall not be exempt.

### **3.16.056 Determination whether transaction is exempt.**

A. A seller shall determine in the first instance whether a sale is exempt under this chapter. However, if the seller incorrectly determines that a sale is exempt, the seller is liable to the city for the uncollected tax.

B. If the seller determines that a transaction is not exempt, but the buyer believes the transaction to be exempt, then they buyer may protest the tax by paying the tax at the time of the sale and filing a written statement of protest with city no later than 30 days after the date of the sale. The seller shall collect the protested tax at the time of the sale.

C. If the seller determines that a sale is exempt, the seller can request a determination on whether a sales is exempt by filing a written statement of protest with the city, no later than 30 days after the date of the sale. The seller shall continue to collect the tax at the time of the sale until the seller received a determination from the city.

D. The finance director will rule on each protest by sending to the buyer or seller a written determination on the protest. If the protest is allowed, a refund of the sale tax paid will be remitted to the seller with the determination.

E. Either the buyer or seller may appeal the finance director's determination by requesting a hearing within 15 days after service of the notification of determination under subsection (D) of this section. A hearing requested shall be conducted before the city manager. After the hearing, the city manager conducting the hearing shall serve the decision on the protestor by delivering the notice to the protestor's address of record.

### **3.16.065 Collection of sales tax.~~Application of sales tax payments.~~**

A. Pursuant to this Code, taxes imposed shall be due and paid by the buyer to the seller at the time of the sale of property or product or date service is rendered, or with respect to credit transactions, at the time of collection. It shall be the duty of each seller to collect the taxes from the buyer and hold those taxes in trust for the city. Failure by the seller to collect the tax shall not affect the sell's responsibility for payment to the city.

A.—Payments on sales tax accounts shall be applied to the earliest delinquent amount due, first to accrued penalty, second to accrued interest and then to sales tax payments owed by the seller.

B. Sales tax may be collected in one of two methods and notice of the sales tax collection must be posted at seller's premises:

1. The seller shall add the sales tax to the price or charge for the sale, rental or services, showing the tax as a separate and distinct item on any receipt, invoice, statement of account, or other records of transaction. The sales tax on more than one separately priced item may be shown as a total on the aggregate price of all items sold or rented, or services rendered, in a single transaction.

2. The seller shall include the tax in the sale or purchase price and remit to the city an amount equal to the seller's gross receipts divided by 1.0(sales tax number) and multiplied by the sales tax percent in lieu of stating sales tax separately and adding it to the sales price. If a seller chooses this method, a notice to customers must be displayed, stating, "All prices includes the (percent) of City of Palmer sales tax".

C. A seller may not assume, fail to add to the price or charge for a sale, rental or service, or refund to the buyer all or part of the sales tax, or advertise or represent to any person that the seller will do so.

D. Sales tax on sales of gaming and sales from coin-operated machines is not added to the sales price and collected with each transaction but is computed and paid as provided in PMC 3.16.040.

~~Amounts of delinquent sales tax, interest or penalty that have been reduced to judgment, are the subject of a confession of judgment, or are the subject of a written payment agreement between the city and the seller are payable as provided in the judgment, confession of judgment or payment agreement, respectively, and, except as provided otherwise in the judgment, confession of judgment or payment agreement, thereafter cease to be subject to the further accrual of~~

interest or penalty under this chapter.

### **3.16.070 Seller accountability.**

Upon collection by the seller of the taxes imposed in this chapter, title to the collected taxes shall vest in the city. All taxes collected are city moneys, and the seller holds the money in trust for the city and is at all times accountable to the city for such moneys. Collection of any tax or taxes, interest, administrative costs and penalties due and payable to the city under this chapter may be enforced through civil action brought in any court of competent jurisdiction. Every sale which is made within the city, unless explicitly exempted by this chapter or a subsequent ordinance, shall be presumed to be subject to the tax imposed under this chapter in any action to enforce the provisions of this chapter.

### **3.16.080 Taxable sales and sales tax returns.**

A. A seller shall prepare a sales tax return for each calendar month on forms provided by the city. The sales tax return shall state the total amount of seller's sales, rentals and services; the amounts of the seller's exempt and taxable sales, rentals and services; and the amount of sales tax that is due from the seller. The seller shall submit on or with the return such additional information as the city may require to determine the amount of the sales tax due for the month. The seller shall prepare the return and remit sales tax to the city on the same basis, cash or accrual, that the seller uses in preparing its federal income tax return. The seller shall sign the return, and transmit the return, with the amount of sales that it shows to be due, to the city.~~Taxable Sales.~~

B. If a seller has sales from prior year's taxable revenue within the city under \$150,000.00 and has remitted timely filings for one calendar year; that seller may request a change in filing status on forms provided by the city. This request must be approved by the finance director before the status can be changed to a quarterly filer.

C. The completed

~~1. Except as provided in subsections (B) and (C) of this section, every seller with annual taxable sales of \$250,000 or more based on the prior year's taxable revenue and new businesses, on or before the last business day of each month, shall make out a return for the preceding month.~~

~~a. The sales tax return, and the related remittance of sales tax, is due and must be received, not merely postmarked, by the city not later than 5:00 p.m. on the last business day of the month immediately following the month for which the return was prepared.~~

~~b. The failure of the United States Postal Service or any private delivery service to make timely delivery of a sales tax return or the related remittance of sales tax shall not excuse an untimely filing or remittance. Monthly returns are due the last day of the immediate subsequent month. Quarterly returns are due as follows:~~

~~Quarter 1 (January – March) April 30~~

~~Quarter 2 (April – June) July 31~~

~~Quarter 3 (July – September) October 31~~

~~Quarter 4 (October – December) January 31~~

D. If the last day of the month following the end of the filing period falls on a Saturday, Sunday, federal holiday or state holiday, the due date will be extended until the next business day, immediately following, however, not later than 5:00 p.m.

E. Any seller holding a city of Palmer business license shall file a sales tax return even though no tax may be due. The return shall show why no tax is due.

F. The finance director may require a seller that fails to submit a sales tax return or remit taxes when due to submit tax returns and remit taxes more frequently than monthly/quarterly.

G. The preparer of the sales tax return shall keep and maintain all documentation supporting any and all claims of exempted sales and purchases. Documentation for exempted sales should

include the number of the exemption authorization card presented by the buyer at the time of the purchase; the date of the purchase; the name of the person making the purchase; the organization making the purchase; the total amount of the purchase; and the amount of sales tax exempted. Failure to provide such documentation may invalidate that portion of the claim of exemption for which no documentation is provided.

~~2. Except as provided in subsections (B) and (C) of this section, every seller with annual taxable sales of between \$100,000 and \$249,999.99 based on the prior year's taxable revenue, shall submit a sales tax return on or before the last business day of the month following the end of the quarter year ending March, June, September, and December.~~

~~a. The sales tax return, and the related remittance of sales tax, is due and must be received, not merely postmarked, by the city not later than 5:00 p.m. on the last business day of the month immediately following the quarter for which the return was prepared.~~

~~b. Failure of the United States Postal Service or any private delivery service to make timely delivery of a sales tax return or the related remittance of sales tax shall not excuse an untimely filing or remittance.~~

~~3. Except as provided in subsections (B) and (C) of this section, every seller with annual taxable sales of below \$100,000 based on the prior year's taxable revenue, shall submit a sales tax return on or before the last business day of the month following the end of the half year ending June and December.~~

~~a. The sales tax return, and the related remittance of sales tax, is due and must be received, not merely postmarked, by the city not later than 5:00 p.m. on the last business day of the month immediately following the quarter for which the return was prepared.~~

~~b. Failure of the United States Postal Service or any private delivery service to make timely delivery of a sales tax return or the related remittance of sales tax shall not excuse an untimely filing or remittance.~~

### **3.16.081 Alaska State Fair and special events sales tax returns.**

BA. Alaska State Fair Business License. For all sales made during and at the Alaska State Fair under a special city business license for sales at the Alaska State Fair only, the sales tax return and related remittance of sales tax, is shall be due and must be received, not merely postmarked, by the city not later than 5:00 p.m. on or before the tenth day of October in the year of the sales, on tax returns provided by the city. Each Alaska State Fair business license holder shall file a sales tax return even though no tax may be due.

CB. Special Events and Seasonal Events Business License. For all sellers only operating at special events inside Palmer city limits, the sales tax return and the related remittance of sales tax, is due and must be received, not merely postmarked, by the city not later than 5:00 p.m. on and seasonal events, the tax return shall be due on or before the last business day of the month immediately following the month the special event(s) occurred. Every Special Event business license holder shall file a sales tax return even though no tax may be due.

#### D. Sales Tax Forms:

~~1. All returns shall be upon forms provided by the city, setting forth the amount of all sales, rentals and services, all nontaxable sales, rentals and services, all taxable sales, rental and services, the amount of tax thereon, and such other information as the city may require, and sign and transmit the same to the city.~~

~~2. All tax returns shall show such further information as the city may require enabling the city to compute correctly and collect the tax levied in this chapter.~~

~~3. In addition to the information required on returns, the city may request, and the seller must furnish, any information deemed necessary for a correct computation of the tax.~~

**3.16.083** — Taxes levied and interest for delinquency.

~~A.—*Late Filing Fee.* Sales tax return late filing fee will be assessed as established in the current, adopted budget.~~

~~B.—*Taxes Levied.* The tax levied, whether or not collected from the buyer, shall be paid by the seller to the city at the time of transmitting the return, and if not so paid, the tax shall immediately become delinquent.~~

~~C.—*Delinquency Costs.* In the event the tax is not paid before delinquency, as provided in this chapter, delinquency costs shall be added to the tax.~~

~~1.—Delinquency sales tax shall bear the interest established in the current, adopted budget.~~

~~2.—In addition, delinquent sales tax shall be subject to a late payment penalty established in the current, adopted budget.~~

~~D.—*Penalty.* The penalty assessed on the delinquent remittance of sales tax or for failure to file a sales tax return shall be waived by the director of finance, upon written application of the seller accompanied by a payment of all delinquent sales tax, interest and penalty otherwise owed by the seller to the city if:~~

~~1.—The seller applies for a waiver of the penalty within 30 days after the delinquency or the director of finance in his or her discretion may extend the 30 day period for good cause; and~~

~~2.—The seller has not been delinquent in their sales tax remittance within the previous 24 consecutive months.~~

### ~~3.16.085~~ Information to be confidential.

~~Except as otherwise provided in this chapter, all returns, reports and information required to be filed with the city under this chapter, and all information deducible from such filed returns, reports and information shall be kept confidential and are not subject to public inspection. Except upon court order, such returns, reports and information shall be made available only to employees and agents of the city whose job responsibilities are directly related to such returns, reports and information; to the person supplying such returns, reports, and information; and to persons authorized in writing by the person supplying such returns, reports and information. The following information shall be made available to the public: The name and address of current business license holders; whether a business license holder is more than 30 days delinquent in filing returns and in remitting sales tax; and if so delinquent, the amount or estimated amount of sales tax due and the number of returns not filed. The city manager or his designee may, from time to time, publish the names of sellers delinquent in remitting sales taxes and the amount thereof. Information may also be made available to the public in the form of statistical reports if the identity of particular sellers is not revealed by the reports.~~

### ~~3.16.087~~ Tax records — Inspection and audit.

~~The records that a seller is required to maintain under this chapter shall be subject to inspection and copying by authorized employees or agents of the city for the purpose of auditing any return filed under this chapter, or to determine the seller's liability for sales tax where no return has been filed. In addition to the information required on returns, the city may request, and the seller must furnish, any information deemed necessary for a correct computation of the tax. The city may adjust a return for a seller if, after investigation or audit, the city determines that the figures included in the original return are incorrect, and that additional sales taxes are due, and the city adjusts the return within three years of the original due date for the return.~~

### **3.16.090** Estimated Tax records — Final tax return.

A. In the event the city is unable to ascertain the tax due from a seller by reason of failure of the seller to keep accurate books, allow inspection, or file a return, or by reason of the seller filing a false or inaccurate return, the city may make an estimate of the tax due based on any evidence in their possession.

B. Sales taxes may also be estimated based on any information available, whenever the city

has reasonable cause to believe that any information on a sales tax return is not accurate. The estimate of gross revenue shall be derived from past returns of the seller, the general economic level of the business community and, if available, returns of comparable businesses.

C. A seller's tax liability under this chapter may be determined and assessed for a period of six (6) years after the date the return was filed or due to be filed with the city. No civil action for the collection of such tax may be commenced after the expiration of the six (6) year period except an action for taxes, penalties and interest due from those filing periods that are the subject of a written demand or assessment made within the six (6) year period, unless the seller waives the protection of this section.

D. The city shall notify the seller in writing, that the city has estimated the amount of the sales tax that is due from the seller including late fees, penalty and interest as applicable. The city shall serve the notice on the seller, by delivering the notice to the seller's place of business or by mailing the notice by certified mail, return receipt requested, to the seller's last known mailing address. A seller who refuses the certified mail will be considered to have accepted the certified mail for purposes of service.

E. The city's estimate of sales tax that is due from a seller shall become a final determination of the amount that is due unless the seller, within 30 calendar days after service of the notice of estimated tax:

1. Files a complete and accurate sales tax return for the delinquent periods supported by satisfactory records and accompanied by a full remittance of all taxes interest, penalties, costs and other charges due; or
2. Files a written notice with the city appealing the estimated amount in accordance with the appeal procedures; or
3. Arguments or reasons for failure to timely file a return and remit taxes collected shall not be considered a valid basis or grounds for granting an appeal. The basis and ground for granting an appeal of an assessment are:
  - a. The identity of the seller is in error;
  - b. The amount of the debt is erroneous due to a clerical error (and the nature and extent of the error is specified in the request for appeal); or
  - c. The seller disputed the denial of exemption(s) for certain sales.

F. The amount of sales tax finally determined to be due under this section shall bear interest and penalty from the date that the sales tax originally was due, plus an additional civil penalty of fifty dollars (\$50) for each calendar month or partial month for which the amount of sales tax that is due has been determined.

~~It shall be the duty of every seller required to make a return and pay over any tax under this chapter to keep and preserve suitable records of the gross daily sales together with invoices of purchases and sales, bills of lading, bills of sales and other pertinent records and documents which may be necessary to determine the amount of tax due under this chapter and such other records of goods, wares, merchandise and other subjects of taxation under this chapter as will substantiate and prove the accuracy of such returns. It shall also be the duty of every seller who makes exempt sales to keep records of such sales, which shall be subject to examination by the city or any authorized employee thereof while engaged in checking or auditing the records of any seller required to make a report under the terms of this chapter. All such records shall remain in the city and be preserved for a period of three years after payment of the taxes, unless the city has authorized, in writing, their destruction or disposal at an earlier date, and shall be open to examination at any time by the city or any authorized employee or agent thereof while engaged in checking such records. The burden of proving that a sale, rental or service was not taxable shall be upon the seller.~~

~~Any seller who filed or should have filed a sales tax return for the prior month shall file a return for the current month even though no tax may be due. This return shall show why no tax is due and, if the business is sold, the name of the person to whom it was sold. If any seller sells, leases~~

or otherwise disposes of his business, he shall make a final sales tax return within 15 days after the date of sale.

~~3.16.095~~ ———— ~~Liability of third parties.~~

~~A.—If any seller sells, assigns, transfers, conveys, leases, forfeits, abandons or otherwise disposes of the business or accounts receivable, then the purchaser, successor, transferee, lessee, assignee, creditor or secured party shall withhold a sufficient portion of the purchase money or loan to pay the amount of such sales taxes, penalties, administrative costs and interest as may be due and unpaid to the city and to pay such to the city. If the purchaser, assignee, transferee, lessee, successor, creditor or secured party fails to withhold from the purchase money or loan, or fails to otherwise provide for or make the payment of the taxes, interest, administrative costs and penalties owed by the business as provided in this chapter, then the purchaser, assignee, transferee, lessee, successor, creditor or secured party shall be personally liable, jointly and severally with the seller, for the payment of the taxes, penalties, administrative costs and interest accruing and unpaid to the city on account of the operation of the business of any former owner, owners, operators or assigns. This section is in addition to any rights of the city arising under AS 45.06.101 et seq.~~

~~B.—Upon termination, dissolution or abandonment of a corporate business, any officer having control or supervision of sales tax funds collected or who is charged with the responsibility for the filing of returns or the payment of sales tax funds collected, shall be personally liable for any unpaid taxes, interest, administrative costs, and penalties on those taxes, if such officer willfully fails to pay or cause to be paid any taxes due from the corporation. In addition, regardless of willfulness, each director of the corporation shall be jointly and severally liable for said amounts. The officer shall be liable only for taxes collected which became due during the period he or she had the control, supervision, responsibility, or duty to act for the corporation. This section does not relieve the corporation of other tax liabilities or otherwise impair other tax collection remedies afforded by law.~~

**3.16.100**      **Returns – filing contents.** ~~Collection upon sale.~~

A.    Every seller required by this chapter to collect sales tax shall file with the city upon forms furnished by the city a return setting forth the following information: ~~The tax levied under this chapter shall be paid by the buyer, and it shall be the duty of every seller to collect from the buyer the full amount of the tax, except that the tax on receipts or proceeds from various mechanical devices as provided in PMC 3.16.150 shall be paid by the operator thereof.~~

- ~~1. Gross sales;~~
- ~~2. The nontaxable portions separately stating the amount of sales revenue attributable to each class of exemption;~~
- ~~3. Computation of taxes to be remitted;~~
- ~~4. Such other information as may be required by the city.~~

B.    ~~Each tax return remitted by a seller shall be signed by a responsible individual who shall attest to the completeness and accuracy of the information on the tax return. Every seller shall add the amount of the tax levied by this chapter to the total sale price, and the tax shall be stated separately on any sales receipts or slips, rent receipts, charge tickets, invoices, statements of account or other tangible evidence of sale. When so stated, the tax shall constitute a part of such price and shall be a debt from the buyer to the seller until paid and shall be recoverable at law in the same manner as other debts.~~

C.    ~~The city reserves the right to reject a filed return for failure to comply with the requirements of the Chapter. The city shall give written notice to a seller that a return has been rejected, including the reason for the rejection. Seller shall be charged the fee established in the adopted budget for failure to collect the tax required by this chapter.~~



**3.16.110 Refunds.**

- A. No sales tax refund shall be made unless the claimant complies with the requirements to obtain a sales tax refund set out in this section.
- B. A claim for a refund of sales taxes paid for exempt sales shall be denied unless the claimant complies with PMC 3.16.120.
- C. A claim for refund of sales taxes over collected must be requested by the claimant in writing to the city within one year of the date of the sale; and if the claimant is a seller, and the tax refund is owed to any buyer, the seller submits, and city approves, a refund plan to all affected buyers.
- D. A claim for refund overpaid in error because of a mistake on the face of a sales tax return must be requested by the claimant in writing to the city within one year of the due date of the return and the claimant files an amended return pursuant to the requirements of this chapter.

**3.16.120 Amended returns.** ~~City manager regulation promulgation authority.~~

- A. A seller may file an amended sales tax return with supporting documentation, and the city may accept the amended return, but only in the following circumstances:
  - 1. The amended return is filed within one year of the original due date for the return; and
  - 2. The seller provides a written justification for requesting approval of the amended return; and
  - 3. The seller held a current city business license for the period for which the amended return was filed and filed an original return for that period; and
  - 4. The seller agrees to submit to an audit upon request of the city.
- B. The city shall notify the seller in writing if it rejects an amended return, including the reasons for any rejection.

~~The city manager may take any action necessary or appropriate to the implementation of this chapter by promulgation of regulations which may include the adoption of forms. Such regulations or any proceedings adopted by the city manager are effective at the time indicated by him, but are subject to revision or repeal by the city council at the next meeting following their effective date or at the time that the council acts thereon.~~

**3.16.130 Extension of time to file fax return.**

Upon written application of the seller, stating the reasons therefor, the finance director may grant an extension of time for filing a sales tax return and remitting the sale tax if the seller, provides each of the following:

- 1. For reasons beyond the seller’s reasonable control, the seller has been unable to maintain in a current condition the books and records that contain the information required to complete the return; and
- 2. Such extension is a dire necessity for bookkeeping reasons and would avert undue hardship upon the seller; and
- 3. The seller has a reasonable plan to cure the problem that caused the seller to apply for an extension, the seller agrees to proceed with diligence to cure the problem; and
- 4. At the time of the application, the seller is not delinquent in filing any other sales tax returns or in remitting sales tax to the city.
- 5. No such extension shall be made retroactively to cover existing delinquencies.

**3.16.140 Audits.**

A. Any seller who has a business license with the city, who is required to collect and remit sales tax, or who is required to submit a sales tax return is subject to a discretionary audit at any time. The purpose of such an audit is to examine the business records of the seller in order to determine whether appropriate amounts of sales tax revenue have been collected by the seller and remitted to the city.

- B. The city is not bound to accept a sales tax return as correct. The city may make an independent investigation of all retail sales or transactions conducted within the city.
- C. The records that a seller is required to maintain under this chapter shall be subject to inspection and copying by authorized employees or agents of the city for the purpose of auditing any return filed under this chapter, or to determine the seller's liability for sales tax where no return has been filed.
- D. In addition to the information required on returns, the city may request, and the seller must furnish, any reasonable information deemed necessary for a correct computation of the tax.
- E. The city may adjust a return for a seller if, after investigation or audit, the city determines that the figures included in the original return are incorrect, and that additional sales taxes are due; and the city adjusts the return within two (2) years of the original due date for the return.
- F. For the purpose of ascertaining the correctness of a return or the amount of taxes owed when a return has not been filed, the city may conduct investigations, hearings and audits and may examine any relevant books, papers, statements, memoranda, records, accounts or other writings of any seller at any reasonable hour on the premises of the seller and require the attendance of any officer or employee of the seller. Upon written demand by the city, the seller shall present for examination, in the office of the finance director, such books, papers, statements, memoranda, records, accounts and other written material as may be set out in the demand unless the city and the person upon whom the demand is made agree to presentation of such materials at a different place.
- G. The city may issue a subpoena to compel attendance or to require production of relevant books, papers, records or memoranda. If any seller refuses to obey any such subpoena, the city may refer the matter to the city's attorney for an application to the district or superior court for an order requiring the seller to comply therewith.
- H. Any seller or person engaged in business who is unable or unwilling to submit their records to the city shall be required to pay the city for all necessary expenses incurred for the examination and inspection of their records maintained outside the city.
- I. After the completion of a sales tax audit, the results of the audit will be sent to the business owner's address of record.
- J. In the event the City, upon completion of an audit, discovers more than five hundred dollars (\$500) in additional sales tax due from a seller resulting from a seller's failure to accurately report sales and taxes due thereupon, the seller shall bear responsibility for the full cost of the audit. The audit fee assessment will be in addition to interest and penalties applicable to amounts deemed to be delinquent by the city at the time of the conclusion of the audit.

**3.16.150 Protest.** Public statement of tax required — Exception for coin-operated machines.

- A. If the seller wishes to dispute the amount of the estimate, or the results of an examination or audit, the seller must file a written protest with the finance director, within thirty (30) calendar days of the date of the notice of estimated tax or results from an audit or examination. The protest must set forth:
- 1- The seller's justification for reducing or increasing the estimated tax amount, including any missing sales tax returns for the periods estimated: or
  - 2- The seller's reasons for challenging the examination or audit results.
- B. Upon receipt of the protest, the finance director shall present the protest to the city manager for processing.
- C. The city manager shall advise the seller of a date certain for an informal meeting or hearing with the seller and informally review the protest, make written findings and state reasons for the decision. The city manager may require that the seller submit to an audit, if one was not previously conducted or a more formal audit, if an estimation audit was previously performed.
- D. The city manager shall make a final written determination on the seller's protest and mail a copy of the determination to the seller by certified mail, return receipt requested, to the last

known mailing address of the seller.

E. If a written protest is not filed within thirty (30) days of the date of the notice of estimated tax or the result of a review, audit or examination, then the estimated tax, review, audit or examination shall be final, due and payable to the city.

~~A seller shall not advertise or hold out or state to the public or to any buyer, directly or indirectly, that the tax payment or any part thereof imposed by this chapter will be assumed or absorbed by the seller or that it will not be added to the sales price or that it will be refunded or absorbed in whole or in part. The seller shall, whenever feasible, separately state the tax to the buyer on each taxable transaction. When not feasible to state separately, the seller shall prominently display a sign indicating the imposition of the tax. The revenue from a coin-operated machine shall be treated in gross on a monthly basis, without reference to the amount paid or played on a particular transaction.~~

**3.16.160 Penalties and interest of late filing.** ~~Liability for payment—Protest of tax.~~

~~A. A late filing fee of twenty-five dollars (\$25) per filing period shall be added to all late-filed sales tax reports in addition to interest and penalties. seller shall determine in the first instance whether a sale is exempt under this chapter; however, if the seller incorrectly determines that a sale is exempt, the seller is liable to the city for the tax just as if he had collected it.~~

~~B. Delinquent sales tax bear interest at the rate of fifteen percent (15%) per annum until paid. If the seller determines that a transaction is not exempt, but the buyer believes the transaction to be exempt, then the buyer may protest.~~

~~1.—A buyer who protests the payment of the tax levied under this chapter shall pay the tax with the sales price and shall deliver to the city director of finance and to the seller a written statement of protest within five working days of the sale that identifies the sale, rental or service that is the subject of the tax protested, the amount of tax paid, the buyer's and seller's name, mailing address and telephone number and the basis for the protest.~~

~~2.—The city director of finance, after investigation (if necessary) and after consultation with the city attorney, will rule on each protest and send to the buyer a notice that his claim has been allowed or disallowed within 30 days of receipt of the statement by the city. If the claim has been allowed, a refund will be remitted with the notice. In the event the claim is disallowed, the buyer may seek review thereof by the city manager within 30 days. Unless such review is sought within such time, the decision of the city director of finance is final.~~

~~C. In addition, delinquent sales tax shall be subject to an additional penalty of 5% per month, or fraction thereof, until a total of 20% of delinquent tax has been reached. The penalty does not bear interest.~~

~~D. Fees, penalties and interest shall be assessed and collected in the same manner as the tax is assessed and collected, and applied first to fees, penalties and interest, second to past due sales tax.~~

~~E. The filing of an incomplete return, or the failure to remit all tax, shall be treated as the filing of no return.~~

~~F. A penalty assessed under this section for the delinquent remittance of sales tax or failure to file a sales tax return may be waived by the finance director, upon written application of the seller accompanied by a payment of all delinquent sales tax, interest and penalty otherwise owed by the seller, within forty-five (45) calendar days after the date of delinquency. A seller may not be granted more than one (1) waiver of penalty under this subsection in any one calendar year.~~

~~G. All subsequent payments shall be applied first to penalty, then to accumulated interest, and then to the oldest tax owed.~~

**3.16.170 Repayment plans.** ~~Tax return—Extension of time.~~

~~The city manager may, in his discretion, upon written application duly made, grant an extension of time for filing returns and remitting the tax each month to any seller, provided:~~

- A. ~~The city may agree to enter into a repayment plan with a delinquent seller. No repayment plan shall be valid unless agreed to by both parties in writing. That such extension is a dire necessity for bookkeeping reasons and would avert undue hardship upon such seller; and~~
- B. ~~A seller shall not be eligible to enter into a repayment plan with the city if the seller has defaulted on a repayment plan in the previous two (2) calendar years. That such seller is not delinquent in any payment of tax or filing of returns or otherwise in violation of this chapter; and~~
- C. ~~The repayment plan shall include a secured promissory note that substantially complies with the following terms: Provided further, that no such extension shall be for more than 21 days each month.~~
- ~~1. The seller agrees to pay a minimum of ten percent (10%) down payment on the tax, interest, and penalty amount due. The down payment shall be applied first to penalty, then to accumulated interest, and then to the oldest tax owed.~~
  - ~~2. The seller agrees to pay the balance of the tax, penalty and interest owed in monthly installments over a period not to exceed two (2) years.~~
  - ~~3. Interest at a rate of fifteen percent (15%) per annum shall accrue on the principal sum due. Interest shall not apply to penalties owed or to interest accrued at the time the repayment plan is executed or accruing during the term of the repayment plan.~~
  - ~~4. If the seller is a corporation or a limited liability entity the seller agrees to provide a personal guarantee of the obligations under the repayment plan.~~
  - ~~5. The seller agrees to pay all future tax bills in accordance with the provisions of this chapter.~~
  - ~~6. The seller agrees to provide a security interest in the form of a sales tax lien for the entire unpaid balance of the promissory note to be recorded by the city at the time the repayment plan is signed. The seller shall be responsible for the cost of recording the tax lien.~~
- D. ~~If a seller fails to pay two (2) or more payments as required by the repayment plan agreement, the seller shall be in default and the entire amount owed at the time of default shall become immediately due. The city will send the seller a notice of default. The city may immediately foreclose on the sales tax lien or take any other remedy available by law. No such extension shall be made retroactive to cover existing delinquencies.~~

**3.16.180 Seller record retention.** ~~Estimated tax.~~

- A. ~~A seller shall maintain records of transactions supporting the information that the seller submits on sales tax returns, including without limitation records of daily gross receipts from sales, rentals and services, invoices of purchases and sales, bills of lading and bills of sale. A seller shall maintain records of transactions that are exempt from sales tax, including information that will substantiate the claim of exemption. The seller shall maintain all such records for a period not less than three full calendar years, except to the extent that the city has authorized in writing their destruction or disposal at an earlier date.~~
- B. ~~If insufficient detail exists within a seller's business records to substantiate retail sales exemptions, such sales will be reclassified as taxable sales and subject to sales tax collection and remittance.~~
- C. ~~The seller shall immediately notify the city of any fire, theft or other casualty which prevents the seller's compliance with this chapter. The casualty constitutes a defense to any penalty and/or fee provided in this chapter if determined to be the proximate cause of the failure to comply for a given reporting period but does not excuse the seller from liability for taxes due. Accidental loss of funds or records is not a defense against the penalties and/or fees of this chapter.~~
- A. ~~In the event that the city is unable to ascertain the tax due to be remitted by a seller by reason of seller's failure to keep accurate books, to allow inspection, or to file a return or seller's falsification of records, the city may make an estimate of the tax due based on any information available to it. Notice of the estimate of tax due shall be furnished the seller, and the amount~~

~~therein stated shall become final 33 days thereafter for the purposes of determining liability of seller to the city, unless the seller earlier files an accurate return, supported by satisfactory records, indicating a lesser liability, or unless the city proves a greater liability within six years from the date the final estimate is established. A seller shall immediately notify the city of any fire, theft or other casualty which would prevent his complying with this chapter. Such casualty constitutes a defense to any penalty provided in this chapter but does not excuse the seller from liability for taxes due. Accidental loss of funds or records is not a defense under this section.~~

~~B.— Nothing in this section shall prevent the city from filing and maintaining an action to collect any taxes collected or which should have been collected in addition to any penalty assessed. In such action, the estimated tax due made by the city shall be prima facie evidence of the amount payable.~~

**3.16.190 Cessation or transfer of business.** ~~Delinquent taxes—Notice.~~

~~A. A seller that ceases to engage in business in the city without a transfer of business shall file with the city a business license closure form, a final sales tax return and remit any sales tax due, for the period ending on the date that the seller ceases to engage in business in the city, not later than thirty (30) calendar days after that date. Whenever any seller fails to submit the required return, or such return is reasonably believed by the city to contain incorrect reporting, the city may notify such seller in writing by certified mail, return receipt requested.~~

~~B. A seller that transfers its business in the city shall provide the transferee with written notice of the transferee's obligations, if any, to the city not less than 15 days before the effective date of the transfer, but neither the seller's failure to give notice nor the transferee's failure to receive notice shall relieve the transferee of any such obligations. The seller shall file with the city a business license closure form, a final sales tax return and remit any sales tax due, for the period ending on the effective date of the transfer, not later than 30 days after the effective date, and provide a copy of the return to the transferee. The seller shall also file proof that it provided the transferee with written notice of any obligations owed to the city. The seller shall have 15 days to provide evidence that the seller's reporting is correct such as the seller's books, sales receipts, papers, records and other memoranda pertaining to gross revenue and the determination of sales tax liability and in the event of noncompliance by the seller the city may forthwith take such legal action as provided for in this chapter.)~~

~~C. The transferee of a business, with written consent of the owner, shall obtain from the city before the effective date of the transfer an estimate of the delinquent sale tax, penalty and interest, if any, owed by the seller as of the date of the transfer, and shall withhold that amount from consideration payable for the transfer, until the seller has produced a receipt from the city showing that all tax obligations imposed by this chapter have been paid. A transferee that fails to withhold the amount required under this subsection shall be liable to the city for the lesser of the amount of the delinquent sales tax, penalty and interest due from the seller as of the date of the transfer, and the amount that the transferee was required to withhold.~~

~~D. In this section, the term "transfer" includes the following:~~

- ~~1. A change in voting, or in more than fifty percent (50%) of the ownership interest in a seller that is a corporation, limited liability company or partnership; or~~
- ~~2. A sale of all or substantially all the assets used in the business of the seller; or~~
- ~~3. The initiation of a lease, management agreement or other arrangement under which another person becomes entitled to the seller's gross receipts from sales, rentals or services.~~

**3.16.200 Use of information on tax returns.** ~~Lien for tax, interest and administration costs and penalties.~~

~~A. Except as otherwise provided in this chapter, all returns, reports and information required to be filed with the city under this chapter, and all information contained therein, shall be kept confidential and shall be subject to inspection only by:~~

1. Employees and agents of the city whose job responsibilities are directly related to such returns, reports and information;
2. The person supplying such returns, reports and information: and
3. Persons authorized in writing by the person supplying such returns, reports and information.

~~The tax, interest, penalties and administrative costs imposed under this chapter shall constitute a lien in favor of the city upon the assets, including all real and personal property, of every person making taxable sales within the city. The lien arises upon delinquency and continues until the liability for the amount is satisfied or the property of the delinquent person is sold at foreclosure sales. When recorded, the sales tax lien has priority over all other liens except (1) liens for property taxes and special assessments; (2) liens that were perfected before the recording of the sales tax lien for amounts actually advanced before the recording of the sales tax lien; (3) mechanics' and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the sales tax lien.~~

~~B. The city will release information described in subsection (A) of this section pursuant to subpoena, order of a court or administrative agency of competent jurisdiction, and where otherwise required by law to do so. may file a notice of lien in the manner provided for federal tax liens under AS 40.19; provided, that in addition to the rights afforded thereunder, the city's sales tax lien shall attach to all seller's personal property, whether tangible or intangible, located in the recording district in which the lien is filed regardless of where the seller resides. The city may record subsequent notices of lien for amounts due after the recording of a previous notice of lien. The city may also record amended notices of lien to correct any errors or to provide notice of the then current principal amount owing.~~

~~C. Notwithstanding subsection (A) of this section, the following information is available for public inspection: The notice of lien for real property shall set out:~~

- ~~1. The name and address of a the seller who holds a current city business license;~~
- ~~2. Whether a business license holder is more than 30 days delinquent in filing a return or remitting sales tax; and if so delinquent the number of returns not filed. The principal amount owing at a stated date; and~~
- ~~3. A statement that penalty, interest and administration costs are also owing.~~

~~D. The city may publish the name of any seller that is delinquent in remitting sales tax, and the delinquent amount thereof. The city also may provide the public statistical information related to sales tax collection, provided that no information identifiable to a particular seller is disclosed. Within 10 days after filing the notice of lien or amended notice of lien, the city shall mail a copy of the notice by certified mail, return receipt requested, to the last known address of seller; provided failure to so mail the copy shall not void the lien nor lessen its priority.~~

**3.16.210 Violations.** ~~Delinquent taxes—Foreclosure—Time limit.~~

~~A. A seller that fails to file a sales tax return or remit sales tax when due, in addition to any other liability imposed by this chapter, shall pay to the city all costs incurred by the city to determine the amount of the seller's liability or to collect the sales tax, including without limitation, reviewing and auditing the seller's business records, collection agency fees, and actual reasonable attorney's fees.~~

~~B. A person who causes or permits a corporation of which the person is an officer or director, a limited liability company of which the person is a member or manager, or a partnership of which the person is a partner, to fail to collect sales tax or to remit sales tax to the city as required by this chapter shall be liable to the city for the amount that should have been collected or remitted, plus any applicable interest and penalty.~~

~~C. Pursuant to AS 29.45.650, the city may cause a sales tax lien to be filed and recorded against all real and personal property of a seller to secure the payment of sales tax, interest, penalty and costs of collection. The finance director shall cause notice of the lien to be recorded~~

with respect to the property of a seller when the city finds that the seller is delinquent in remitting sales tax to the city. The notice shall state of the name of the seller, the amount of delinquent sales tax, interest, penalty and cost of collection owed by the seller as of a specified date. Within 10 days after filing the notice of lien, the city shall mail a copy of the notice by certified mail, return receipt requested, to the last known address of the seller; provided, that failure of the city to mail the notice or of the seller to receive it shall not affect the validity or priority of the lien.

- D. In addition to other remedies discussed in this chapter, the city may bring a civil action to:
1. Enjoin a violation of this chapter. On application for injunctive relief and a finding of a violation or threatened violation, the superior court shall enjoin the violation.
  2. Collect delinquent sale tax, penalty, interest, fees and costs of collection, either before or after estimating the amount of sales tax due under PMC 3.16.090.
  3. Recover a civil penalty of \$1,000.00 for each violation of this chapter.
  4. Foreclose a recorded sales tax lien as provided by law.

E. All remedies hereunder are cumulative and are in addition to any others existing at law or in equity.

~~The city attorney, at the request of the city council, may file an action to foreclose the lien of the city for the tax upon property and rights to property, real or personal, and sell the same, applying the proceeds thereof to the payment of the tax, interest, penalty, administration costs and the costs of foreclosure. The action shall be commenced and pursued in the manner provided for the foreclosure of liens by AS 09.45.170 through 09.45.220; provided, however, upon commencement, the city shall provide written notice of the action to all persons having an interest of record in the property being foreclosed or persons in possession of the property. The action may be commenced at any time within six years after the lien arises.~~

**3.16.220 Penalties for violations.** ~~Delinquent taxes — Foreclosure — Sale of property — Redemption.~~

A. A buyer or seller who knowingly or negligently submits false information in a document filed with the city is subject a penalty fine as established in the current, adopted budget. The city council may collect taxes, with interest and penalties, by distraint, seizure and private sale of the property of the seller who fails to pay them within 10 days after service or mailing of the notice of delinquency. The council may levy upon, or, by warrant issued by it, authorize any peace officer to levy upon, seize or sell all property, except that upon which the seller claims an exemption pursuant to law, belonging to the seller, for the payment of the amount due, with interest and penalty for nonpayment, and also of a further amount sufficient for the fees, costs and expenses of the levy.

B. A seller who knowingly or negligently falsifies or conceals information related to its business activities with the city is subject to a penalty fine as established in the current, adopted budget. When distraint is made as provided in this section, the peace officer charged with the collection shall make or have made an account of the property distrained, a copy of which, signed by owner or possessor of the property, or at his dwelling or usual place of business, if a person of suitable age and discretion can be found, or if the taxpayer is a corporation or other type of organization, then with an officer, manager, general agent, or agent for process, with a note as to the amount demanded and the time and place of sale. The peace officer shall immediately publish a notice of the time and place of sale, together with a description of the property distrained, in a newspaper published in the city and, in the discretion of the council, have the notice publicly posted in three public places within five miles of the place where the sale is to be held, one of the notices to be posted at the post office nearest the place where the sale is to be made. The time of sale shall be not less than 10 nor more than 60 days from the date of the notification to the owner or possessor of the property, and the place proposed for the sale shall not be more than five miles from the place of making the distraint. The sale may be adjourned from time to time by the peace officer if he considers it advisable, but not for more than 90 days in all. When the property is

advertised for sale under the distraint, the peace officer making the seizure shall proceed to sell the property at public auction, offering the property for sale at not less than a fair minimum price as established by the city manager, to the highest cash bidder, but reserving the right, if the amount bid is less than the fair minimum price so established, to declare the property to be purchased by him for the city. Property so purchased by him may thereafter be sold under regulations prescribed by the city, or otherwise used for city purposes.

C. A person who knowingly or negligently provides false information when applying for a certificate of exemption is subject to a fine as established in the current, adopted budget. The property distrained shall be restored to the owner or possessor if, before the sale, payment of the amount due is made to the peace officer charged with the collection, together with the fees and other charges; but in case of nonpayment, the peace officer shall proceed to sell the property at public auction. The owner of real property sold under this section, his heir, executor, administrator or successor or a person in his behalf may redeem the real property sold or a particular tract of the real property at any time within two years after the sale thereof; the property or tract may be redeemed upon payment to the purchaser or, if he cannot be found, then to the city for the use of

the purchaser, his heirs or assigns, the amount paid by the purchaser and interest on it at the rate of eight percent per year. In the case of property sold, the peace officer conducting the sale shall give to the purchaser a certificate of sale on payment in full of the purchase price. In the case of real property, the certificate shall set out the real property purchased, the amount of taxes for which the same was sold, the name of the purchaser and the price paid for it. In the case of real property sold under this section and not redeemed in the manner and within the time provided in this chapter, the city manager shall execute to the purchaser of the real property at the sale a tax deed to the real property so purchased by him, reciting the facts set forth in the certificate. Such tax deed shall be delivered to the purchaser (including the city when it is the purchaser) upon demand after the period of redemption has expired.

D. A seller who fails to file a return by the due date required under this chapter, regardless of whether any taxes were due for the reporting period for which the return was required, shall be subject to a fee of \$25.00 for each sales tax return not timely filed.

E. A seller who fails or refuses to produce requested records or to allow inspection of their books and records shall pay to the city a penalty equal to three (3) times any deficiency found or estimated by the city with a minimum fine established in the current, adopted budget.

F. A seller who falsifies or misrepresents any record filed with the city is guilty of an infraction and subject to a penalty fine as established in the current, adopted budget.

G. Misuse of an exemption card is a violation and subject to a fine as established in the current, adopted budget.

H. Nothing in this chapter shall be construed as preventing the city from filing and maintaining an action at law to recover any taxes, penalties, interest and/or fees due from a seller. The city may also recover attorney's fees in any action against a delinquent seller.

### 3.16.230 — Certificate of sale — Other than real property.

In all cases of sale of property under this chapter, other than real property, the certificate of sale:

A.— Is prima facie evidence of the right of the peace officer to make the sale, and conclusive evidence of the regularity of his proceedings in making the sale;

B.— Transfers to the purchaser all right, title and interest of the delinquent in and to the property sold;

C.— When the property consists of shares of stock, is notice (when received) to the corporation, company, or association to record the transfer on their books and records in the same manner as if the stock were transferred or assigned by the party holding the stock in lieu of an original or prior certificate, which original or prior certificate is void, whether cancelled or not;

D.— Where the subject of the sale is security or other evidence of debt, is a good and valid



receipt to the person holding it, as against a person holding or claiming to hold possession of the security or other evidence of debt.

~~3.16.240 ——— Certificate of sale — Real property.~~

~~In the case of a sale of real property under this chapter:~~

~~A.—The deed of sale given under the provisions of this chapter is prima facie evidence of the facts stated in it; and~~

~~B.—The deed is considered and operates as a conveyance of all the right, title and interest that the party delinquent had in and to the real property sold as of the time of the lien of the city attached to it.~~

**3.16.250 City manager regulation promulgation authority.** ~~Delinquent taxes — Seizure of additional property — Chapter nonexclusive.~~

The city manager may take any action necessary or appropriate to the implementation of this chapter by promulgation of regulations which may include the adoption of forms. Such regulation or any proceedings adopted by the city manager are effective at the time indicated by him, but are subject to revision or repeal by the city council at the next meeting following their effective date or at the time that the council act thereon.

~~If property seized and sold under distraint is not sufficient to satisfy the claim of the city for which distraint or seizure is made, the peace officer may, thereafter, and as often as is necessary, proceed to seize and sell in like manner any other property liable to seizure of the delinquent party against whom the claim exists until the amount due from the delinquent party, together with all expenses, is fully paid. A person in possession of property or rights to property which is subject to distraint upon which a levy is made shall, upon demand by the peace officer making the levy, surrender the property or rights to the peace officer, unless the property or right is, at the time of the demand, subject to a previous attachment under judicial process. A person who fails or refuses to so surrender the property or rights is personally liable to the city in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes, penalty, interest and costs. All persons shall, on demand of a peace officer about to distraint or having distrained on property, or rights of property, exhibit all books containing evidence or statements relating to the subject of distraint or the property or rights of property liable to distraint for the tax due. The provisions of this chapter are not exclusive but are in addition to all other existing remedies provided by law for the enforcement of a levy and collection of taxes of the city.~~

~~3.16.260 ——— Violation — Remedies.~~

~~A.—The seller who fails to timely remit sales tax to the city shall pay the city all costs of collection, to include without limitation, actual reasonable attorney's fees, costs and audit fees incurred for collection, whether or not court action is commenced. This amount of fees and costs is in addition to the fee set out in subsection (C) of this section.~~

~~B.—Each of the following acts or omissions, when intentional, constitutes an ordinance violation and subjects the violator to a civil penalty. Such an act or omission is intentional when it continues after notice from the city to the seller or seller's agent that such act or omission is an ordinance violation. Each act or omission set forth in this section constitutes a separate violation, and each day that a violation of this chapter continues constitutes a separate violation:~~

- ~~1.—Failure to obtain a current business license by a seller;~~
- ~~2.—Making sales either without a current, valid business license or while the seller's business license is suspended;~~
- ~~3.—Failure to file a sales tax return or failure to remit sales taxes when due;~~
- ~~4.—Falsification or misrepresentation of any record or fact provided to the city under this chapter or required to be kept by this chapter, if used to mislead the city tax authorities;~~

- ~~5. Failure to correct a falsification or misrepresentation of any record or fact provided to the city concerning sales tax;~~
- ~~6. Failure of a seller to allow the inspection at reasonable times of records required to be kept by this chapter; and~~
- ~~7. Failure of a seller to keep and preserve records required to be kept under this chapter.~~
- ~~C. For continuing violations, the fee established in the current, adopted budget shall be paid to the city.~~
- ~~D. The city may request the court to enjoin a seller from violating any provision of this chapter. On application for injunctive relief and a finding of a violation or threatened violation, the superior court shall grant the injunction.~~
- ~~E. All remedies hereunder are cumulative and are in addition to those existing at law or equity.~~

~~3.16.270 ——— Refund of sales tax — Interest.~~

- ~~A. If, through error or otherwise, a taxpayer pays to the city sales taxes to which the city is not entitled by law, the taxpayer may, within one year from the due date of the tax, apply in writing to the city director of finance for a refund.~~
- ~~B. If the application for refund of tax, and where applicable interest at eight percent per annum as well, does not exceed in the aggregate \$500.00, the city director of finance may, upon approval by the city attorney and an audit of the applicant's account, refund to the applicant the said tax, and, where applicable, interest as well.~~
- ~~C. If the city director of finance determines a refund is not due or is not due in the amount claimed, then the taxpayer may appeal to the city manager within 30 days as provided in PMC 3.16.280.~~
- ~~D. The procedure set forth in this section is the recognized procedure whereby a refund may be made; and the taxpayer must first duly comply with this section and PMC 3.16.280 as conditions precedent to bringing a suit to recover said taxes. Any person who has not timely availed himself of these procedures shall be deemed to have waived any right to such refund as well as the right to recover said tax and interest.~~
- ~~E. Any claim for refund shall be filed with the city director of finance within one year from the date of payment of the tax. The failure to file a claim for refund within the time allowed shall forever bar the claim. (Ord. 15-022 § 4, 2015; Ord. 10-019 § 12, 2010; Ord. 445 § 13, 1992)~~

~~3.16.280 ——— Appeal.~~

- ~~A taxpayer may appeal a decision of the director of finance to the city manager in accordance with the provisions of this section.~~
- ~~A. The taxpayer has the right to a hearing before the city manager.~~
- ~~B. The taxpayer's request for a hearing must be in writing, signed by the taxpayer (or counsel therefor) and delivered to the city manager within 30 days of receipt of written notice of the director of finance's decision. Taxpayer's failure to request a hearing within the time and manner provided shall be deemed a waiver of his or her appeal rights and to any appellate review to which he or she might have otherwise been entitled; and the director of finance's decision becomes final.~~
- ~~C. If the taxpayer duly delivers his or her request for hearing, the city manager will hold a hearing within 15 days from the date of receipt of the request. The city manager may extend in writing the hearing date, but no extension of more than 30 days shall be granted. The city manager shall duly notify the taxpayer of the date, time and place of the hearing.~~
- ~~D. The taxpayer at his or her own expense may be represented by counsel.~~
- ~~E. The hearing shall be open to the public.~~
- ~~F. The city manager may attain the services of an attorney or other person to assist him or her in conducting the hearing and making the decision.~~
- ~~G. All testimony shall be under oath. The proceedings shall be tape-recorded. Upon written~~

request, the taxpayer is entitled to a copy of the tape at no charge. The taxpayer or representative and the director of finance or representative may examine and cross-examine witnesses. The city manager or representative may also question witnesses. Exhibits may be introduced. The rules of evidence need not be strictly followed. Irrelevant or unduly repetitious evidence may be excluded. The factual record is closed at the close of the hearing. The city manager may continue the hearing for good cause.

H.—The order of presentation will be:

- 1.—Brief opening statement by the director of finance;
- 2.—Brief opening statement by the taxpayer, which is optional;
- 3.—Presentation of evidence by director of finance;
- 4.—Presentation of evidence by taxpayer;
- 5.—Rebuttal as necessary;
- 6.—Argument by director of finance;
- 7.—Argument by taxpayer;
- 8.—Rebuttal argument by director of finance.

I.—The taxpayer must prove by a preponderance of the evidence the factual basis upon which he or she is relying.

J.—Within 10 working days from the conclusion of the hearing, the city manager shall render a written decision which shall be effective immediately or according to its terms.

K.—A taxpayer who is dissatisfied with the city manager's decision may appeal it to the superior court in Palmer only. Said appeal must be filed within 30 days of taxpayer's receipt of the decision. Taxpayer's failure to appeal within this time constitutes a waiver of his or her appeal rights and the city manager's decision becomes final.

**3.16.300 Alaska uniform remote seller sales tax code adopted by reference.**

The city adopts by reference the Alaska Uniform Remote Seller Sales Tax Code (code) and Supplemental Definitions of the Alaska Remote Sellers Sales Tax Commission, as the code currently exists, and as may be further amended.

Section 4. Effective Date. Ordinance No. 20-002 shall take effect upon adoption by the city of Palmer City Council.

**Passed and approved** this \_\_\_\_ day of \_\_\_\_, 2020.

\_\_\_\_\_  
Edna B. DeVries, Mayor

\_\_\_\_\_  
Norma I. Alley, MMC, City Clerk

## ALASKA REMOTE SELLER SALES TAX CODE

### XX.XX.010 – Interpretation.

- A. In order to prevent evasion of the sales taxes and to aid in its administration, it is presumed that all sales and services by a person or entity engaging in business are subject to the sales tax.
- B. The application of the tax levied under this Code shall be broadly construed and shall favor inclusion rather than exclusion.
- C. Exemptions from the tax levied under this Code or from the taxing jurisdiction shall be narrowly construed against the claimant and allowed only when such exemption clearly falls within an exemption defined in this Code or the taxing jurisdiction's Code.
- D. The scope of this Code shall apply to remote sellers or marketplace facilitators, delivering products or services to Member municipalities adopting this Code, within the state of Alaska.

### XX.XX.020 – Title to Collected Sales Tax

Upon collection by the remote seller or marketplace facilitator, title to collected sales tax vests in the Commission for remittance to the taxing jurisdiction. The remote seller or marketplace facilitator remits collected sales tax to the Commission on behalf of the taxing jurisdiction, from whom that power is delegated, in trust for the taxing jurisdiction and is accountable to the Commission and taxing jurisdiction.

### XX.XX.030 – Imposition – Rate

- A. To the fullest extent permitted by law, a sales tax is levied and assessed on all remote sales where delivery is made within the local taxing jurisdiction(s) that is a Member, within the state of Alaska.
- B. The applicable tax shall be added to the sales price.
- C. The tax rate added to the sale price shall be the tax rate for the taxing jurisdiction(s) where the property or product is sold, or service that was rendered is received, and based on the date the property or product was sold or the date the service rendered was received.
- D. An Address and Tax Rate Database will be made available to remote sellers and marketplace facilitators, indicating the appropriate tax rate to be applied.
- E. The tax assessed shall be consistent with relevant jurisdictional tax caps, single unit sales, and exemptions.
- F. When a sale is made on an installment basis, the applicable sales tax shall be collected at each payment, calculated at the sales tax rate in effect, and with the cap applied, at the time of the original sale or the date the service is rendered, based on the local jurisdictions' Code(s).
- G. When a sales transaction involves placement of a single order with multiple deliveries made at different points in time that are separately invoiced, the applicable sales tax shall be collected on each separately invoiced delivery, calculated at the sales tax rate in effect, and with the cap applied, at the time of the original sale or the date the service is rendered.

### XX.XX.040. – Obligation to Collect Tax - Threshold Criteria

- A. Any remote seller or marketplace facilitator must collect and remit sales tax in compliance

with all applicable procedures and requirements of law, provided the remote seller or marketplace facilitator has met one of the following Threshold Criteria (“Threshold Criteria”) in the previous calendar year:

1. The remote seller’s statewide gross sales, including the seller’s marketplace facilitator’s statewide gross sales, from the sale(s) of property, products or services delivered into the state meets or exceeds one hundred thousand dollars (\$100,000);  
or
  2. The remote seller, including the seller’s marketplace facilitator, sold property, products, or services delivered into the state in two hundred (200) or more separate transactions.
- B. For purposes of determining whether the Threshold Criteria are met, remote sellers or marketplace facilitators shall include all gross sales, from all sales of goods, property, products, or services rendered within the state of Alaska.

XX.XX.050. – No Retroactive Application

The obligations to collect and remit sales tax required by this chapter are applicable at the effective date of the ordinance adopting the Alaska Remote Seller Sales Tax Code.

XX.XX.060 – Payment and Collection

Pursuant to this Code, taxes imposed shall be due and paid by the buyer to the remote seller or marketplace facilitator at the time of the sale of property or product or date service is rendered, or with respect to credit transactions, at the time of collection. It shall be the duty of each remote seller or marketplace facilitator to collect the taxes from the buyer and to hold those taxes in trust for the taxing authority of the taxing jurisdiction. Failure by the remote seller or marketplace facilitator to collect the tax shall not affect the remote seller’s, or marketplace facilitator’s, responsibility for payment to the Commission.

XX.XX.070 – Remote Seller and Marketplace Facilitator Registration Requirement

- A. If a remote seller’s gross statewide sales within the last calendar year meets or exceeds the Threshold Criteria, the remote seller shall register with the Commission. If a marketplace facilitator’s gross statewide sales within the last calendar year meets or exceeds the Threshold Criteria, the marketplace facilitator shall register with the Commission.
- B. A remote seller or marketplace facilitator meeting the Threshold Criteria shall apply for a certificate of sales tax registration within thirty (30) calendar days of the effective date of this Code or within thirty (30) calendar days of meeting the Threshold Criteria whichever occurs second. Registration shall be to the Commission on forms prescribed by the Commission.
- C. An extension may be applied for and granted based on criteria established by the Commission, based on evidence produced to describe time necessary to update software or other technical needs, not to exceed ninety (90) days.
- D. Upon receipt of a properly executed application, the Commission shall confirm registration, stating the legal name of the remote seller or marketplace facilitator, the primary address, and the primary sales tax contact name and corresponding title. The failure of the Commission to confirm registration does not relieve the remote seller or marketplace facilitator of its duty to collect and remit sales tax.

- E. Each business entity shall have a sales tax registration under the advertised name.
- F. The sales tax certificate is non-assignable and non-transferable.

**XX.XX.80.-Tax Filing Schedule**

- A. All remote sellers or marketplace facilitators subject to this Code shall file a return on a form or in a format prescribed by the Commission and shall pay the tax due.
- B. Filing of sales tax returns are due monthly; quarterly filing is optional upon application and approval by the Commission, consistent with the code of the local jurisdiction.
- C. A remote seller or marketplace facilitator who has filed a sales tax return will be presumed to be making sales in successive periods unless the remote seller or marketplace facilitator files a return showing a termination or sale of the business in accordance with this Code.
- D. The completed and executed return, together with the remittance in full for the tax due, shall be transmitted to and must be received by the Commission on or before midnight Alaska Standard Time on the due date. Monthly returns are due the last day of the immediate subsequent month. Quarterly returns are due as follows:
 

Quarter 1 (January – March)	April 30
Quarter 2 (April – June)	July 31
Quarter 3 (July – September)	October 31
Quarter 4 (October – December)	January 31
- E. If the last day of the month following the end of the filing period falls on a Saturday, Sunday, federal holiday or Alaska state holiday, the due date will be extended until the next business day immediately following.
- F. Any remote seller or marketplace facilitator holding a remote seller registration shall file a sales tax return even though no tax may be due. This return shall show why no tax is due. If the remote seller or marketplace facilitator intends to continue doing business a return shall be filed reflecting no sales and a confirmation of the intent to continue doing business and shall continue to do so each filing period until the entity ceases doing business or sells the business. If the remote seller or marketplace facilitator intends to cease doing business, a final return shall be filed along with a statement of business closure.
- G. The remote seller or marketplace facilitator shall prepare the return and remit sales tax to the Commission on the same basis, cash or accrual, which the remote seller or marketplace facilitator uses in preparing its federal income tax return. The remote seller or marketplace facilitator shall sign the return, and transmit the return, with the amount of sales tax and any applicable penalty, interest or fees that it shows to be due, to the Commission.
- H. Remote sellers and marketplace facilitators failing to comply with the provisions of this Code shall, if required by the Commission and if quarterly filing has been chosen, file and transmit collected sales taxes more frequently until such time as they have demonstrated to the Commission that they are or will be able to comply with the provisions of this Code. Six (6) consecutive on-time sales tax filings, with full remittance of the sales taxes collected, shall establish the presumption of compliance and return to quarterly filing.
- I. The preparer of the sales tax return shall keep and maintain all documentation

supporting any and all claims of exempted sales and purchases. Documentation for exempted sales should include the number of the exemption authorization card presented by the buyer at the time of the purchase; the date of the purchase; the name of the person making the purchase; the organization making the purchase; the total amount of the purchase; and the amount of sales tax exempted. This documentation shall be made available to the Commission upon request. Failure to provide such documentation may invalidate that portion of the claim of exemption for which no documentation is provided.

#### XX.XX.90.- Estimated Tax

- A. In the event the Commission is unable to ascertain the tax due from a remote seller or marketplace facilitator by reason of the failure of the remote seller or marketplace facilitator to keep accurate books, allow inspection, or file a return, or by reason of the remote seller or marketplace facilitator filing a false or inaccurate return, the Commission may make an estimate of the tax due based on any evidence in their possession.
- B. Sales taxes may also be estimated, based on any information available, whenever the Commission has reasonable cause to believe that any information on a sales tax return is not accurate.
- C. A remote seller's or marketplace facilitator's tax liability under this Code may be determined and assessed for a period of six (6) years after the date the return was filed or due to be filed with the Commission. No civil action for the collection of such tax may be commenced after the expiration of the six- (6-) year period except an action for taxes, penalties and interest due from those filing periods that are the subject of a written demand or assessment made within the six- (6-) year period, unless the remote seller or marketplace facilitator waives the protection of this section.
- D. The Commission shall notify the remote seller or marketplace facilitator, in writing, that the Commission has estimated the amount of sales tax that is due from the remote seller or marketplace facilitator. The Commission shall serve the notice on the remote seller or marketplace facilitator by delivering the notice to the remote seller's or marketplace facilitator's place of business, or by mailing the notice by certified mail, return receipt requested, to the remote seller's or marketplace facilitator's last known mailing address. A remote seller or marketplace facilitator who refuses the certified mail will be considered to have accepted the certified mail for purposes of service.
- E. The Commission's estimate of the amount of sales tax that is due from a remote seller or marketplace facilitator shall become a final determination of the amount that is due unless the remote seller or marketplace facilitator, within thirty (30) calendar days after service of notice of the estimated tax:
  1. Files a complete and accurate sales tax return for the delinquent periods supported by satisfactory records and accompanied by a full remittance of all taxes, interest, penalties, costs and other charges due; or
  2. Files a written notice with the Commission appealing the estimated tax amount in accordance with the appeal procedures.
  3. Arguments or reasons for failure to timely file a return and remit taxes collected shall not be considered a valid basis or grounds for granting an appeal. The basis and grounds for granting an appeal of an assessment are:
    - a. The identity of the remote seller or marketplace facilitator is in error;

- b. The amount of the debt is erroneous due to a clerical error (and the nature and extent of the error is specified in the request for appeal); or
  - c. The remote seller or marketplace facilitator disputes the denial of exemption(s) for certain sales.
- F. The amount of sales tax finally determined to be due under this section shall bear interest and penalty from the date that the sales tax originally was due, plus an additional civil penalty of fifty dollars (\$50) for each calendar month or partial month for which the amount of sales tax that is due has been determined.

#### XX.XX.100.-Returns – Filing Contents

- A. Every remote seller or marketplace facilitator required by this chapter to collect sales tax shall file with the Commission upon forms furnished by the Commission a return setting forth the following information with totals rounded to the nearest dollar:
  - 1. Gross sales;
  - 2. The nontaxable portions separately stating the amount of sales revenue attributable to each class of exemption;
  - 3. Computation of taxes to be remitted;
  - 4. Calculated discount (if applicable) based on taxing jurisdiction’s code; and
  - 5. Such other information as may be required by the Commission.
- B. Each tax return remitted by a remote seller or marketplace facilitator shall be signed (digital or otherwise) by a responsible individual who shall attest to the completeness and accuracy of the information on the tax return.
- C. The Commission reserves the right to reject a filed return for failure to comply with the requirements of this Code for up to three (3) months from the date of filing. The Commission shall give written notice to a remote seller or marketplace facilitator that a return has been rejected, including the reason for the rejection.

#### XX.XX.110 – Refunds

- A. Upon request from a buyer or remote seller or marketplace facilitator the Commission shall provide a determination of correct tax rate and amount applicable to the transaction. In the case of an overpayment of taxes, the remote seller or marketplace facilitator shall process the refund and amend any returns accordingly.
- B. If the claimant is a remote seller or marketplace facilitator, and the tax refund is owed to any buyer, the remote seller or marketplace facilitator submits, and the Commission approves, a refund plan to all affected buyers.
- C. The Taxing Jurisdictions may allow a buyer to request a refund directly from the Taxing Jurisdiction.

#### X XX.XX.120. – Amended Returns

- A. A remote seller or marketplace facilitator may file an amended sales tax return, with supporting documentation, and the Commission may accept the amended return, but only in the following circumstances:
  - i. The amended return is filed within one (1) year of the original due date for the return; and
  - ii. The remote seller or marketplace facilitator provides a written justification for requesting approval of the amended return; and
  - iii. The remote seller or marketplace facilitator agrees to submit to an audit upon request



of the Commission.

- B. The Commission shall notify the remote seller or marketplace facilitator in writing (by email or otherwise) whether the Commission accepts or rejects an amended return, including the reasons for any rejection.
- C. The Commission may adjust a return for a remote seller or marketplace facilitator if, after investigation, the Commission determines the figure included in the original returns are incorrect; and the Commission adjusts the return within two (2) years of the original due date for the return.
- D. A remote seller or marketplace facilitator may file a supplemental sales tax return, with supporting documentation, and the Commission may accept the supplemental return, but only in the following circumstances:
  - i. The remote seller or marketplace facilitator provides a written justification for requesting approval of the supplemental return; and
  - ii. The remote seller or marketplace facilitator agrees to submit to an audit upon request of the Commission.

#### XX.XX.130. – Extension of Time to File Tax Return

Upon written application of a remote seller or marketplace facilitator, stating the reasons therefor, the Commission may extend the time to file a sales tax return but only if the Commission finds each of the following:

1. For reasons beyond the remote seller's or marketplace facilitator's control, the remote seller or marketplace facilitator has been unable to maintain in a current condition the books and records that contain the information required to complete the return;
2. Such extension is a dire necessity for bookkeeping reasons and would avert undue hardship upon the remote seller or marketplace facilitator;
3. The remote seller or marketplace facilitator has a plan to cure the problem that caused the remote seller or marketplace facilitator to apply for an extension and the remote seller or marketplace facilitator agrees to proceed with diligence to cure the problem;
4. At the time of the application, the remote seller or marketplace facilitator is not delinquent in filing any other sales tax return, in remitting sales tax to the Commission or otherwise in violation of this chapter;
5. No such extension shall be made retroactively to cover existing delinquencies.

#### XX.XX.140 – Audits

- A. Any remote seller or marketplace facilitator who has registered with the Commission, who is required to collect and remit sales tax, or who is required to submit a sales tax return is subject to a discretionary sales tax audit at any time. The purpose of such an audit is to examine the business records of the remote seller or marketplace facilitator in order to determine whether appropriate amounts of sales tax revenue have been collected by the remote seller or marketplace facilitator and remitted to the Commission.
- B. The Commission is not bound to accept a sales tax return as correct. The Commission may make an independent investigation of all retail sales or transactions conducted within the State or taxing jurisdiction.
- C. The records that a remote seller or marketplace facilitator is required to maintain under this chapter shall be subject to inspection and copying by authorized employees or agents of the Commission for the purpose of auditing any return filed under this chapter, or to

determine the remote seller's or marketplace facilitator's liability for sales tax where no return has been filed.

- D. In addition to the information required on returns, the Commission may request, and the remote seller or marketplace facilitator must furnish, any reasonable information deemed necessary for a correct computation of the tax.
- E. The Commission may adjust a return for a remote seller or marketplace facilitator if, after investigation or audit, the Commission determines that the figures included in the original return are incorrect, and that additional sales taxes are due; and the Commission adjusts the return within two (2) years of the original due date for the return.
- F. For the purpose of ascertaining the correctness of a return or the amount of taxes owed when a return has not been filed, the Commission may conduct investigations, hearings and audits and may examine any relevant books, papers, statements, memoranda, records, accounts or other writings of any remote seller or marketplace facilitator at any reasonable hour on the premises of the remote seller or marketplace facilitator and may require the attendance of any officer or employee of the remote seller or marketplace facilitator. Upon written demand by the Commission, the remote seller or marketplace facilitator shall present for examination, in the office of the Commission, such books, papers, statements, memoranda, records, accounts and other written material as may be set out in the demand unless the Commission and the person upon whom the demand is made agree to presentation of such materials at a different place.
- G. The Commission may issue subpoenas to compel attendance or to require production of relevant books, papers, records or memoranda. If any remote seller or marketplace facilitator refuses to obey any such subpoena, the Commissioner may refer the matter to the Commission's attorney for an application to the superior court for an order requiring the remote seller or marketplace facilitator to comply therewith.
- H. Any remote seller, marketplace facilitator, or person engaged in business who is unable or unwilling to submit their records to the Commission shall be required to pay the Commission for all necessary expenses incurred for the examination and inspection of their records maintained outside the Commission.
- I. After the completion of a sales tax audit, the results of the audit will be sent to the business owner's address of record.
- J. In the event the Commission, upon completion of an audit, discovers more than five hundred dollars (\$500) in additional sales tax due from a remote seller or marketplace facilitator resulting from a remote seller's or marketplace facilitator's failure to accurately report sales and taxes due thereupon, the remote seller or marketplace facilitator shall bear responsibility for the full cost of the audit. The audit fee assessment will be in addition to interest and penalties applicable to amounts deemed to be delinquent by the Commission at the time of the conclusion of the audit.

#### XX.XX.150.- Audit protest

- A. If the remote seller or marketplace facilitator wishes to dispute the amount of the estimate, or the results of an examination or audit, the remote seller or marketplace facilitator must file a written protest with the Commission, within thirty (30) calendar days of the date of the notice of estimated tax or results of an audit or examination. The protest must set forth:
  - 1. The remote seller's or marketplace facilitator's justification for reducing or

- increasing the estimated tax amount, including any missing sales tax returns for the periods estimated; or
2. The remote seller's or marketplace facilitator's reasons for challenging the examination or audit results.
- B. In processing the protest, the Commission may hold an informal meeting or hearing with the remote seller or marketplace facilitator, either on its own or upon request of the remote seller or marketplace facilitator, and may also require that the remote seller or marketplace facilitator submit to an audit, if one was not previously conducted or a more formal audit, if an estimation audit was previously performed.
  - C. The Commission shall make a final written determination on the remote seller's or marketplace facilitator's protest and mail a copy of the determination to the remote seller or marketplace facilitator.
  - D. If a written protest is not filed within thirty (30) days of the date of the notice of estimated tax or the result of a review, audit or examination, then the estimated tax, review, audit or examination result shall be final, due and payable to the Commission.

#### XX.XX.160. – Penalties and Interest for Late Filing

- A. A late filing fee of twenty-five dollars (\$25) per month (or quarter) shall be added to all late-filed sales tax reports in addition to interest and penalties.
- B. Delinquent sales tax bear interest at the rate of fifteen percent (15%) per annum until paid.
- C. In addition, delinquent sales tax shall be subject to an additional penalty of 5% per month, or fraction thereof, until a total of 20% of delinquent tax has been reached. The penalty does not bear interest.
- D. Fees, penalties and interest shall be assessed and collected in the same manner as the tax is assessed and collected, and applied first to fees, penalties and interest, second to past due sales tax.
- E. The filing of an incomplete return, or the failure to remit all tax, shall be treated as the filing of no return.
- F. A penalty assessed under this section for the delinquent remittance of sales tax or failure to file a sales tax return may be waived by the Commission, upon written application of the remote seller or marketplace facilitator accompanied by a payment of all delinquent sales tax, interest and penalty otherwise owed by the remote seller or marketplace facilitator, within forty-five (45) calendar days after the date of delinquency. A remote seller or marketplace facilitator may not be granted more than one (1) waiver of penalty under this subsection in any one calendar year. The Commission shall report such waivers of penalty to the taxing jurisdiction, in writing.

#### XX.XX.170 – Repayment Plans

- A. The Commission may agree to enter into a repayment plan with a delinquent remote seller or marketplace facilitator. No repayment plan shall be valid unless agreed to by both parties in writing.
- B. A remote seller or marketplace facilitator shall not be eligible to enter into a repayment plan with the Commission if the remote seller or marketplace facilitator has defaulted on a repayment plan in the previous two (2) calendar years.
- C. The repayment plan shall include a secured promissory note that substantially complies

with the following terms:

- i. The remote seller or marketplace facilitator agrees to pay a minimum of ten percent (10%) down payment on the tax, interest and penalty amount due. The down payment shall be applied first to penalty, then to accumulated interest, and then to the tax owed.
  - ii. The remote seller or marketplace facilitator agrees to pay the balance of the tax, penalty and interest owed in monthly installments over a period not to exceed two (2) years.
  - iii. Interest at a rate of fifteen percent (15%) per annum shall accrue on the principal sum due. Interest shall not apply to penalties owed or to interest accrued at the time the repayment plan is executed or accruing during the term of the repayment plan.
  - iv. If the remote seller or marketplace facilitator is a corporation or a limited liability entity the remote seller or marketplace facilitator agrees to provide a personal guarantee of the obligations under the repayment plan.
  - v. The remote seller or marketplace facilitator agrees to pay all future tax bills in accordance with the provisions of this chapter.
  - vi. The remote seller or marketplace facilitator agrees to provide a security interest in the form of a sales tax lien for the entire unpaid balance of the promissory note to be recorded by the Commission at the time the repayment plan is signed. The remote seller or marketplace facilitator shall be responsible for the cost of recording the tax lien.
- D. If a remote seller or marketplace facilitator fails to pay two (2) or more payments as required by the repayment plan agreement, the remote seller or marketplace facilitator shall be in default and the entire amount owed at the time of default shall become immediately due. The Commission will send the remote seller or marketplace facilitator a notice of default. The Commission may immediately foreclose on the sales tax lien or take any other remedy available under the law.

#### XX.XX.180. – Remote Seller or Marketplace Facilitator Record Retention

Remote sellers or marketplace facilitators shall keep and preserve suitable records of all sales made and such other books or accounts as may be necessary to determine the amount of tax which the remote seller or marketplace facilitator is obliged to collect. Remote sellers or marketplace facilitators shall preserve suitable records of sales for a period of six (6) years from the date of the return reporting such sales, and shall preserve for a period of six (6) years all invoices of goods and merchandise purchased for resale, and all such other books, invoices and records as may be necessary to accurately determine the amount of taxes which the remote seller or marketplace facilitator was obliged to collect under this chapter.

#### XX.XX.190. Cessation or Transfer of Business

- A. A remote seller or marketplace facilitator who sells, leases, conveys, forfeits, transfers or assigns the majority of their business interest, including a creditor or secured party, shall make a final sales tax return within thirty (30) days after the date of such conveyance.
- B. At least ten (10) business days before any such sale is completed, the remote seller or marketplace facilitator shall send to the Commission, by approved communication (email confirmation, certified first-class mail, postage prepaid) a notice that the remote

seller's or marketplace facilitator's interest is to be conveyed and shall include the name, address and telephone number of the person or entity to whom the interest is to be conveyed.

- C. Upon notice of sale and disclosure of buyer, the Commission shall be authorized to disclose the status of the remote seller's or marketplace facilitator's sales tax account to the named buyer or assignee.
- D. Upon receipt of notice of a sale or transfer, the Commission shall send the transferee a copy of this Code with this section highlighted.
- E. Neither the Commission's failure to give the notice nor the transferee's failure to receive the notice shall relieve the transferee of any obligations under this section.
- F. Following receipt of the notice, the Commission shall have sixty (60) days in which to perform a final sales tax audit and assess sales tax liability against the seller of the business. If the notice is not mailed at least ten (10) business days before the sale is completed, the Commission shall have twelve (12) months from the date of the completion of the sale or the Commission's knowledge of the completion of the sale within which to begin a final sales tax audit and assess sales tax liability against the seller of the business. The Commission may also initiate an estimated assessment if the requirements for such an assessment exist.
- G. A person acquiring any interest of a remote seller or marketplace facilitator in a business required to collect the tax under this chapter assumes the liability of the remote seller or marketplace facilitator for all taxes due the Commission, whether current or delinquent, whether known to the Commission or discovered later, and for all interest, penalties, costs and charges on such taxes.
- H. Before the effective date of the transfer, the transferee of a business shall obtain from the Commission an estimate of the delinquent sales tax, penalty and interest, if any, owed by the remote seller or marketplace facilitator as of the date of the transfer, and shall withhold that amount from the consideration payable for the transfer, until the remote seller or marketplace facilitator has produced a receipt from the Commission showing that all tax obligations imposed by this chapter have been paid. A transferee that fails to withhold the amount required under this subsection shall be liable to the Commission and taxing jurisdiction for the lesser of the amount of delinquent sales tax, penalty and interest due from the remote seller or marketplace facilitator as of the date of transfer, and the amount that the transferee was required to withhold.
- I. In this section, the term "transfer" includes the following:
  - 1. A change in voting control, or in more than fifty percent (50%) of the ownership interest in a remote seller or marketplace facilitator that is a corporation, limited liability company or partnership; or
  - 2. A sale of all or substantially all the assets used in the business of the remote seller or marketplace facilitator; or
  - 3. The initiation of a lease, management agreement or other arrangement under which another person becomes entitled to the remote seller's or marketplace facilitator's gross receipts from sales, rentals or services.
- J. Subsection H of this section shall not apply to any person who acquires their ownership interest in the ongoing business as a result of the foreclosure of a lien that has priority over the Commission's sales tax lien.
- K. Upon termination, dissolution or abandonment of a corporate business, any officer

having control or supervision of sales tax funds collected, or who is charged with responsibility for the filing of returns or the payment of sales tax funds collected, shall be personally liable for any unpaid taxes, interest, administrative costs and penalties on those taxes if such officer willfully fails to pay or cause to be paid any taxes due from the corporation. In addition, regardless of willfulness, each director of the corporation shall be jointly and severally liable for unpaid amounts. The officer shall be liable only for taxes collected which became due during the period he or she had the control, supervision, responsibility or duty to act for the corporation. This section does not relieve the corporation of other tax liabilities or otherwise impair other tax collection remedies afforded by law.

- L. A remote seller or marketplace facilitator who terminates the business without the benefit of a purchaser, successor or assign shall make a final tax return and settlement of tax obligations within thirty (30) days after such termination. If a final return and settlement are not received within thirty (30) days of the termination, the remote seller or marketplace facilitator shall pay a penalty of one hundred dollars (\$100), plus an additional penalty of twenty-five dollars (\$25) for each additional thirty- (30-) day period, or part of such a period, during which the final return and settlement have not been made, for a maximum of six (6) additional periods.

#### XX.XX.200. – Use of Information on Tax Returns

- A. Except as otherwise provided in this chapter, all returns, reports and information required to be filed with the Commission under this Code, and all information contained therein, shall be kept confidential and shall be subject to inspection only by:
  - 1. Employees and agents of the Commission and taxing jurisdiction whose job responsibilities are directly related to such returns, reports and information;
  - 2. The person supplying such returns, reports and information; and
  - 3. Persons authorized in writing by the person supplying such returns, reports and information.
- B. The Commission will release information described in subsection A of this section pursuant to subpoena, order of a court or administrative agency of competent jurisdiction, and where otherwise required by law to do so.
- C. Notwithstanding subsection A of this section, the following information is available for public inspection:
  - 1. The name and address of sellers;
  - 2. Whether a business is registered to collect taxes under this chapter;
  - 3. The name and address of businesses that are sixty (60) days or more delinquent in filing returns or in remitting sales tax, or both filing returns and remitting sales tax; and, if so delinquent, the amount of estimated sales tax due, and the number of returns not filed.
- D. The Commission may provide the public statistical information related to sales tax collections, provided that no information identifiable to a particular remote seller or marketplace facilitator is disclosed.
- E. Nothing contained in this section shall be construed to prohibit the delivery to a person, or their duly authorized representative, of a copy of any return or report filed by them, nor to prohibit the publication of statistics so classified as to prevent the identification of particular buyers, remote sellers, or marketplace facilitators, nor to prohibit the furnishing

of information on a reciprocal basis to other agencies or political subdivisions of the state or the United States concerned with the enforcement of tax laws.

- F. Nothing contained in this section shall be construed to prohibit the disclosure through enforcement action proceedings or by public inspection or publication of the name, estimated balance due, and current status of payments, and filings of any remote seller or marketplace facilitator or agent of any remote seller or marketplace facilitator required to collect sales taxes or file returns under this chapter, who fails to file any return and/or remit in full all sales taxes due within thirty (30) days after the required date for that business. Entry into any agreement whether pursuant to the provisions of this chapter or otherwise shall not act as any prohibition to disclosure of the records of that remote seller or marketplace facilitator as otherwise provided in this chapter.
- G. A prospective lessee or purchaser of any business or business interest may inquire as to the obligation or tax status of any business upon presenting to the Commission a release of tax information request signed by the authorized agent of the business.
- H. All returns referred to in this chapter, and all data taken therefrom, shall be kept secure from public inspection, and from all private inspection.

#### XX.XX.210 – Violations

- A. A remote seller or marketplace facilitator that fails to file a sales tax return or remit sales tax when due, in addition to any other liability imposed by this Code, shall pay to the Commission all costs incurred by the Commission to determine the amount of the remote seller's or marketplace facilitator's liability or to collect the sales tax, including, without limitation, reviewing and auditing the remote seller's or marketplace facilitator's business records, collection agency fees, and actual reasonable attorney's fees.
- B. A person who causes or permits a corporation of which the person is an officer or director, a limited liability company of which the person is a member or manager, or a partnership of which the person is a partner, to fail to collect sales tax or to remit sales tax to the Commission as required by this Code shall be liable to the Commission for the amount that should have been collected or remitted, plus any applicable interest and penalty.
- C. Notwithstanding any other provision of law, and whether or not the Commission initiates an audit or other tax collection procedure, the Commission may bring a declaratory judgment action against a remote seller or marketplace facilitator believed to meet the criteria to establish that the obligation to remit sales tax is applicable and valid under local, state and federal law. The action shall be brought in the judicial district of the taxing jurisdiction.
- D. The Commission may cause a sales tax lien to be filed and recorded against all real and personal property of a remote seller or marketplace facilitator where the remote seller or marketplace facilitator has:
  - 1. Failed to file sales tax returns for two (2) consecutive filing periods as required by the Code; or
  - 2. Failed within sixty (60) days of the end of the filing period from which taxes were due to either (a) remit all amounts due or (b) to enter into a secured payment agreement as provided in this Code.
  - 3. Prior to filing a sales tax lien, the Commission shall cause a written notice of intent to file to be mailed to the last known address of the delinquent remote seller or marketplace facilitator.

- E. In addition to other remedies discussed in this Code, the Commission may bring a civil action to:
  - 1. Enjoin a violation of this Code. On application for injunctive relief and a finding of a violation or threatened violation, the superior court shall enjoin the violation.
  - 2. Collect delinquent sales tax, penalty, interest and costs of collection, either before or after estimating the amount of sales tax due.
  - 3. Foreclose a recorded sales tax lien as provided by law.
- F. All remedies hereunder are cumulative and are in addition to those existing at law or equity.

#### XX.XX.220 – Penalties for Violations

- A. A buyer, remote seller, or marketplace facilitator who knowingly or negligently submits false information in a document filed with the Commission pursuant to this Code is subject to a penalty of five hundred dollars (\$500).
- B. A remote seller or marketplace facilitator who knowingly or negligently falsifies or conceals information related to its business activities with the Commission or taxing jurisdiction is subject to a penalty of five hundred dollars (\$500).
- C. A person who knowingly or negligently provides false information when applying for a certificate of exemption is subject to a penalty of five hundred dollars (\$500).
- D. Any remote seller or marketplace facilitator who fails to file a return by the due date required under this chapter, regardless of whether any taxes were due for the reporting period for which the return was required, shall be subject to a penalty of twenty-five dollars (\$25) for the first sales tax return not timely filed. The filing of an incomplete return shall be treated as the filing of no return.
- E. A remote seller or marketplace facilitator who fails or refuses to produce requested records or to allow inspection of their books and records shall pay to the Commission a penalty equal to three (3) times any deficiency found or estimated by the Commission with a minimum penalty of five hundred dollars (\$500).
- F. A remote seller or marketplace facilitator who falsifies or misrepresents any record filed with the Commission is guilty of an infraction and subject to a penalty of five hundred dollars (\$500) per record.
- G. Misuse of an exemption card is a violation and subject to a penalty of fifty dollars (\$50) per incident of misuse;
- H. Nothing in this chapter shall be construed as preventing the Commission from filing and maintaining an action at law to recover any taxes, penalties, interest and/or fees due from a remote seller or marketplace facilitator. The Commission may also recover attorney's fees in any action against a delinquent remote seller or marketplace facilitator.

#### XX.XX.230. –Sellers with a physical presence in the taxing jurisdiction.

- A. Sellers with a physical presence in a Taxing Jurisdiction and no remote or internet-based sales shall report, remit, and comply with standards, including audit authority, of the Taxing Jurisdiction.
- B. Sellers with a physical presence in a Taxing Jurisdiction that also have remote or internet-based sales where the Point of Delivery is in a different Taxing Jurisdictions shall (i)



report and remit the remote or internet sales to the Commission; and ii) report and remit the in-store sales to the Taxing Jurisdiction.

- C. Sellers with a physical presence in a Taxing Jurisdiction that also have remote or internet-based sales where the Point of Delivery is in the same Taxing Jurisdictions shall report and remit those remote sales to the Taxing Jurisdiction.
- D. Sellers and marketplace facilitators that do not have a physical presence in a Taxing Jurisdiction must report and remit all remote sales to the Commission.
- E. For all purchases the tax rate added to the sale price shall be as provided in the Taxing Jurisdiction's sales tax code, based on point of delivery.
- F. A marketplace facilitator is considered the remote seller for each sale facilitated through its marketplace and shall collect, report, and remit sales tax to the Commission. A marketplace facilitator is not considered to be the remote seller for each sale or rental of lodging facilitated through its marketplace, wherein the seller is considered to have a physical presence in the Taxing Jurisdiction.

XX.XX.240. – Remittance of Tax; Remote Seller Held Harmless.

- A. Any remote seller or marketplace facilitator that collects and remits sales tax to the Commission as provided by law may use an electronic database of state addresses that is certified by the Commission pursuant to subsection (C) of this section to determine the jurisdictions to which tax is owed.
- B. Any remote seller or marketplace facilitator that uses the data contained in an electronic database certified by the Commission pursuant to subsection (C) of this section to determine the jurisdictions to which tax is owed shall be held harmless for any tax, charge, or fee liability to any taxing jurisdiction that otherwise would be due solely as a result of an error or omission in the database.
- C. Any electronic database provider may apply to the Commission to be certified for use by remote sellers or marketplace facilitators pursuant to this section. Such certification shall be valid for three years. In order to be certified, an electronic database provider shall have a database that satisfies the following criteria:
  - 1. The database shall designate each address in the state, including, to the extent practicable, any multiple postal address applicable to one location and the taxing jurisdictions that have the authority to impose a tax on purchases made by purchasers at each address in the state.
  - 2. The information contained in the electronic database shall be updated as necessary and maintained in an accurate condition. In order to keep the database accurate, the database provider shall provide a convenient method for taxing jurisdictions that may be affected by the use of the database to inform the provider of apparent errors in the database. The provider shall have a process in place to promptly correct any errors brought to the provider's attention.

XX.XX.250. – Definitions

Adoption of definitions does not compel an individual municipality to exempt certain defined items. Each municipality should specifically adopt definitions necessary for consistency to implement both brick-and-mortar sales tax code and provisions related to remote sellers or marketplace facilitators. For definitions that have no applicability to brick-and-mortar sales tax code, municipality may choose either to include definitions in the definitional section of general sales tax ordinance or adopt the common definitions by reference.

**“Buyer or purchaser”** means a person to whom a sale of property or product is made or to whom a service is furnished.

**“Commission”** means the Alaska Intergovernmental Remote Sales Tax Commission established by Agreement between local government taxing jurisdictions within Alaska, and delegated tax collection authority.

**“Delivered electronically”** means delivered to the purchaser by means other than tangible storage media.

**“Entity-based exemption”** means an exemption based on who purchases the product or who sells the product. An exemption that is available to all individuals shall not be considered an entity-based exemption.

**“Goods for resale”** means:

- A. the sale of goods by a manufacturer, wholesaler or distributor to a retail vendor; sales to a wholesale or retail dealer who deals in the property sold, for the purpose of resale by the dealer.
- B. Sales of personal property as raw material to a person engaged in manufacturing components for sale, where the property sold is consumed in the manufacturing process of, or becomes an ingredient or component part of, a product manufactured for sale by the manufacturer.
- C. Sale of personal property as construction material to a licensed building contractor where the property sold becomes part of the permanent structure.

**“Marketplace facilitator”** means a person that contracts with remote sellers to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale of the remote seller’s property or services through a physical or electronic marketplace operated by the person, and engages:

- (a) Directly or indirectly, through one or more affiliated persons in any of the following:
  - (i) Transmitting or otherwise communicating the offer or acceptance between the buyer and remote seller;
  - (ii) Owning or operating the infrastructure, electronic or physical, or technology that brings buyers and remote sellers together;
  - (iii) Providing a virtual currency that buyers are allowed or required to use to purchase products from the remote seller; or
  - (iv) Software development or research and development activities related to any of the activities described in (b) of this subsection (3), if such activities are directly related to a

physical or electronic marketplace operated by the person or an affiliated person; and

(b) In any of the following activities with respect to the seller's products:

- (i) Payment processing services;
- (ii) Fulfillment or storage services;
- (iii) Listing products for sale;
- (iv) Setting prices;
- (v) Branding sales as those of the marketplace facilitator;
- (vi) Order taking;
- (vii) Advertising or promotion; or
- (viii) Providing customer service or accepting or assisting with returns or exchanges.

**“Member”** means a taxing jurisdiction that is a signatory of the Alaska Remote Sales Tax Intergovernmental Agreement, thereby members of the Commission, and who have adopted the Remote Seller Sales Tax Code.

**“Monthly”** means occurring once per calendar month.

**“Nonprofit organization”** means a business that has been granted tax-exempt status by the Internal Revenue Service (IRS); means an association, corporation, or other organization where no part of the net earnings of the organization inures to the benefit of any member, shareholder, or other individual, as certified by registration with the IRS.

**“Person”** means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity.

**“Physical presence”** means a seller who establishes any one or more of the following within a local taxing jurisdiction:

1. Has any office, distribution or sales house, warehouse, storefront, or any other place of business within the boundaries of the local taxing jurisdiction;
2. Solicits business or receiving orders through any employee, agent, salesman, or other representative within the boundaries of the local taxing jurisdiction or engages in activities in this state that are significantly associated with the seller's ability to establish or maintain a market for its products in this state.
3. Provides services or holds inventory within the boundaries of the local taxing jurisdiction;
4. Rents or Leases property located within the boundaries of the local taxing jurisdiction.

A seller that establishes a physical presence within the local taxing jurisdiction in any calendar year will be deemed to have a physical presence within the local taxing jurisdiction for the following calendar year.

**“Point of delivery”** means the location at which property or a product is delivered or service rendered.

- A. When the product is not received or paid for by the purchaser at a business location of a remote seller in a Taxing Jurisdiction, the sale is considered delivered to the location where receipt by the purchaser (or the purchaser's recipient, designated as such by the

purchaser) occurs, including the location indicated by instructions for delivery as supplied by the purchaser (or recipient) and as known to the seller.

- B. When the product is received or paid for by a purchaser who is physically present at a business location of a Remote Seller in a Taxing Jurisdiction the sale is considered to have been made in the Taxing Jurisdiction where the purchaser is present even if delivery of the product takes place in another Taxing Jurisdiction. Such sales are reported and tax remitted directly to the Taxing Jurisdiction not to the Commission.
- C. For products transferred electronically, or other sales where the remote seller or marketplace facilitator lacks a delivery address for the purchaser, the remote seller or marketplace facilitator shall consider the point of delivery the sale to the billing address of the buyer.

**“Product-based exemptions”** means an exemption based on the description of the product and not based on who purchases the product or how the purchaser intends to use the product.

**“Property”** and **“product”** means both tangible property, an item that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses; and intangible property, anything that is not physical in nature (i.e.; intellectual property, brand recognition, goodwill, trade, copyright and patents).

**“Quarter”** means trimonthly periods of a calendar year; January-March, April-June, July-September, and October-December.

**“Receive or receipt”** means

- A. Taking possession of property;
- B. Making first use of services;
- C. Taking possession or making first use of digital goods, whichever comes first.

The terms “receive” and “receipt” do not include temporary possession by a shipping company on behalf of the purchaser.

**“Remote sales”** means sales of goods or services by a remote seller or marketplace facilitator.

**“Remote seller”** means a seller or marketplace facilitator making sales of goods or services delivered within the State of Alaska, without having a physical presence in a taxing jurisdiction, or conducting business between taxing jurisdictions, when sales are made by internet, mail order, phone or other remote means. A marketplace facilitator shall be considered the remote seller for each sale facilitated through its marketplace.

**“Resale of services”** means sales of intermediate services to a business the charge for which will be passed directly by that business to a specific buyer.

**“Sale” or “retail sale”** means any transfer of property for consideration for any purpose other than for resale.

**“Sales or purchase price”** means the total amount of consideration, including cash, credit,

property, products, and services, for which property, products, or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

- A. The seller's cost of the property or product sold;
- B. The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
- C. Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;
- D. Delivery charges;
- E. Installation charges; and
- F. Credit for any trade-in, as determined by state law.

**“Seller”** means a person making sales of property, products, or services, or a marketplace facilitator facilitating sales on behalf of a seller.

**“Services”** means all services of every manner and description, which are performed or furnished for compensation, and delivered electronically or otherwise outside the taxing jurisdiction (but excluding any that are rendered physically within the taxing jurisdiction, including but not limited to:

- A. Professional services;
- B. Services in which a sale of property or product may be involved, including property or products made to order;
- C. Utilities and utility services not constituting a sale of property or products, including but not limited to sewer, water, solid waste collection or disposal, electrical, telephone services and repair, natural gas, cable or satellite television, and Internet services;
- D. The sale of transportation services;
- E. Services rendered for compensation by any person who furnishes any such services in the course of his trade, business, or occupation, including all services rendered for commission;
- F. Advertising, maintenance, recreation, amusement, and craftsman services.

**“Tax cap”** means a maximum taxable transaction.

**“Taxing jurisdiction”** means a local government in Alaska that has a sales tax and is a member of the Alaska Remote Sellers Sales Tax Commission.

**“Transferred electronically”** means obtained by the purchaser by means other than tangible storage media.

XX.XX.260. – Supplemental Definitions.

The Commission shall promulgate Supplemental Definitions that are incorporated into this Remote Seller Sales Tax Code. Supplemental Definitions are available at [www.arsstc.org](http://www.arsstc.org). Provisions of the Supplemental Definitions that are amended, deleted, or added prior to or after

the effective date of the latest amendment to this chapter shall be applicable for purposes of this chapter on the effective date provided for such amendments, deletions, or additions, including retroactive provisions.

Benefits to Local Governments

- Maintain taxing authority
- Maintain rate and exemptions
- Delegated administration to AML avoids additional or duplicative costs
- Entirely up to local government
  - Opt-in = you take advantage of Wayfair
  - Opt-out = residents don't pay sales tax
- Levels the playing field for local business – increases local economic activity
- Increased revenue for education, public safety, roads and public works
- Increases ability to respond to State cost-shifting or cuts
- Replaces revenue eroded with decrease to Community Assistance over the years

Benefits to Business

- Levels the playing field – increases local purchase potential by ensuring that local retailers aren't penalized for collecting a tax they are required to, while remote retailers have an unfair advantage in not
- These aren't new taxes – these are taxes that local residents are already paying, collected by local businesses, but not collected by remote retailers
- Keeps tax rates stable – instead of increasing taxes, applying the existing tax to remote sellers ensures that local tax rates stay stable
- Maintains current local exemptions – necessary for local control
- Local revenues improve communities – enables greater investment in local infrastructure, which supports economic activity
- On par with other states – businesses across the U.S. are complying, so Alaska is expecting similar compliance by those businesses that make sales into or within Alaska
  - This is very quickly become common practice
- Strengthens local governments – greater capacity within local governments leads to greater efficiencies
- Local taxpayers, local budgets – residents help shape annual budgets, informed by economic development

Benefits to Alaskans

- Protects residents outside boundaries – right now Alaska hasn't set up any rules of the road when it comes to remote commerce, and without a tax look up map Alaska residents may be getting taxed where they aren't supposed to
- Consistent with activities in majority of U.S. – this puts Alaska on track with the activities of other states that are benefiting from this opportunity.
- Simplifies exemptions – single point of entry and delivery for exemption certificates

Intergovernmental Agreement

- Commits the local government to participate in the Commission
- Agrees to delegate to the Commission collection of remote sales tax
- Agrees to AML administration
- Action – pass a resolution authorizing signature to the Agreement

Alaska Remote Seller Sales Tax Commission

- Local government appoints a representative
- Annual meeting and notice of all meetings
- Governed by Bylaws
- Board of seven
  - Oversees administration
  - Approves annual budget
  - Development of the Remote Sales Tax Code

Alaska Remote Seller Sales Tax Code

- Applies the local jurisdiction’s tax rate, cap and exemptions to remote sales
  - Out of state sales – if the retailer does not have a physical presence in Alaska, they are expected to comply. The Commission anticipates that this applies to between 2,500 and 3,500 retailers.
  - In-state sales – if the retailer sells into your community, collection of sales tax is expected
- Standardizes compliance – reporting, penalties, audits, late filing rules, etc.
- Criteria Threshold (otherwise known as economic nexus)
  - \$100,000 in statewide, annual gross sales; and/or
  - 200 transactions annually, in Alaska
- Hold Harmless provision
  - All retailers who use the Commission’s software aren’t liable for inaccurate information contained therein
- Remote vs. Physical
  - If the retailer has only a physical presence, remit to the local government
  - If the retailer has a physical presence but also remote sales, continue remitting local taxes to the local government and remote taxes to the Commission
  - If the retailer is a marketplace facilitator, remit to the Commission
  - If the retailer is a marketplace facilitator that provides services (i.e., lodging), remit to the local government
- Late filings
  - Late filing fee is paid to the Commission for administrative action
  - Interest owed on taxes collected accrues to the local government
  - Penalty of 5% a month accrues to the local government
- Common definitions



When does this take effect?

- The Commission has developed software that will be ready as of January 31, 2020. Upon adoption of the Remote Sales Tax Code by a local government, retailers will be notified that they should begin collection, and have 30 days to comply. As additional local governments adopt the Code, compliance will occur on a rolling basis. Assuming that the first local government adopts the Code in late January, early February, the Commission expects reporting and remittance as soon as March/April.

What about:

- Seasonal tax rate – the software will include reference applicable rate changes throughout the year, as long as there is 30 days’ notice. You will need to notify the Commission of seasonal tax rates, and the Commission will need the exact dates on an annual basis. Any tax holiday that occurs throughout the year should be noticed appropriately.
- All of our product exemptions – the Commission has established a tax variability matrix that tracks all product exemptions from all taxing jurisdictions. The exemption happens automatically within the API adopted by remote retailers or accessed via the website provided by the Commission. The Commission has adopted a common set of definitions that will assist in compliance.
- Entity-based exemptions
  - Apply to:
    - Senior exemptions – based on each local government’s definition of “senior”, when they apply. If applicable only to certain sales, the software will accommodate that variation.
    - Goods for wholesale - – these entities should be using their State of Alaska wholesale license in their purchase, which vendors they purchase from should recognize and apply tax-free status. Wholesale purchases will count toward establishing the criteria threshold for vendors selling into the state, even though taxes will not be collected. Sales and value of exemption will be reportable.
    - Churches, nonprofits, and governments - Churches, nonprofits, and governments – these are recognized entities that are tax-free, and vendors are expected to comply with federal law on tax-free sales to these entities. Sales and value of exemption will be reportable.
  - Process:
    - Development of an Exemption Certificate Registry (ECR)
    - ECR is an online system that buyers can access from any internet browser. ECR provides buyers with tools to find, create, and store exemption certificates for future use. An exemption certificate created through ECR can be reused from vendor to vendor.
    - Once a buyer’s exemption certificates are set up in ECR, these certificates can be provided to vendors in various ways. From ECR, certificates can be emailed, downloaded, uploaded, printed, or even sent directly to vendors’ exemption certificate management systems.
    - Vendors are still responsible for storing exemption certificates received through ECR.
  - Buyer’s responsibility - It will be up to the buyer to upload their information, including locally produced certificate, if any, into their account on the ECR. Within the ECR, the buyer will direct that information to vendors. The buyer will go through the retailer’s established process to set up an individual tax exemption within their account, including to download from the ECR the correct documentation for that retailer.

- Any inaccurate sales tax collection should be taken up first with the vendor, then brought to the Commission's attention in case of a refund being necessary.
- Monthly filing – the default filing is monthly, consistent with national trends and best practice. Vendors will have the option to file quarterly but this must be approved by the Commission.
- Quarterly filing – notify the Commission if you would like reporting and remittance to occur on a quarterly basis. The Commission will hold any remittance occurring more frequently in trust for that distribution.
- Deliveries to post office boxes within our jurisdiction – these will be treated as taxable, based on the point of delivery
- Deliveries to addresses right outside our jurisdiction – the Commission has GIS-located all addresses in Alaska, such that these types of deliveries should not be taxable, and that all taxed sales are accurate. The software contractor has verified that boundary maps with the State DCRA, and each local government should notify the Commission upon adopting the Code of any discrepancies.

Changes to current code:

- Necessary - Exemption for remote sales will need to be removed, if applicable
- Optional – update your reporting requirements, definitions, etc. based on the remote sales tax code

What happens when the local government adopts the Code?

- Local government notifies the Commission by contacting Nils Andreassen at [nils@akml.org](mailto:nils@akml.org)
- The Program Manager will follow up, requesting that you complete a simple form that confirms rates, exemptions, sales tax boundaries, any changes to existing code, remittance preference, etc.
- The Program Manager will ask the local government to confirm all the settings in the software as accurate
- Upon receipt of the registration form, and confirmation that settings are correct, the Commission will notify remote sellers that they will need to comply within 30 days
- The Commission will send the local government representative log-in information for the Alaska Sales Tax Portal, where they can see all returns, and the calculations that go into remittance
- On a monthly or quarterly basis, and within 10 days of the last day of the month, the Commission will remit collected taxes to the local government
- The local government will confirm receipt and accuracy of the filing and remittance
- The local government should review filings, flag any they have questions about, and send the Program Manager questioned filings
- The Program Manager will review questioned filings and upon receipt of more than three of the same vendor, request an audit of their transactions for the applicable jurisdictions
- Amended filings, or refunds necessary, will be accounted for on a rolling basis

**City of Palmer  
Action Memorandum No. 20-018**

**Subject:** Authorizing the City Manager to Negotiate and Execute a New Lease Agreement with Hageland Aviation Services, Inc. for Continued Operations on Lot 2, Block 3, Palmer Municipal Airport

**Agenda of:** March 10, 2020

**Council Action:**     **Approved**                       **Amended:** \_\_\_\_\_  
                                   **Defeated**




**Originator Information:**

**Originator:**    City Manager

**Department Review:**

Route to:	Department Director:	Signature:	Date:
_____	Community Development	_____	_____
_____	Finance	_____	_____
_____	Fire	_____	_____
_____	Police	_____	_____
_____	Public Works	_____	_____

**Approved for Presentation By:**

	Signature:	Remarks:
City Manager	<u></u>	_____
City Attorney	<u></u>	_____
City Clerk	<u></u>	_____

**Certification of Funds:**


Total amount of funds listed in this legislation:    \$ **14,719.80**

This legislation (√):

<input checked="" type="checkbox"/>	Creates revenue in the amount of:	\$ <u>14,719.800</u>
<input type="checkbox"/>	Creates expenditure in the amount of:	\$ _____
<input type="checkbox"/>	Creates a saving in the amount of:	\$ _____
<input type="checkbox"/>	Has no fiscal impact	

Funds are (√):

<input checked="" type="checkbox"/>	Budgeted	Line item(s): <u>03-00-00-3431 Land Leases \$11,039.83</u>
<input checked="" type="checkbox"/>	Not budgeted	<u>03-00-00-3431 Land Leases \$ 3,679.97</u>

Director of Finance Signature: 

**Attachment(s):**

- Draft Lease Agreement PMA No. 20-001 & (Exhibit A #20-001)
- Draft Memorandum of Lease PMA No. 20-001
- Draft Memorandum of Lease Termination PMA No. 00-1 & (Exhibit A #00-1)

**Summary Statement/Background:**

In July 2007, Hageland Aviation Services, Inc. (Under different ownership at the time) purchased the lease hold assets of what was known as the new Woods Hangar (Originally built by Warren "Bud" Woods) from Christine M. Woods-Soulak and negotiated an Assignment & Assumption of the existing Palmer Municipal Airport Lease No. 00-1. This existing lease is set to expire on June 30, 2020, and it provided no option to renew with the City.

A new lease has been negotiated with Hageland Aviation Service, Inc (now owned by HoTH, Inc., which is owned by Ravn Air Group, Inc.) to keep this operation at the Palmer Municipal Airport for the next 20 years. At this Part 135 maintenance operations location, Ravn Air Group employs upwards of 80 full time employees year round on three shifts. Ravn Air Group currently rotates their fleet of 23 Turbo Prop Cessna 208B Caravans through this location for regular maintenance and upkeep as well as pilot training. Ravn Air Group also brings in their Beech 1900's and Cessna 207's from time to time as well.

Through a series of merges and acquisitions over the past decade, Ravn Air Group is now the largest regional air carrier in the state. Last year Ravn Air Group also purchased the assets of Pen Air after its bankruptcy filing.

The new lease agreement is on the City's updated leasing format, provides for pollution hazard insurance coverage and is guaranteed by both parent corporations.

**Administration's Recommendation:**

To approve Action Memorandum No. 20-018



City of Palmer  
231 West Evergreen Avenue  
Palmer, AK 99645  
907-745-3271

**PALMER MUNICIPAL AIRPORT  
LEASE AGREEMENT No. 20-001**

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DRAFT



**City of Palmer**

**231 West Evergreen Avenue  
Palmer, AK 99645  
907-745-3271**

**PALMER MUNICIPAL AIRPORT  
LEASE AGREEMENT No. 20-001**

This LEASE AGREEMENT is made and entered into this 1<sup>st</sup> day of July 2020, by and between the City of Palmer, a municipal corporation organized and existing under its charter and the laws of the State of Alaska, hereinafter referred to as the "Lessor", and Hageland Aviation Services, Inc., hereinafter referred to as the "Lessee".

This lease agreement is not effective unless it is accompanied by signed and attached Exhibit A providing specific information for the following sections: 1., 1A, 1.1B, 1.2A, 1.2B, 1.3A, 2.1, 2.2, 2.7 and 2.8.

In consideration of the mutual covenants and promises contained herein, the parties agree as follows:

**ARTICLE I - PREMISES, TERM AND RENTALS**

**Section 1.1 Premises and Purpose**

- A. Lessor does hereby lease, demise and let unto Lessee, and Lessee does hereby lease from Lessor, real property more particularly described as a parcel of land located within Tract B, Palmer Municipal Airport recorded as Plat No. 2006-15 in the Palmer Recording District, Third Judicial District, State of Alaska and further described as follows:

Palmer Municipal Airport, Block 3, Lease Lot 2  
Containing 4.224 acres or 183,997.44 square feet, more or less  
A.K.A. 801 Cope Industrial Way, Palmer, AK. 99645  
See Attached "Exhibit A"

Parcel may be subject to additional easements and/or encumbrances not shown or depicted hereon.

- B. Lessee shall use the Premises for the following Aeronautical uses only, and for no other: Aircraft Storage, Service, Maintenance, Transportation and Self-Fueling activities.
- C. Any use of the Premises for Non-Aeronautical activity is strictly prohibited, unless an approved amendment to this lease is adopted and fair market value rates for Non-aeronautical areas are applied.

**Section 1.2 Term and Renewal**

- A. The term of the lease shall be for a period of 20 years, commencing on the 1<sup>st</sup> day of July 2020 (the "Commencement Date") and ending on the 30<sup>th</sup> day of June of 2040, subject to the terms of provisions hereof.

1. The rental rate will continue to be subject to changes as provided in Section 1.4 "Rent Adjustment,";



2. The renewal insurance provision as provided in Section 4.3 will apply along with any other changes made in accordance with Section 4.3;
3. The Lease will be subject to such other and further changes as are deemed necessary by Lessor for the reasonable protection of Lessor.

### **Section 1.3 Rent**

- A. Lessee shall pay to the Lessor as rent during the term hereof the sum \$14,719.80 per year, payable annually in advance without demand, beginning July 1, 2020 and continuing on the same day of each and every year thereafter during the term of the lease at the office of the Lessor set forth in Section 7.8 or at such other place as the Lessor may designate in writing. (Rent is derived as follows: 183,997.44 square feet X \$0.08 cents per square foot)
  1. Failure to pay rent by the thirtieth day after the due date shall obligate the Lessee to pay a late charge of \$100.00, which sum is agreed to a reasonable estimate of the Lessor's damages for late rental payments and shall not be construed as a penalty or a limitation on Lessor's remedies.
  2. This late charge is in addition to a 12 percent daily interest rate.  
( $0.12\% / 365 = .00033 \times \$14,719.80 = \$4.86$  cents per day)
- B. All rent shall be payable in current legal tender of the United States. Payment may be tendered by check, but payment shall not be made in fact until such check has been honored by the drawee bank. The tender of payment by check within the time provided shall be deemed sufficient to meet any due date only if the check is subsequently honored by the drawee bank and the Lessor subsequently receives the legal tender required by this Lease. Any subsequent dishonor and non-receipt of rent payment shall constitute a default of this Lease.
- C. The extension of time for the payment of any installment of rent, or the acceptance by the Lessor of any money other than of the kind herein specified, shall not be a waiver of the right Lessor to insist on all other payments of rent to be made in the manner and at the time herein specified. The acceptance by the Lessor of a past due installment payment shall not waive the Lessor's right as to any other default or breach of the Lease.
- D. The rent herein specified shall be net to the Lessor and such payment shall not be subject to any abatement, deduction or off set (except as otherwise provided in this Lease).
- E. All taxes, charges, costs, expenses, utilities and assessments which the Lessee is required to pay hereunder, and all damages, costs and expenses which the Lessor may incur by reason of any default of the Lessee or failure on the Lessee's part to comply with the terms of the Lease, shall be deemed to be additional rent and in the event of nonpayment by the Lessee, the Lessor shall have all the rights and remedies with respect thereto that the Lessor has for the nonpayment of the basic rent.

### **Section 1.4 Rent Adjustment**

- A. It is the intent of the parties that the Palmer Municipal Airport be a self-sustaining facility and operate without any support from the general fund of the Lessor.
- B. The rent shall be subject to adjustment at five (5) year intervals to achieve fair market rent, the first adjustment date is five (5) years following the annual payment. The rent shall be adjusted as follows:
  1. Six (6) months prior to the termination of the initial five (5) year period and any subsequent five (5) year period, Lessor shall propose the rent for the next five (5) year period of the lease term and the parties hereto may, by mutual agreement, set the rent for the five (5) year period. The basis of the initial proposed new rent

for the next five (5) year term will be the accumulated increase or decrease in the Consumer Price Index for All Urban Consumers (CPI-U): Selected areas, semiannual averages, all items index for the Anchorage, AK. Local area, based upon 2019 as a base year. Additional factors for the basis of the initial proposed new rent will include, but are not limited to; the comparative leasing rate of similar airports in the Alaskan market place, as well as local and state economic conditions and the airports' vacancy rates.

- a. If an agreement is not reached ninety (90) days prior to the end of the current five (5) year period, the fair market rental value of the premises shall be determined by an appraiser selected by the lessor who shall (a) be a member of The American Institute of Real Estate Appraisers, and (b) have experiencing in appraising properties similar to the premises. (The "Qualified Appraiser"). The cost of the initial appraisal shall be born equally between Lessor and Lessee. If either the Lessor or Lessee or both shall disapprove of the fair market rental of the premises as thus determined, the dissatisfied party(s) may then designate another Qualified Appraiser who shall conduct a second (or additional) independent appraisal(s) of the premises and the fair market rental of the premises shall be determined to be the average of the two appraisals. The cost of the additional appraisal shall be borne by the dissatisfied party. In the event that both the Lessor and the Lessee are both dissatisfied with the original appraisal than the cost of, the second appraisal shall be borne equally between the Lessor and Lessee.
2. Lessor's failure to timely start this rent adjustment procedure does not affect the rent adjustment, other than that the rent shall not be adjusted for the period before Lessor starts the procedure for each five-year period.
  - a. If, for example, Lessor starts the rent-adjustment procedure for the first time on the first day of the seventh year of the lease term, then the rent shall remain unchanged for the previous six years.
  - b. Any adjustment in Section 1.4 would start as of the first day of the seventh year and remain in effect through year ten when Lessor could again start the rent-adjustment procedure.
- C. During the pendency of any determination of fair market rent, Lessee shall pay the rent last in effect for the Premises until such determination has been made. Any deficiency between the rent so paid and the adjusted rent retroactive to the beginning of the period for which it is due shall be paid within thirty (30) days of being billed to Lessee with interest from the original due date of such rent at the rate highest rate allowed by law for debts under \$25,000 or twelve percent (12%) per annum, whichever rate is lower.

### **Section 1.5 Determination of Fair Market Rent**

- A. The fair market rent of the premises shall be based on the Consumer Price Index for the Municipality of Anchorage from the United States Department of Labor statistics as outlined in Section 1.4.
- B. Fair market rent shall not include any return on improvements placed on the Premises by the Lessee or its predecessors in interest, but shall include a return for improvements placed on the Premises by the Lessor or otherwise belonging to Lessor.
- C. The parties acknowledge that certain property at Palmer Municipal Airport may not currently and may not in the future be leased for a fair market rent.

- D. The returns received by Lessor from other aviation Leases at Palmer Municipal Airport, therefore, shall not be used exclusively by the appraiser to determine a fair market rent.
- E. Any appraisal of the Premises shall consider any limitation or restriction on use imposed under this Lease or pursuant to any patent, deed, lease or grant from or agreement with the United States to the Lessor, including but not limited to aviation restricted use.
- F. Lessor shall send written notice to Lessee of the amount determined to be the fair market rent together with a copy of the appraisal.

## **ARTICLE II - IMPROVEMENTS**

### **Section 2.1 Improvements**

- A. Improvements located on the leased Premises, consist of the following buildings and site improvements:
  - 1. Improvements consist of:
    - 110'.6" x 167'.0" Steel Frame Aircraft Hanger with Offices.
    - 80'.2" x 60'.2" Shop with Offices Above
    - Approximately 3 Acres of Graveled Pad Area
    - 6,000 Gallon Fuel Tank with Equipment Shed
- B. The improvements shall fully comply with all applicable federal, state, and municipal laws and regulations, including but not limited to federal, state, and municipal building, fire, construction and safety codes and zoning regulations and requirements.

### **Section 2.2 Plans and Specifications**

- A. If the Lessee, at a future date, wishes to construct additional improvements on the lease lot, which is the subject of this agreement, Lessee shall follow the guidance outlined in Sections 2.2 (B) through 2.17 and Section 3.12.
- B. The Lessee at its own cost and expense shall have prepared conceptual plans for improvements and shall prepare and submit them to the Department of Community Development and the Airport Manager. The conceptual plans shall have a site plan, building floor plan, all four building elevations and the improvements to be constructed.

### **Section 2.3 Conceptual Plans**

- A. The Department of Community Development shall examine the conceptual plans and within thirty (30) days after submission, the Airport Manager shall inform the Lessee in writing of any objections to the conceptual plans.
  - 1. In event of objections, the Lessee shall have thirty (30) days to propose any corrective amendments which the Airport Manager shall accept or reject within the next twenty (20) days.
  - 2. Failure of the Airport Manager to inform the Lessee in writing of his or her objections within twenty (20) days shall constitute the Airport Manager's and the Department of Community Development's approval.
- B. The Airport Manager's and Department of Community Development's approval of the conceptual plans submitted by Lessee shall not constitute the assumption of any liability of Lessor for their compliance or conformity with applicable building codes, zoning regulations, and/or city, borough, state and federal laws, ordinances and/or regulations, or for their accuracy.
  - 1. Lessee shall be solely responsible for such plans.

2. The Airport Manager's and Department of Community Development approval of such plans shall not constitute a waiver of Lessor's right to thereafter require Lessee to amend the same to provide for any corrections or omissions needed to comply with applicable building codes, zoning regulations, city, borough, state or federal laws, ordinances or regulations.
3. The review and approval required by this section is in addition to any other review and approval needed for any required building permits or similar authorization.

#### **Section 2.4 Final Plans**

After the Airport Manager has notified the Lessee of his or her approval of the conceptual plans and specifications, the Lessee shall promptly apply to the appropriate municipal department for a building permit for any construction or building required to be erected by Lessee pursuant to this Article.

- A. The Lessee shall submit to the Airport Manager any plans and detailed drawings including copies which may be required for the such permit before submitting the plans and drawings for a permit.
- B. Thereafter the Lessee at the Lessee's own expense shall proceed promptly with preparation of complete and final plans and complete detailed specifications (such plans and specification hereafter termed "final plans") for the Improvements and shall submit to the Airport Manager for the Airport Manager's approval the final plans as soon as practicable.
- C. The failure of the Lessee to proceed promptly with the preparation of final plans or to submit final plans as required by this section shall constitute a default and breach of this Lease and shall enable the Lessor to terminate this Lease on ten days written notice.

#### **Section 2.5 Airport Manager's Approval**

The Airport Manager shall not unreasonably withhold his or her approval to any conceptual plans, specifications, any plans and detailed drawings, or any final plans or complete detailed specifications.

#### **Section 2.6 Compliance with part 77 FAR**

Lessee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations and any similar requirement prior to the construction of the Improvements and prior to the construction of any further structure or building upon the Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises.

#### **Section 2.7 Commencement of Construction**

If the Lessee has not commenced construction of the Improvements by, on or before August 1, 2016, the Lessor shall have the right at Lessor's option to terminate this Lease on thirty (30) days written notice.

#### **Section 2.8 Completion of Construction**

- A. The Lessee shall have completed any new construction of Improvements in a reasonable time frame based upon the scope of said project and agreed to in writing by the Lessee and the Airport Manager.
- B. The construction shall be completed when the Improvements have been substantially completed and are capable of the use for which they were intended.

## **Section 2.9 Liens**

- A. Lessee hereby warrants to Lessor that the Premises and all such other Improvements, shall be free and clear of all liens, claims and encumbrances and agrees to indemnify, defend and hold Lessor harmless from and against any and all losses, damages and costs, including reasonable attorney's fees and appellate attorneys' fees, with respect thereto.
- B. If any lien or notice of lien on account of the alleged debt of Lessee or lien or notice of lien by any party engaged by Lessee or Lessee's contractor to work on the Premises shall be filed against the Premises or Improvements, Lessee shall cause the same to be discharged of record by payment, deposit, bond, order of court or competent jurisdiction or otherwise.

## **Section 2.11 Performance Guarantee**

- A. The work, of \$100,000, as described in this lease document shall not begin until the Lessee or Lessee's contractor has provided to the Lessor a performance guarantee in the form of a performance bond, escrow, an irrevocable letter of credit, or deed of trust in an amount equal to 110% of the estimated cost of the Improvements to be accomplished, which guarantees the completion of the work by Lessee or Lessee's contractor in accordance with the plans and specifications approved by Lessor and guarantees the payment by Lessee or Lessee's contractor of all subcontractors' charges and all other persons and firms supplying services, labor, materials or supplies in connection with the work.
- B. The work, if funded by an Alaskan Financial Institution on behalf of the Lessee of \$100,000, as described in this lease document shall not begin until the Lessee's Financial Institution has provided to the Lessor a "Letter of Guarantee" in an amount equal to 100% of the cost of improvements in a "Construction Escrow Account" and guarantees the payment by Lessee, Lessee's Contractor or Lessee's Financial Institution of all subcontractors' charges and all other persons and firms supplying services, labor, materials or supplies in connection with the work, in a form approved by the City.
- C. Bonds shall be a performance bond from a company qualified by law to act as a surety in the State of Alaska. The bond shall be in a form approved by the City. The bond shall name the City as the sole obligee and the Lessee as the principal. The surety must be rated by A.M. Best as an A or B surety.
- D. The Lessee may deposit cash in an escrow with a bank qualified by law to do business in the State of Alaska. The disbursement of the escrowed funds shall be governed by an escrow agreement in a form approved by the City.
- E. The Lessee may provide to the City, an irrevocable letter of credit or loan commitment by a bank qualified by law to do business in the State of Alaska naming the City as beneficiary. The letter of credit or loan commitment agreement shall be in a form approved by the City.
- F. The Lessee may grant the City a first deed of trust on real property located in the Matanuska-Susitna Borough to secure the estimated cost of all improvements. The City will accept the first deed of trust if:
  - 1. The Matanuska- Susitna Borough's assessed value for the tax purposes equals or exceeds the amount to be secured by the deed of trust; and
  - 2. The City obtains at the Lessee's expense, a policy of title insurance from a recognized Title Company doing business in the Matanuska Susitna Borough naming the City as the insured beneficiary of the first deed of trust in the amount of the estimated cost of all improvements.

### **Section 2.12 Inspection**

During construction, the Lessor shall have the right, from time to time, to inspect the Improvements and in the event that during the construction or at any time prior to the issuance of a final certificate of occupancy, the Lessor determines that the Improvements are not being constructed in accordance with the plans and specifications specified in this lease, Lessor may give notice in writing to the Lessee specifying in detail the particular deficiency, omission or other respect in which the Lessor claims construction does not meet the plans and specifications. Upon receipt of any such notice the Lessee shall take steps necessary to correct any deficiencies, omissions or otherwise.

### **Section 2.13 Non-Responsibility**

The Lessor may at the time enter upon the Premises for the purpose of posting notices of non-responsibility for any work, labor or materials supplied or furnished to these Premises and the Lessee shall notify, in writing, and in advance of any construction, the Lessor of any construction in order that the Lessor may post such notices of non-responsibility. It is the understanding of the parties hereto that any such work, labor, or materials are supplied only to further the purposes of the Lessee and that work, labor and materials have been contracted for solely by the Lessee for Lessee's own benefit and not as agent of Lessor.

### **Section 2.14 As Built Plans**

Within sixty (60) days after the project's completion date, the Lessee shall deliver to the Lessor a surveyed plot plan of the leased Premises showing the completed Improvements as built in relation to the property lines of the leased Premises.

### **Section 2.15 Improvements Subject to Reversion or Removal**

All alterations, buildings, structures or other Improvements placed on the Premises by Lessee shall be subject to Section 7.6 of this Lease.

### **Section 2.16 Alterations and Other Improvements**

The Lessee shall have the right, from time to time, to make such alterations and improvements and decoration to the Premises. Any alterations, improvements and decorations shall be reasonably necessary or appropriate in the Lessor's judgment for the conduct Lessee's business. Lessee shall obtain Lessor's written approval before any such alterations are made. Approval shall not be reasonably withheld as long as Lessee complies with provisions of this article.

### **Section 2.17 Pavement/Utility Services**

Any pavement or utility services to be constructed by the Lessee shall be constructed in accordance with design and specifications approved by the Lessor and the construction shall be subject to inspection by the Lessor. Such improvements shall not be constructed without the prior consent of the Lessor in writing.

## **ARTICLE III - USE OF THE LEASED PREMISES**

### **Section 3.1 Airport Purposes**

- A. Lessee shall have the right to conduct on the premises those activities stated in Section 1.1 B only, and Lessee shall not use the Premises for any other purpose or activity without first obtaining the written consent of the Airport Manager to do so.
- B. In addition, Lessees' activities are to be aeronautical related activities as defined in the Federal Aviation Administration's (FAA's) Airport Compliance Handbook, FAA order

- 5190.6B and the FAA Revenue Diversion Policy and all planned development shall be consistent with the Palmer Municipal Airport Layout Plan and Master Plan.
- C. It is the purpose of this Lease to foster and abet air commerce at Palmer Municipal Airport and it is not the intent of this Lease to provide premises for uses which do not promote the development and use of Palmer Municipal Airport.
  - D. All uses normally incidental to an airport such as car rental agencies, limousine service, restaurants, insurance sales, and other such incidental services not directly related to the maintenance and operation of aircraft are prohibited except when the Airport and the FAA have established that a specific facility is not currently needed for aeronautical purposes.
  - E. Any non-aeronautical use must be limited and incidental.
  - F. Any non-aeronautical use must be approved by the Airport Manager and the FAA in writing prior to its commencement.
  - G. Any approved non-aeronautical use will be allowed only on an interim basis and will be phased out if aeronautical demand increases.
  - H. If a non-aeronautical use is approved, the rent provided in section 1.3 shall be increased to reflect the fair market value of the portion of the Premises used for non-aeronautical uses.
  - I. Requests for non-aeronautical uses will be made first to the Airport Manager and if approved by the Airport Manager and FAA, the non-aeronautical use and the conditions associated therewith will be detailed in an addendum to this Lease.
  - J. Lessee shall not use or permit any part of the Premises to be used for any unlawful purpose of or for any purpose or use that may constitute a nuisance or hazard to health, safety, or property.
  - K. Lessee shall not use or allow the Premises or any part thereof to be used or occupied for any purpose in violation of any law, lawful order, or rule or regulation concerning the operation or use of Palmer Municipal Airport.

### **Section 3.2 Compliance with Laws**

Lessee shall comply with all laws now or hereinafter in effect affecting the Premises or Lessee's use or occupancy thereof, including but not limited to Palmer Municipal Airport Regulations; PMC 12.08; and PMC 17 all as may be amended from time to time.

### **Section 3.3 Hazardous Materials**

- A. Neither Lessee nor Lessee's agents shall cause or permit any Hazardous Materials or Substances to be brought upon, generated, stored, disposed of, or used in or about the Premises by Lessee, its agents, employees, contractors, or invitees without the prior written consent of Lessor.
- B. Lessee shall demonstrate to Lessor's reasonable satisfaction that such Hazardous Materials or Substances are necessary to Lessee's business and will be used, generated, disposed of, and stored in a manner that complies with all laws regulating any such Hazardous Materials or Substance so brought upon, generated, stored, disposed of or used in or about the Premises.
- C. Lessor may, at its option require Lessee to provide annual reports, submitted with the annual rent payment.
- D. The Lessee will report the kinds and quantities of Hazardous Materials or Substance on the Premises and how the Lessee complies with applicable laws regarding disposal.
- E. If Hazardous Material or Substances have been used, generated, disposed of or stored in or about the Premises during the term of this Lease, Lessor may, at its election, have any

environmental assessment performed of the Premises, at the Lessee's expense, at the termination of this Lease or termination of Lessee's right to possession under this Lease.

- F. If any of the following occur;
1. Lessee breaches the obligations in this section;
  2. The presence of Hazardous Material or Substance on the Premises caused or permitted by Lessee results in contamination of the Premises or contamination of any other property at the Palmer Municipal Airport; or
  3. Contamination of the Premises or any other property at Palmer Municipal Airport by Hazardous Material or Substance otherwise occurs for which Lessee is legally liable to Lessor for damage resulting therefrom;
    - a. Then Lessee shall indemnify, defend, and hold Lessor harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses including, without limitation, diminution in value of the Premises, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Premises, damages arising from any adverse impact on marketing of space, sums paid in settlement of claims, attorneys' fees, appellate attorney's fees, consultant fees, expert fees, costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Material or substance present in the soil or groundwater on or under the Premises which arise during or after the Lease term as a result of such contamination.
- G. Without Limiting the foregoing, if the presence of any Hazardous Material or Substance on the Premises caused or permitted by Lessee results in any contamination of the Premises or any other property at the Palmer Municipal Airport, Lessee shall promptly take all actions at its sole expense as are necessary to return the Premises and/or other property to the condition existing prior to the introduction of any such Hazardous Material or Substance; provided that Lessor's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the Premises or other property.
- H. As used herein, the term "Hazardous Material or Substance" shall be interpreted broadly to include, but not limited to, substances designated as hazardous under the Resource Conservation and Recovery Act, 42 USC Section 6901 et seq., the Federal Water Pollution Control Act, 33 USC Section 1257 et seq. the Clean Air Act, 42 USC Section 2001 et seq the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC Section 9601 et seq., Title 46 of the Alaska Statutes, or by any applicable federal, state, or local statute, regulation or ordinance now or hereafter in effect and as they may be amended or interpreted from time to time.
- I. The provisions of this Section 3.3 shall survive any termination of Lessee's right to possession of the Premises and/or termination of this Lease.

### **Section 3.4 Americans with Disabilities Act**

Lessor and Lessee agree that as allowed by 28 C. F. R. S. 36.201(b), Lessee shall be responsible for all compliance responsibility under the Americans with Disabilities Act (42 U.S.C. S 12101 et. Seq.) related to Lessee's use and occupancy of the Premises. Lessee agrees to defend, indemnify and hold Lessee harmless from any claim, demand, or action, either by a private person or a governmental entity, under said Act due to failure to comply with the terms of said Act. The



provisions of this Section 3.4 shall survive termination of Lessee's right to possession of the Premises and/or termination of this Lease.

### **Section 3.5 Reservations and Exceptions**

This Lease is made by the Lessor and accepted by the Lessee conditioned upon and subject to any conditions, reservations, limitations, provisions or terms imposed upon the Premises of Palmer Municipal Airport, as contained in any grant (including any monetary grant or loan), lease, permit, patent, deed, or any other conveyance to the Lessor of the Premises, or of Palmer Municipal Airport, from the United States, or the State of Alaska, including their agencies. In the event that any such condition, reservation, limitation, provision or term shall prevent, without fault of the Lessor, this Lease from continuing in full force and effect, the Lessor shall have the option to terminate this Lease immediately (and at any time) without liability to the Lessee therefor.

### **Section 3.6 Subordination of Lease to Requirements of the Federal Aviation Administration**

- A. This Lease shall be subordinated to the provisions of any existing or future agreements between the Lessor and the United States, relative to the operation or maintenance of Palmer Municipal Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development or operation of Palmer Municipal Airport.
- B. In connection therewith, the Lessor has undertaken and may in the future undertake certain obligations respecting its operation of Palmer Municipal Airport and activities of its contractors, Lessees and permitted thereon. The performance by Lessee of the covenants, promises and obligations contained in this Lease is therefore a special consideration and inducement to this Lease. Lessee further covenants and agrees that if the administrator of the Federal Aviation Administration, or any other governmental official or body having jurisdiction over the enforcement and the obligations of the City in connection with the Federal or State aid, shall make any orders, recommendations or suggestions respecting the performances by Lessee of its obligations under this Lease, Lessee shall promptly comply therewith, at the time or times when and to the extent that the Lessor may direct.

### **Section 3.7 Aircraft on Premises**

The Lessee shall provide the Airport Manager a list showing all aircraft on the Premises for any purpose, together with the aircraft type, model and number, the name and address of the owner, the purpose of the aircraft being on the Premises, and such other information concerning its identification thereof as the Airport Manager shall deem necessary.

### **Section 3.8 Discriminatory Acts Prohibited**

- A. The Lessee shall furnish any service to be rendered by the Lessee in connection with or upon the Premises on a fair, equal and not unjustly discriminatory basis to all users thereof. In performing such services Lessee shall charge fair, reasonable and not unjustly discriminatory prices or rates for each unit of service furnished, provided the Lessee may take reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume users or purchasers.
- B. The Lessee, in its use and occupancy of the Premises, shall not discriminate against any person or class of persons by reason of race, color, creed or national origin, or by reason of any other basis that is illegal or becomes illegal during the term of this Lease, any extension, or any holdover period.

- C. The Lessor upon ten (10) days' notice to the Lessee of any violation of this section shall request that the Lessee either correct or justify any practice or charge alleged as a violation.
- D. In any proceeding whatsoever the burden of justification shall be on the Lessee to show that the practice or charge does comply with the requirements of this section. The Lessee, within ten (10) days after receipt of the notice, shall comply with the request or submit to the Lessor its justification in writing. The Lessor shall submit its findings and decision as to any alleged violation within fifteen (15) days after the receipt of the Lessee's justification, and such findings and decision of the Lessor shall be final. Unless the Lessee shall notify in writing the Lessor within ten (10) days of its objections to any request for compliance or to any adverse findings and decision, the Lessee shall waive any defense that the alleged violation is justified.
- E. The Lessor, at its option, may forthwith terminate this Lease without any liability to Lessee thereunder for failure by Lessee without justification to comply with Lessor's request for compliance within the time set forth in the request or the findings and decision to correct the alleged violation.

### **Section 3.9 Affirmative Action**

- A. The Lessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered in this subpart. The Lessee assures that it will require that its covered sub-organizations provide assurances to the Lessor that any similarity will undertake affirmative action programs and that they will require assurances from their sub-organizations, as required by 14 CFR Part 152, Subpart E, to the same effect.
- B. The Lessor upon ten (10) days' notice to the Lessee of any violation of subsection A shall request that the Lessee either correct or justify any practice or charge alleged as a violation. In any proceeding whatsoever, the burden of justification requirement of subsection A. The Lessee within ten (10) days after receipt of the notice, shall comply with the request or submit to the Lessor its justification in writing. The Lessor shall submit its findings and decision as to any alleged violation within fifteen (15) days after receipt of the Lessee's justification, and such findings and decision of the days of its objections to any request for compliance or to any adverse findings and decision, the Lessee shall waive any defense that the alleged violation is justified.
- C. The Lessor, at its option, may forthwith terminate this Lease without any liability to Lessee thereunder for any failure by Lessee without justification to comply with Lessor's request for compliance within the time set forth in the request of the findings and decision to correct the alleged violation.

### **Section 3.10 Maintenance of Premises**

- A. Lessee shall repair and maintain the Improvements in good order and repair and keep the Premises in a neat, safe, clean and orderly condition. Such obligation shall include, but not be limited to, the prevention of the accumulation of any refuse or waste materials which might be or constitute a fire hazard or a public or private nuisance.
- B. In the event that Lessee does not properly repair and/or maintain the Improvements or Premises, the Airport Manager shall notify the Lessee in writing of those areas that are not being properly repaired and/or maintained.

- C. If, however, after 60 days, Lessee fails to make such repair and/or maintenance, Lessor may cause to have such repair and maintenance made and invoice the Lessee for the repair and maintenance completed.
- D. If said costs are not paid promptly by Lessee, the lease shall be deemed to be in default, and Lessor shall be entitled to all legal remedies provided hereunder.
- E. Lessee shall neither cause nor allow any waste of the Premises or Improvements. In addition, Lessee shall be strictly liable for any waste of the Premises or Improvements and for any damage to reversion.

### **Section 3.11 Signs**

- A. Lessee shall not, without Lessor's written consent, place or erect any sign of any nature on any part of the Premises, but such consent shall not be unreasonably withheld to one flat sign of reasonable size bearing the Lessee's trade name, providing such sign meets all city zoning and sign requirements.
- B. At the termination of this Lease, any such sign shall be removed by Lessee at Lessee's own expense.
- C. Lessee shall apply for a sign permit from the Department of Community Development and shall comply with Palmer Municipal Code.

### **Section 3.12 Improvements and Alterations**

After the initial improvements set forth in Article II have been completed, and if the Lessee desires to construct further improvements:

- A. Prior to commencing construction, renovation, enlargement, demolition, or modification of leasehold improvements now or hereafter existing on the Premises, Lessee shall submit to the Airport Manager plans and specifications for such work (including plans for landscaping and irrigation, if any) and Timeline for various phases of work.
- B. The Airport Manager shall approve or disapprove such plans and specifications and accompanying Timeline at his or her sole discretion.
- C. Upon Lessee's receipt of the Airport Manager's written approval of such plans and specifications, Lessee agrees to construct the proposed leasehold improvements in strict accordance with such plans and specifications and Timeline.
- D. The Airport Manager's approval of submitted plans and specifications shall not constitute the assumption of any liability by Lessor for their compliance or conformity with applicable building codes, zoning regulations, and city borough, state and federal laws, ordinances and regulations, or for their accuracy, and Lessee shall be solely responsible for such plans and specifications.
- E. The Airport Manager's approval of plans and specifications shall not constitute a waiver of Lessor's right to therefore require Lessee to amend the same to provide for any corrections or omissions needed to comply with applicable building codes, zoning regulations, city, borough, state or federal laws, ordinances or regulations.
- F. The review and approval required by Section 3.12 is in addition to any other review and approval needed for any required building permits or similar authorizations.
- G. Lessee shall obtain all necessary licenses and permits to accomplish any of the work described in Section 3.12. Nothing in this Lease is intended to limit or restrict the City of Palmer in the exercise of its police power, authority to enforce building, fire and other safety codes, laws, ordinances, or regulations.
- H. Lessee agrees to comply with the notification and review requirements covered in part 77 of the Federal Aviation Regulations prior to the construction of the Improvements and prior to the construction of any future building or structure situated on the Premises.

- I. Any contract or agreement for labor, services, materials or supplies furnished in connection with construction or alteration of any improvement to the Premises shall provide that no lien, claim or other encumbrance shall thereby be created, or arise, or be filed by anyone thereunder upon or against the Premises or the improvements.
- J. Before the commencement of any such work, Lessee shall deliver to Lessor either an executed duplicate original of such contract or a written waiver by the architect, engineer, contractor, material man, mechanic, person or corporation named in such contract of all right of lien which he or it might otherwise have upon or against the Premises, or the improvements to be constructed or altered, or the interest of Lessor therein.
- K. Lessee hereby warrants to Lessor that the Premises and all such other improvements thereto, shall be free and clear of all liens, claims and encumbrances and agrees to indemnify, defend and hold Lessor harmless from and against any and all losses, damages and costs, including reasonable attorneys' fees and appellate attorneys' fees, with respect thereto.
- L. If any lien or notice of lien on account of the alleged debt of Lessee or lien or notice of lien by any party engaged by Lessee or Lessee's contractor to work on the Premises shall be filed against the Premises or improvements, Lessee shall cause the same to be discharged of record by payment, deposit, bond, order of court or competent jurisdiction or otherwise.
- M. The work, in excess of \$100,000, as described in this lease document shall not begin until the Lessee or Lessee's contractor has provided to the Lessor a performance guarantee in the form of a performance bond, escrow, an irrevocable letter of credit, or deed of trust in an amount equal to 100% of the estimated cost of the Improvements greater than \$100,000 to be accomplished, which guarantees the completion of the work by Lessee or Lessee's contractor in accordance with the plans and specifications approved by Lessor and guarantees the payment by Lessee or Lessee's contractor of all subcontractors' charges and all other persons and firms supplying services, labor, materials or supplies in connection with the work.
- N. All alterations, buildings, structures or other improvements placed on the Premises by Lessee shall be subject to section 7.6 of this Lease.

### **Section 3.13 Quiet Possession**

The Lessee, upon paying rent and observing the conditions and terms of this Lease, shall and may have at all times during the term of this Lease peaceful and quiet enjoyment and possession of the Premises, except as otherwise set forth in this Lease.

### **Section 3.14 Lessee's option to Terminate**

- A. Should any government body, agency, or official, other than Lessor, prohibit or otherwise prevent the use of Palmer Municipal Airport in its present condition as a public airport for one year or more, or should the continued use of Palmer Municipal Airport as an airport become impossible or unlawful without the fault of the Lessee, the Lessee shall have the option to terminate this Lease on thirty (30) days written notice to the Lessor.
- B. Upon such termination, this Lease shall be at an end, and neither party shall have any liability for such termination.
- C. The Lessor shall notify the Lessee in writing, of the prohibition, or intended prohibition, and the failure of the Lessee to exercise the option to terminate within thirty (30) days shall extinguish the Lessee's option to terminate.

### **Section 3.15 Lessor's Option to Terminate**

- A. Lessee hereby grants to Lessor should it require the Premises in connection with the future expansion and/or operation of the Airport prior to the expiration or termination of the Lease, Lessor may, upon ninety (90) days written notice, cancel this Lease.
- B. In the event that this Lease is canceled under the provisions of this Section, Lessor shall pay to Lessee the fair market value of Lessee's remaining leasehold interest and the fair market value of Lessee owned buildings, structures, alterations and/or improvements placed by Lessee upon the Premises during the term of this Lease.
- C. The fair market value shall be determined by following the appraisal procedure set forth determination of the fair market rental of the Premises in Section 1.4 of this Lease.
- D. After payment therefore as provided herein, all buildings, structures, alterations and/or improvements shall be subject to the provisions of section 7.6 of this Lease.

### **Section 3.16 Right of Entry and Access**

- A. Lessee hereby grants to Lessor, its contractors, employees, agents and assigns, the irrevocable right, permission and authority to enter into and upon all or part of the Premises for the purpose of:
  - 1. Inspecting the Premises;
  - 2. Cleaning, repairing, maintaining, altering or improving the Premises as Lessor may deem necessary;
  - 3. Abating any nuisance or hazardous condition on the Premises, and/or
  - 4. Preserving and/or protecting the Premises.
- B. It is understood and agreed that the entry and access may affect the use of the Premises from time to time. Lessor shall use reasonable efforts to coordinate any anticipated access or utility or other interruptions with Lessee in an attempt to reasonably reduce the effect of any disruption of Lessee's enjoyment and use of the Premises.
- C. The right of access and entry reserved herein does not impose, nor does Lessor assume by reason thereof, any responsibility for the care, maintenance or supervision of the Premises. Lessee shall not be entitled to any abatement or reduction in rent by reason of Lessors access and/or entry nor shall such access or entry be deemed an actual or constructive eviction.

### **Section 3.17 Lessor's Improvements**

- A. Lessor shall have a permanent right of access over, under, around and across the Premises for the purposes of maintaining, servicing, upgrading, replacing or removing any Lessor-installed improvements including, but not limited to, light poles, utilities, and fencing.
- B. This section does not require Lessor to provide any improvements.
- C. Lessor's maintenance shall not include paving, aircraft tie downs, snow removal or sanding.
- D. All improvements constructed by the Lessor shall at all times remain the property of Lessor and may be maintained, upgraded, serviced or removed at Lessor's convenience and discretion.
- E. Lessor agrees to use reasonable efforts to notify of any upgrading, replacing or repair work with Lessee and to reasonably reduce disrupting Lessee's use of the Premises when practicable.
- F. In the event of abandonment or default, any Lessee improvement will become the property of the Lessor.

### **Section 3.18 Aviation Easement**

Lessee's right to use the Premises for the purposes as set forth in this Lease shall be secondary to and subordinate to the operation of the airport. Lessor specifically reserves for itself, other Palmer Municipal Airport leaseholders, and for the public, an easement for the passage of aircraft in the air space above the surface of the described property together with the right to cause in said air space or on adjacent property such noise as may be inherent in the present or future operation of aircraft. Without in any way limiting Lessor's rights under Section 3.12, Lessee shall not construct any building or facility to a height which in Lessor's discretion will interfere with the operations of the airport.

### **Section 3.19 Right-of-Way and Easement**

Lessor shall have the right to designate or grant rights-of-way or utility easements across the Premises without compensation to Lessee, provided that Lessee shall be entitled to compensation for the taking or destruction of any of Lessee's improvements and provided further that Lessee may terminate the Lease or demand a rental adjustment to reflect any reduction in value of the Premises.

## **ARTICLE IV - TAXES, INDEMNIFICATION, AND INSURANCE**

### **Section 4.1 Taxes, Assessments, and Utilities**

- A. Lessee, in addition to the rentals provided for herein, shall pay when due (and before delinquency) all taxes, utility fees, assessments, and charges upon the Premises, the leasehold interest, and upon buildings, improvements and property thereon, which are assessed or charged at any time during the term.
- B. The Lessee shall furnish to the Lessor for Lessor's inspection within thirty (30) days after the date any amount payable by the Lessee as required by this section, official receipts from the appropriate taxing authorities or other proof satisfactory to the Lessor evidencing payment.
- C. The Lessee shall have the right at all times to protest any assessment of taxes or other assessments or charges, but the Lessor may require the Lessee to deposit with the Lessor any sums in dispute to insure payment in the event that any contest is unsuccessful.
- D. Lessee shall pay and be responsible for all charges for gas, electricity, water, light, heat, power, garbage, solid waste, and other utility service used in or about or supplied to the Premises.
- E. Lessee shall timely pay all sales tax on the rent on the lease, utilities, sales, service, rents, etc., and shall comply with City and Borough sales tax laws.

### **Section 4.2 Indemnification**

Lessee shall indemnify, defend and hold Lessor harmless from all liability or loss (including, but not limited to reasonable attorneys' fees and appellate attorneys' fees) arising from any injury to any person or persons (including without limitation Lessee, its agents or employees) or property of any kind whatsoever while in, upon, or in any way connected with the Premises during the term of this Lease, or any use or occupancy hereunder, however occurring, including any acts, negligent or otherwise, and any omissions (negligent or otherwise), by Lessee, its agents, independent contractors, or employees, unless caused by or resulting from the sole negligence of the Lessor or any of Lessor's agents or employees.

### **Section 4.3 Insurance**

- A. Lessee, at its own expense, shall secure and maintain in full force at all times during the term of this Lease:
  - 1. Commercial general liability. Commercial general liability insurance with a single occurrence liability limit of \$1,000,000 and an aggregate of \$2,000,000 insuring against liability of Lessee, its officers, contractors, licensees, agents, employees, guests, invites and authorized representatives, arising out of and/or in connection with Lessee's use or occupancy of the Premises; or
  - 2. Airport premises liability. Airport premises liability insurance on an occurrence basis with a single combined liability limit of not less than \$1,000,000 occurrence and \$2,000,000 aggregate limit for bodily injury and property damage.
  - 3. If applicable, third-party aircraft liability insurance with a single combined liability limit of not less than \$1,000,000 per occurrence;
  - 4. Commercial property insurance in the amount of replacement costs.
  - 5. Pollution Insurance covering all fueling activities with a single combined liability limit of not less than \$1,000,000 occurrence and \$2,000,000 aggregate limit.
- B. This insurance required under this Section shall:
  - 1. Name the Lessor as an "additional insured"
  - 2. Contain a clause that the insurer will not cancel or change the insurance without first giving the Lessor thirty (30) days prior written notice;
  - 3. Be with an insurance company qualified to do business in the State of Alaska with a financial rating of at least "A" as rated in current Best's Insurance Reports;
  - 4. Include a waiver of subrogation clause by which the insurer waives all rights of subrogation against the Lessor for payments made under the policy; and
  - 5. Not contain a damage deductible for each and every loss that exceeds \$10,000.
- C. Lessee shall provide Lessor with proof of insurance coverage in the form of a certificate of insurance, and if requested by the Lessor, Lessee shall provide Lessor with a copy of the policy(ies). Failure to maintain such insurance in effect shall constitute grounds for immediate termination of this lease. Lessor may at its option purchase said insurance and charge the expense thereof to Lessee, which expense Lessee shall assume and pay.
- D. To reasonably protect itself, Lessor may adjust these minimum insurance requirements and add types of insurance or both by giving Lessee written notice of such adjustment ninety (90) days prior to the expiration of each five (5) year interval of the term of this Lease. Lessor may also adjust these minimum insurance requirements at any time if Lessee's use of the Premises changes, and in such event, Lessor shall give Lessee thirty (30) days written notice of such adjustment.
- E. The requirements of insurance coverage do not relieve Lessee from any other obligation under this Lease.

## **ARTICLE V - ASSIGNMENT AND SECURITY INTERESTS**

### **Section 5.1 Assignment and Subletting**

- A. Lessee shall not voluntarily assign or encumber its interest in this Lease or in the Premises or sublease all or any part of the Premises, or allow any other person or entity to occupy or use all or any part of the Premises without first obtaining Lessor's prior written consent. Lessor will not unreasonably withhold its consent; provided, however, if Lessor does unreasonably withhold its consent, Lessor shall not be liable for any damages, costs or attorney's fees arising therefrom.

1. Lessor may condition its consent upon such terms as are in its best interest, including but not limited to matters regarding laws, insurance, risks, Lessee's defaults or past practices, risks attributable to assignee, etc., but Lessor may not condition its consent upon raising the rent other than as already allowed under this Lease.
  2. Any assignment, encumbrance or sublease without Lessor's consent shall be voidable and, at Lessor's election, shall constitute a default.
  3. No consent to any assignment, encumbrance or sublease shall constitute a further waiver of the provisions of this section.
- B. If Lessee is a partnership or limited liability company, a withdrawal or change, voluntary, involuntary or by operation of law, of any partner or partners, member or members owning twenty-five percent (25%) or more of the partnership or LLC in one or more transactions, or the dissolution of the partnership or LLC, shall be deemed a voluntary assignment.
- C. If Lessee is a corporation any dissolution, merger, consolidation or other reorganization of Lessee, or the sale or other transfer of a controlling percentage of the capital stock of Lessee in one or more transactions, or the sale of twenty-five percent (25%) of the value of the assets of Lessee in one or more transactions without immediate replacement with assets of equal or greater worth, shall be deemed a voluntary assignment.
- D. Lessee hereby irrevocably assigns to Lessor, as security for Lessee's obligations under this Lease, all rent from any subletting of all or a part of the Premises, and Lessor, as assignee and attorney-in-fact for Lease, may collect such rent and apply it toward Lessee's obligations under this Lease, except that, until the occurrence of an act of default by Lessee, Lessee shall have the right to collect such rent as it becomes due, one payment period at a time, which payment period may never exceed one year.
- E. Lessee may not charge a sub-lessee a rent rate that changes from year to year, other than changes that result directly from changes made by Lessor, and Lessee shall never have the right to collect or receive rent in advance of when it is due. If the sub-lessee pays Lessee in advance and Lessor collects rent hereunder, then the sub-lessee must pay the advanced rent to Lessor and sub lessee may retrieve the advanced rent from Lessee. Neither this section nor collection of any such rent by Lessor shall be deemed to be Lessor's approval of any such sublease.
- F. If, as a result of an assignment or sublease, the Premises will be used for purposes other than as set forth in section 3.1 herein. The consent of the Palmer City Council and the FAA, if applicable, must be obtained. It is the policy of the city council to discourage non-aviation related uses. Additionally, if incremental revenues over and above the Lessee's Lease payments will be realized from the sublease or assignment pertaining to non-aeronautical uses, Lessor may raise Lessee's existing rent to fair market value at the time of the approval of the sublease.
- G. All assignment instruments shall include language whereby Assignee expressly assumes and agrees to pay the obligations of Lessee under this Lease.
1. No assignment shall release or diminish the obligations of any Lessee or any Guarantor for performance of Lessee's obligations hereunder and Lessee shall remain liable as if no assignment were made.
  2. Lessee and Assignee will be jointly and severally liable for such obligations.
  3. Neither this section nor any payment of rent by such Assignee shall be deemed to be Lessor's approval of any such assignment.
- H. All sublease instruments shall provide that the sublease is subject to all of the terms, covenants and conditions of this Lease.



- I. Lessee agrees to pay to Lessor \$500 for any request by Lessee for Lessor to consent to any assignment or subletting by Lessee.

### **Section 5.2 Mortgage and Encumbrances**

- A. Lessee shall not mortgage or otherwise encumber this Lease (including Lessee's leasehold estate in the improvements thereon) without the prior written consent of Lessor.
- B. The Lessor's consent to the mortgage or encumbrance shall not be unreasonably withheld, provided the mortgage or beneficiary shall agree to the attached form of Assignment of Lease for Security Purposes and Consent to Assignment of Lease attached hereto as Exhibit C.
- C. Lessee shall furnish the Lessor with a copy of any security transaction mortgaging or encumbering the Premises for the Lessor's approval prior to any mortgaging or encumbering of the Premises, and shall further furnish a copy to the Lessor of any such executed security transactions.

## **ARTICLE VI - DEFAULT AND ENFORCEMENT**

### **Section 6.1 Default Defined**

The occurrence of one or more of the following shall be deemed a default by the Lessee and a breach of this Lease:

- A. Failure to pay the rent provided herein, or any part thereof, or other charge due hereunder, for a period of ten (10) days after written notice of such failure is given by Lessor to Lessee;
- B. Failure to perform the obligations set forth in Sections 3.8, 3.9, and 3.10 hereof, after any notice required by those sections;
- C. Failure to provide and maintain in effect **insurance** in compliance with Section 4.3 hereof **(for which failure there is no notice time requirement)**;
- D. Failure to do, observe, keep and perform any other terms, covenants, conditions, agreements and provisions contained in this Lease for a period of thirty (30) days after written notice of such failure is given by Lessor to Lessee, or, in the case of a default not reasonably susceptible of being cured within thirty (30) days (which does not include any default which may be cured by the payment of money), failure to commence promptly and proceed diligently and in good faith to cure such default within the initial thirty (30) days and complete such cure within a total of sixty (60) days after the sending of the notice;
- E. The abandonment of the premises by the Lessee, the making by the Lessee of a general assignment for the benefit of creditors, or the appointment of a permanent or temporary receiver for the Lessee's property, which is not vacated or set aside within thirty (30) days of sending of written notice of such event by Lessor; or
- F. The issuance of three (3) written notices for defaults or breaches within any consecutive twelve-month period, regardless of whether or not the default or breach was cured within the applicable time period.

### **Section 6.2 Lessor Remedies on Default**

Upon the occurrence of any default of Lessee as described in Section 6.1 or elsewhere in this Lease, Lessor shall have the option to pursue any one or more of the following remedies without any notice or demand whatsoever:

- A. Lessor may, at its election, terminate this Lease or terminate Lessee's right to possession only, without terminating this Lease.

- B. Upon termination of this Lease, whether by lapse of time or otherwise, or upon any termination of Lessee's right to possession without termination of this Lease, Lessee shall surrender possession and vacate the Premises immediately, and deliver possession thereof to Lessor, and Lessee hereby grants to Lessor full and free license to enter into and upon the Premises in such event with or without process of law and to repossess Lessor of the Premises and to expel or remove Lessee and any others who may occupy or be within the Premises and to remove and all property therefrom, without being deemed in any manner guilty of trespass, eviction or forcible entry or detainer, and without incurring any liability for any damage resulting therefrom, Lessee hereby waiving any right to claim damage for such re-entry and expulsion and without relinquishing Lessors right to rent or any other right given to Lessor hereunder or by operation of law.
- C. Upon any termination of this Lease, whether by lapse of time or otherwise, Lessor shall be entitled to recover:
1. The worth at the time of the award of the unpaid rent (including any amounts treated as additional rent) that had been earned at the time of termination;
  2. The worth at the time of the award of the amount by which the unpaid rent (including any amounts treated as additional rent) that would have been earned after the date of termination until the time of award exceeds the amount of the loss of rent for the same period that Lessee proves could have been reasonably avoided;
  3. The worth at the time of the award of the amount by which the unpaid rent (including a reasonable estimate of additional rent) for the balance of the term exceeds the amount of the loss of rent for the same period that Lessee proves could have been reasonably avoided; and
  4. Any other amount, full reasonable attorney's fees and court costs, necessary to compensate Lessor for all detriment proximately caused by Lessee's default.
- D. "The worth at the time of the award," used in this section, is to be computed by allowing interest as determined by the current bond rating from State of Alaska Municipal Bond Bank plus 5%. The "time of the award" is the date the Lessee is notified of the termination of the lease by the Lessor. Such notification shall be done by certified mail.
- E. Upon any termination of Lessee's right to possession only without termination of this Lease, Lessor may, at the Lessor's option enter into the Premises, remove Lessee's signs and other evidences of tenancy, and take and hold possession thereof as provided in this section, without such entry and possession terminating this Lease or releasing Lessee, in whole or in part, from any obligation, including Lessee's obligation to pay the rent, including any amounts treated as additional rent hereunder, for the full term.
- F. Upon termination of Lessee's right to possession, Lessor may, but need not, relet the Premises or any part thereof for such rent and upon such terms as Lessor in its sole discretion shall determine (including, but not limited to, the right to relet the Premises for a greater or lesser term than that remaining under this Lease, the right to relet the Premises as a part of a larger area, and the right to change the character or use made of the Premises) and Lessor shall not be required to accept any tenant offered by Lessee or to observe any instructions given by Lessee about such reletting.
- a. In any such case, Lessor may make repairs, alterations and additions in or to the, Premises, and Lessee shall, upon demand, pay the cost thereof, together with Lessor's expenses of reletting.
  - b. If the consideration collected by Lessor upon any such reletting plus any sums previously collected from Lessee are not sufficient to pay the full amount of all rent, including any amounts treated as additional rent here under and other sums

reserved in this Lease for the remaining term hereof, together with the costs of repairs, alterations, additions, and Lessor's expenses of reletting and the collection of the rent accruing therefrom (including attorneys' fees), Lessee shall pay to Lessor the amount of such deficiency upon demand and Lessee agrees that Lessor may file suit to recover any sums falling due under this subpart from time to time.

- E. Lessor may, at Lessor's option, enter into and upon the Premises, with or without process of law, if Lessor determines in its sole discretion that Lessee is not acting within a commercially reasonable time to maintain repair or replace anything for which Lessee is responsible hereunder and correct the same, without being deemed in any manner guilty of trespass, eviction or forcible entry and detainer and without incurring any liability for any damage resulting therefrom and Lessee agrees to reimburse Lessor, on demand, as additional rent, for any expenses which Lessor may incur in thus effecting compliance with Lessee's obligations under this Lease.
- F. Any and all property which may be removed from the Premises by Lessor pursuant to the authority of this Lease or of law or in equity, to which Lessee is or may be entitled, may be handled, removed and stored, as the case may be, by or in the direction of Lessor at the risk, cost and expense of Lessee, and Lessor shall in no event be responsible for the value, preservation or safekeeping thereof.
  - 1. Lessee shall pay to Lessor, upon demand, any and all expenses incurred in such removal and all storage charges against such property so long as the same shall be in Lessor's possession or under Lessors control.
  - 2. Any such property of Lessee not retaken by Lessee from storage within thirty (30) days after removal from the Premises shall conclusively be presumed to have been conveyed by Lessee to Lessor under this Lease as a bill of sale without further payment or credit by Lessor to Lessee; provided, however, Lessor may disclaim as to any item or items and the effect of such disclaimer will be that the item or items never became the property of Lessor.
- G. Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law or equity (all such remedies being cumulative), nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any rent, additional rent or other sum due to Lessor, hereunder or of any damages accruing to Lessor by reason of the terms, provisions and covenants herein contained.
- H. No act or thing done by Lessor or its agents during the term hereby granted shall be deemed a termination of this Lease or an acceptance of the surrender of the Premises, and no agreement to terminate this Lease or an acceptance of the surrender of the Premises shall be valid unless in writing signed by Lessor.
- I. No judicial action shall be necessary to terminate this Lease.
- J. No waiver by Lessor of any violation or breach of any of the terms, provisions, and covenants herein contained shall be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions and covenants herein contained.
- K. Lessors acceptance of the payment of rental, including any amount treated as additional rental, or other sums hereunder after the occurrence of an event of default shall not be construed as a waiver of such default, unless Lessor so notifies Lessee in writing.
- L. Forbearance by Lessor to be deemed or construed to constitute a waiver of such default or of Lessor's right to enforce any such remedies with respect to such default or any subsequent default.
- M. If, on account of any breach or default by Lessee in Lessee's obligations under the terms and conditions of this lease, it shall become necessary or appropriate for Lessor to employ

or consult with an attorney concerning this Lease or enforce or defend any of Lessor's rights or remedies hereunder, Lessee agrees to pay any attorneys' fees and appellate attorneys' fees so incurred.

- N. Lessor shall not be responsible or liable for any failure to relet the Premises or any part thereof, or for any failure to collect any rent due upon such reletting.

### **Section 6.3 Lessor's Failure to Enforce and Nonwaiver**

- A. Failure by the Lessor to insist the strict performance of any term, condition or covenant of this Lease or to exercise any right or remedy available on a breach thereof, and acceptance of full or partial rentals during the continuance of any such breach shall not constitute a waiver of any such breach or any such term, condition or covenant.
- B. Terms, conditions or covenants of this Lease required to be performed by the Lessee, and breach thereof, shall not be waived, altered or modified, except by written instrument executed by the Lessor.
- C. Waiver of any breach shall not affect or alter any term, condition or covenant of this Lease, and each such term, condition or covenant shall continue in full force and effect with respect to any other then existing or subsequent default or breach thereof, and any other or subsequent default or breach may be enforced by the Lessor as provided in this Lease.

## **ARTICLE VII - GENERAL COVENANTS**

### **Section 7.1 Condition and Status of Premises**

- A. Lessee acknowledges that Lessee has examined the Premises and accepts same in its present condition without any representation or warranty, express or implied in fact or by law, by the Lessor as to the title, nature, condition or usability of the Premises for the purposes set forth in this Lease, all of said warranties being hereby expressly property **as-is** in its present condition, together with all faults.
- B. Lessee agrees to provide written notice to Lessor immediately upon Lessee becoming aware or having a reasonable belief:
1. That the Premises or any adjacent property is being, may be, or has been contaminated with any Hazardous Materials, or
  2. Of the existence of any Hazardous Materials in, within, on or near the Premises or adjacent property.

### **Section 7.2 Risk of Loss**

Destruction or damage to any building or improvement on the Premises by fire, rain, ice, snow, windstorm, earthquake, aircraft accident, or any other casualty or action of the elements shall not entitle the Lessee to surrender possession of the Premises, to terminate this Lease, to violate any of its provisions, or to cause any rebate or abatement in rent when due or thereafter becoming due under the terms hereof.

### **Section 7.3 Repair or Rebuilding**

- A. Upon the destruction or damage to any building or structure by fire or other casualty covered by insurance or that is supposed to be covered by Lessee's insurance, Lessee may, with Lessor's consent rebuild the building or structure.
- B. Upon the destruction or damage to any building or structure by casualty that is not covered by insurance and is not supposed to be covered by insurance, Lessee shall have the right to repair, restore or rebuild the building or structure within one (1) year after the date of such occurrence or as per written agreement with the Airport Manager.

#### **Section 7.4 Condemnation**

- A. If all the Premises, or any part thereof required for the reasonable use of the Premises, is taken by eminent domain, this Lease shall expire on the date when the Lessee is required to vacate the Premises, and the rent shall be apportioned as of that date.
- B. If there is a taking of a part of the Premises not required for the reasonable use of the Premises, then this Lease shall continue in full force and effect and the rent shall be equitably reduced, based on the proportion by which the Premises is reduce, such rent reduction to be effective as of the date possession of such portion is delivered to the condemning authority.
- C. Except for improvements constructed and paid for by Lessee, Lessor reserves all rights to damages to the Premises for any taking by eminent domain and Lessee hereby assigns to Lessor any right Lessee may have to such damages or award.
- D. Lessee shall make no claim against Lessor for damages for termination of the leasehold interest or interference with Lessee's business. Lessee shall have the right, however, to claim and recover from the condemning authority compensation for any loss to which Lessee may be put for Lessee's moving expenses and for the interruption of or damages to Lessee's business, provided that such damages may be claimed only if they are awarded separately in the eminent domain proceeding and not as part of the damages recoverable by Lessor.

#### **Section 7.5 Surrender of Premises**

At the expiration of any Lease term, upon termination of this Lease, upon reentry by Lessor or otherwise, the Lessee shall peacefully and quietly surrender the Premises in as good a condition as it was at the beginning of the initial term, reasonable use and wear and damages by the elements excepted.

#### **Section 7.6 Reversion or Removal of Buildings and Improvements**

- A. Any and all buildings, structures, alterations or improvements placed by the Lessee upon the Premises shall, at the option of the Lessor, revert to and become the property of the Lessor at and upon the expiration or termination of this Lease and/or the termination of Lessee's right to possession of the Premises.
- B. Lessor, in its sole discretion, may require Lessee to remove part or all of said buildings, structures, alterations and/or improvements including, but not limited to, fuel tanks and lines, and partially or completely restore the Premises to the condition of the Premises at the inception of this Lease by sending written notice requesting such removal and restoration within sixty (60) days after such expiration or termination.
- C. Lessee shall then at its own expense complete such removal and restoration within ninety (90) days of the sending of such notice.
- D. At the conclusion of the current lease and extension period(s) the existing Lessee shall be given preference in executing a new lease on the same premises, provided that the proposed land use is compatible with the current Airport Layout Plan and the Lessee is otherwise in good standing with the City of Palmer and in substantial compliance with the existing lease.
- E. Section(s) 7.5 and 7.6 do not necessarily preclude a lessee from recovering value from Lessee's leasehold improvements by selling to a third party at any time during the lease term, provided that all other conditions of the active lease have been met. At such time,

the buying third party would request a new lease or an assignment of the existing lease, and such request would not be reasonably withheld.

### **Section 7.7 Holdover**

- A. In the event the Lessee shall hold over after the expiration or termination of this Lease for any cause whatsoever, Lessee shall pay Lessor monthly rent at double the annual rental rate divided by twelve for the entire time Lessee remains in possession, and in addition thereto, Lessee shall hold Lessor harmless from all damages resulting from Lessee's failure to surrender the Premises, including, without limitation, claims made by a succeeding tenant resulting from Lessee's failure to surrender the Premises.
- B. If Lessee remains in possession of the Premises after expiration of the term of the Lease, or after the date in any notice given by Lessor to Lease termination this Lease, such possession by Lessee shall be deemed to be a month-to-moth tenancy terminable on thirty (30) days' notice given at any time by either party.
- C. The provisions of this section do not exclude Lessor's rights of re-entry or any other right under this Lease.

### **Section 7.8 Notices**

Any notices required to be sent in accordance with the terms of this Lease, including legal process, shall be sent in writing by registered or certified mail, to the parties at the following addresses unless otherwise notified in writing and deemed to be received when so sent:

Lessor's address: City Manager,  
City of Palmer  
231W. Evergreen Ave.  
Palmer, AK 99645

Lessee's address: Hageland Aviation Services, Inc.  
C/O HoTH, Inc.  
4700 Old International Road  
Anchorage, AK. 99502

### **Section 7.9 Rights or Remedies**

No right or remedy herein conferred upon or reserved to Lessor is intended to be exclusive or any other right or remedy, but is intended to be in addition to any right or remedy given hereunder, or now or hereafter existing at law or in equity or by statute.

### **Section 7.10 Successors in Interest**

This Lease shall be binding upon and inure to the benefit of the respective heirs, successors and assigns of the parties hereto.

### **Section 7.11 Applicable Law and Forum**

This Lease and the respective rights and obligations of the parties shall be construed and interpreted in accordance with the laws of the State of Alaska. Any civil action concerning this Lease shall be brought in Alaska District or Superior Court in Palmer, Alaska, only.

**Section 7.12 Recordation of Lease**

The parties prefer to record a memorandum of this Lease rather than the Lease itself and contemporaneously with the execution hereof they have executed a memorandum of Lease in the form of Attachment A which is attached hereto and may be recorded by either party. In the event it should be so require by any title company insuring title for Lessee, or by any lending institution from which Lessee proposed to make a loan, then Lessee may cause this Lease to be placed of record.

**Section 7.13 Severability**

The invalidity or unenforceability of any particular provision of this Lease shall not affect any remaining provisions hereof, and, in any such event this Lease shall be construed and interpreted in all respects as if such invalid or unenforceable provision were omitted.

**Section 7.14 Construction**

Lessee and Guarantor have been advised to have this Lease and the Guaranty reviewed by their own attorney. The parties agree that this Lease and Guaranty shall not be construed more strictly against one party than the other nor shall this lease be construed against the lessor.

**7.15 Gender and Plurality**

Unless the context of this Lease clearly requires a different interpretation of construction, all references to masculine, feminine or neuter genders shall be construed to refer to all such genders; and all references to the singular shall also include the plural, and vice versa.

**Section 7.16 Joint and Several Liability**

The obligations of each Lessee are joint and several.

**Section 7.17 Entire Agreement**

This written Lease constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all other prior or contemporaneous agreements, oral or written, between the parties not included herein. No modifications, amendments, deletions, additions or alterations of this Lease shall be effective unless in writing and signed by all of the parties hereto or such representatives of the parties as have been duly authorized to make such change.

**LESSOR: CITY OF PALMER**

By: \_\_\_\_\_  
Nathen E. Wallace, City Manager

\_\_\_\_\_  
Date

**LESSEE: Hageland Aviation Services, Inc.**

By: \_\_\_\_\_  
David H. Pflieger Jr., President

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
John Mannion, Secretary

\_\_\_\_\_  
Date

**NOTARY**

STATE OF ALASKA                    )  
  )ss.  
THIRD JUDICIAL DISTRICT    )

THIS IS TO CERTIFY that on the \_\_\_\_\_day of \_\_\_\_\_, 2020, before me the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared, to me known and known to me to be the identical individual described in and who executed the within and foregoing LEASE AGREEMENT as City Manager of the City of Palmer, freely and voluntarily on behalf of the City of Palmer for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND and official seal the day and year last above written.

\_\_\_\_\_  
Notary Public in and for Alaska

My commission expires: \_\_\_\_\_

**NOTARY**

STATE OF ALASKA                    )  
  )ss.  
THIRD JUDICIAL DISTRICT    )

This is to certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared, David H. Pflieger Jr., President of the corporation named in the forgoing instruments, acknowledged to me that he/she had, in his/her official capacity is authorized by the corporation to execute the foregoing instruments as the free act and deed of the said corporation for the uses and purposes therein stated.

WITNESS my hand and official seal the date and year first above written.

\_\_\_\_\_  
Notary public in and for Alaska

My commission expires: \_\_\_\_\_



**NOTARY**

STATE OF ALASKA )  
 )ss.  
THIRD JUDICIAL DISTRICT )

This is to certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared, John Mannion, Secretary of the corporation named in the forgoing instruments, acknowledged to me that he/she had, in his/her official capacity is authorized by the corporation to execute the foregoing instruments as the free act and deed of the said corporation for the uses and purposes therein stated.

WITNESS my hand and official seal the date and year first above written.

\_\_\_\_\_  
Notary public in and for Alaska

My commission expires: \_\_\_\_\_

**GUARANTY**

In consideration of Lessor leasing the Premises to Lessee, the undersigned, jointly and severally, hereby guarantee the punctual payment of rent, additional rent, and all other charges imposed by the Lease, and the timely performance by Lessee of all duties imposed on Lessee by the Lease.

**Guarantor(s): HoTH, Inc. (100% Shareholder of Hageland Aviation Services, Inc.)  
Ravn Air Group, Inc.**

By: \_\_\_\_\_ Date \_\_\_\_\_  
David H. Pflieger Jr., President

By: \_\_\_\_\_ Date \_\_\_\_\_  
John Mannion, Secretary

**NOTARY**

STATE OF ALASKA )  
)ss.  
THIRD JUDICIAL DISTRICT )

This is to certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared, David H. Pflieger Jr., President of the corporation(s) named in the forgoing instruments, acknowledged to me that he/she had, in his/her official capacity is authorized by the corporation to execute the foregoing instruments as the free act and deed of the said corporation for the uses and purposes therein stated.

WITNESS my hand and official seal the date and year first above written.

\_\_\_\_\_  
Notary public in and for Alaska

My commission expires: \_\_\_\_\_

**NOTARY**

STATE OF ALASKA )  
)ss.  
THIRD JUDICIAL DISTRICT )

This is to certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared, John Mannion, Secretary of the corporation(s) named in the forgoing instruments, acknowledged to me that he/she had, in his/her official capacity is authorized by the corporation to execute the foregoing instruments as the free act and deed of the said corporation for the uses and purposes therein stated.

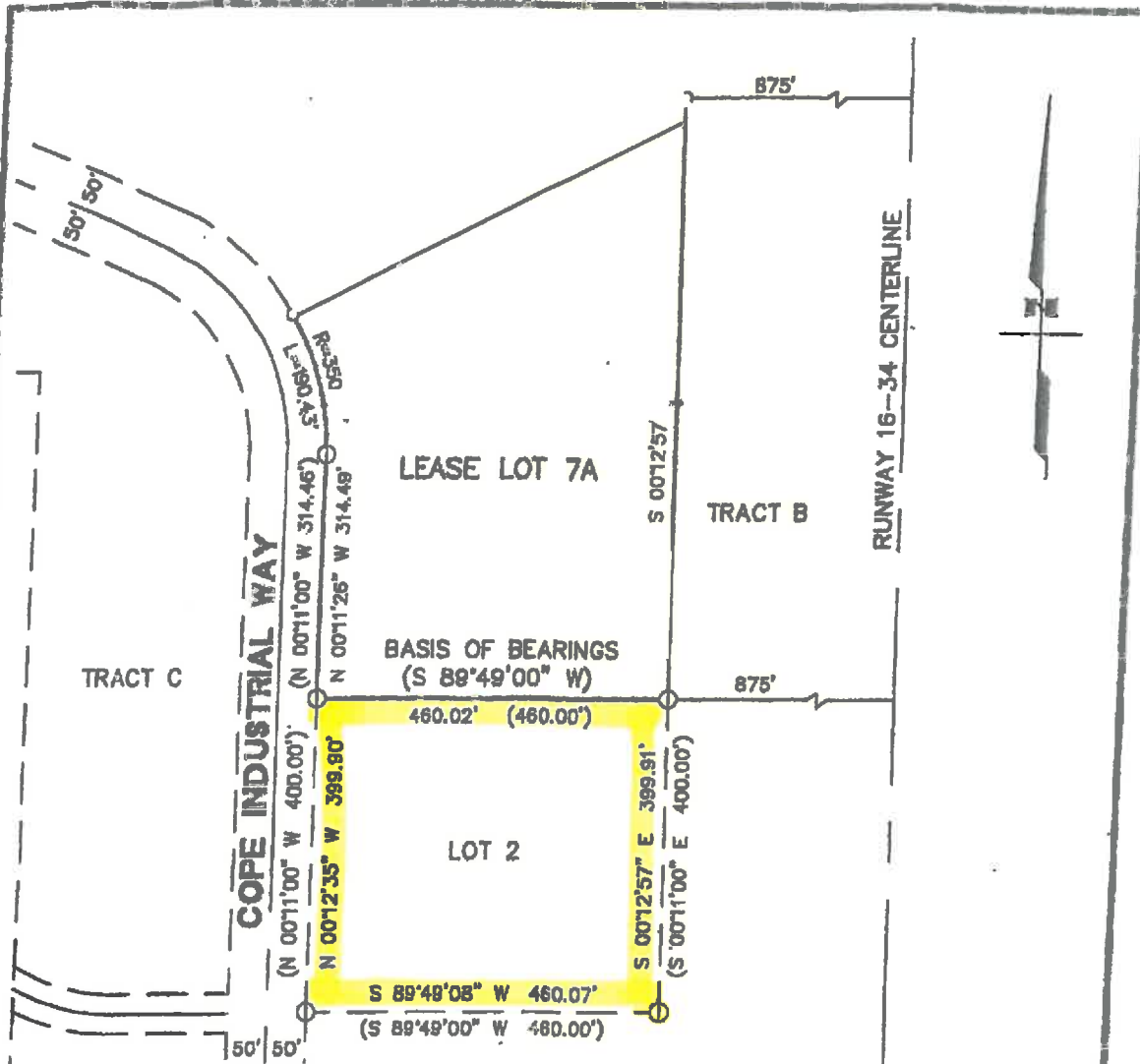
WITNESS my hand and official seal the date and year first above written.

\_\_\_\_\_  
Notary public in and for Alaska

My commission expires: \_\_\_\_\_

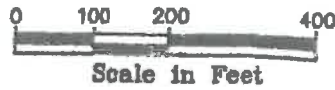
PMA Lease No. 20-001

Exhibit A



LEGEND:

- ( ) RECORD DATA, PALMER MUNICIPAL AIRPORT PLAT No. 2006-15
- ⊙ FOUND 2" ALUMINUM CAP
- SET SPIKE & LATHE



LEASE LOT EXHIBIT  
LEASE LOT 2  
LEASE No.

PALMER MUNICIPAL AIRPORT

DRAWN BY \_\_\_\_\_  
CHECKED BY \_\_\_\_\_  
DATE \_\_\_\_\_

LEASE AREA 4.224 ACRES

SCALE 1" = 200'





**"Return To"**  
**City of Palmer**  
**231 West Evergreen Avenue**  
**Palmer, AK 99645**  
**907-745-3271**

**ATTACHMENT A**

**PALMER MUNICIPAL AIRPORT**  
**MEMORANDUM OF LEASE AGREEMENT No. 20-001**

This is a Memorandum of Lease Agreement No. 20-001 made and entered into as of this 1<sup>st</sup> day of July 2020, by and between the City of Palmer, a municipal corporation organized and existing under its charter and the laws of the State of Alaska, hereinafter referred to as the "Lessor", and Hageland Aviation Services, Inc., hereinafter referred to as the "Lessee". Agree upon the following terms:

1. **Lease.** The provisions set forth in a written Lease Agreement No. 20-001 between the parties hereto dated the 1<sup>st</sup> day of July 2020, are hereby incorporated by reference into this Memorandum.

2. **Demised Premises.** The Demised Premises, which are the subject of The Lease Agreement No. 20-001, are more particularly described as follows:

A parcel of land located within Tract B, Palmer Municipal Airport recorded as Plat No. 2006-15 in the Palmer Recording District, Third Judicial District, State of Alaska and further described in an unrecorded plat dated June 27, 2005 as follows:

Palmer Municipal Airport, Block 3, Lease Lot 2  
Containing 4.224 acres or 183,997.44 square feet, more or less  
A.K.A. 801 Cope Industrial Way, Palmer, AK. 99645  
See Attached "Exhibit A"

Parcel may be subject to additional easements and/or encumbrances not shown or depicted hereon.

3. **Commencement Date of Lease.** The Lease Agreement shall be deemed to have commenced on **July 1, 2020** as set forth within the terms of the Lease. The Term of the Lease Agreement shall be 20 years from the Commencement Date as stated in the written Lease. The initial term shall commence on the date hereof and terminate on **June 30, 2040**.

4. **Duplicate Copies** of the originals of the Lease Agreement are in the possession of the Lessor and Lessee and reference should be made thereto for a more detailed description thereof and for resolution of any questions pertaining thereto.

5. **Notices.** Any notices required to be sent in accordance with the terms of this Lease Agreement No. 20-001, including legal process, shall be sent in writing by registered or certified mail, to the parties at the following addresses unless otherwise notified in writing and deemed to be received when so sent:

Lessor's address: City Manager  
City of Palmer  
231W. Evergreen Ave.  
Palmer, AK 99645

Lessee's address: Hageland Aviation Services, Inc.  
C/O HoTH, Inc.  
4700 Old International Road  
Anchorage, AK. 99502

6. **Purpose.** It is expressly understood and agreed by all parties that the sole purpose of this Memorandum of Lease is to give record notice of the Lease Agreement No. 20-001; it being distinctly understood and agreed that said Lease Agreement No. 20-001 constitutes the entire lease and agreement between Lessor and the Lessee with respect to the Demised Premises and is hereby incorporated by reference. The Lease Agreement No. 20-001 contains and sets forth additional rights, terms, conditions, duties, and obligations not enumerated within this instrument which govern the Lease and addendum. This Memorandum is for information purposes only and nothing contained herein may be deemed in any way to modify or vary any of the terms or conditions of the Lease Agreement No. 20-001. In the event of any inconsistency between the terms of the Lease Agreement No. 20-001 and this instrument, the terms of the Lease Agreement No. 20-001, shall control. The rights and obligations set forth herein shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, representatives, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Lease pursuant to due authorization on the dates herein acknowledged.

**LESSOR: CITY OF PALMER**

By: \_\_\_\_\_  
Nathan E. Wallace, City Manager

\_\_\_\_\_  
Date

**LESSEE: Hageland Aviation Services, Inc.**

By: \_\_\_\_\_  
David H. Pflieger Jr., President

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
John Mannion, Secretary

\_\_\_\_\_  
Date

**NOTARY**

STATE OF ALASKA            )  
  )ss.  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on the \_\_\_\_ day of \_\_\_\_\_, 2020, before me the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared, Nathan E. Wallace, to me known and known to me to be the identical individual described in and who executed the within and foregoing Memorandum of Lease, as City Manager of the City of Palmer, freely and voluntarily on behalf of the City of Palmer for the uses and purposes therein mentioned.

WITNESS my hand and official seal the date and year first above written.

\_\_\_\_\_  
Notary Public in and for Alaska

My commission expires: \_\_\_\_\_

**NOTARY**

STATE OF ALASKA            )  
  )ss.  
THIRD JUDICIAL DISTRICT )

This is to certify that on the \_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared, David H. Pflieger Jr., President of the corporation named in the forgoing instruments, acknowledged to me that he/she had, in his/her official capacity is authorized by the corporation to execute the foregoing instruments as the free act and deed of the said corporation for the uses and purposes therein stated.

WITNESS my hand and official seal the date and year first above written.

\_\_\_\_\_  
Notary public in and for Alaska

My commission expires: \_\_\_\_\_

**NOTARY**

STATE OF ALASKA                     )  
  )ss.  
THIRD JUDICIAL DISTRICT    )

This is to certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared, John Mannion, Secretary of the corporation named in the forgoing instruments, acknowledged to me that he/she had, in his/her official capacity is authorized by the corporation to execute the foregoing instruments as the free act and deed of the said corporation for the uses and purposes therein stated.

WITNESS my hand and official seal the date and year first above written.

\_\_\_\_\_  
Notary public in and for Alaska

My commission expires: \_\_\_\_\_

**GUARANTY**

In consideration of Lessor leasing the Premises to Lessee, the undersigned, jointly and severally, hereby guarantee the punctual payment of rent, additional rent, and all other charges imposed by the Lease, and the timely performance by Lessee of all duties imposed on Lessee by the Lease.

**Guarantor(s): HoTH, Inc. (100% Shareholder of Hageland Aviation Services, Inc.)  
Ravn Air Group, Inc.**

By: \_\_\_\_\_  
David H. Pflieger Jr., President

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
John Mannion, Secretary

\_\_\_\_\_  
Date

**NOTARY**

STATE OF ALASKA )  
 )ss.  
THIRD JUDICIAL DISTRICT )

This is to certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared, David H. Pflieger Jr., President of the corporation(s) named in the forgoing instruments, acknowledged to me that he/she had, in his/her official capacity is authorized by the corporation to execute the foregoing instruments as the free act and deed of the said corporation for the uses and purposes therein stated.

WITNESS my hand and official seal the date and year first above written.

\_\_\_\_\_  
Notary public in and for Alaska

My commission expires: \_\_\_\_\_

**NOTARY**

STATE OF ALASKA )  
 )ss.  
THIRD JUDICIAL DISTRICT )

This is to certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared, John Mannion, Secretary of the corporation(s) named in the forgoing instruments, acknowledged to me that he/she had, in his/her official capacity is authorized by the corporation to execute the foregoing instruments as the free act and deed of the said corporation for the uses and purposes therein stated.

WITNESS my hand and official seal the date and year first above written.

\_\_\_\_\_  
Notary public in and for Alaska

My commission expires: \_\_\_\_\_





**"Return To"  
City of Palmer  
231 West Evergreen Avenue  
Palmer, AK 99645  
907-745-3271**

**PALMER MUNICIPAL AIRPORT  
MEMORANDUM OF LEASE TERMINATION  
PMA LEASE AGREEMENT No. 00-1**

**The undersigned parties hereby acknowledge that:**

1. Palmer Municipal Airport Lease Agreement No. 00-1 between the City of Palmer (Lessor) and Christine M. Woods-Soulak (Lessee/Assignor) executed on July 1, 2000 and assigned to Hageland Aviation Services, Inc. (Assignee) on July 31, 2007, is hereby terminated effective on the 1<sup>st</sup> day of July 2020, recorded in the Palmer Recording District at reception number 2007-019434-0.

2. The Lessors address is 231 West Evergreen Avenue, Palmer, AK. 99645 and the Lessee's address is 4700 Old International Airport Rd., Anchorage, AK. 99502.

3. The real property is described as a parcel of land located within Tract B, Palmer Municipal Airport recorded as Plat No. 2006-15 in the Palmer Recording District, Third Judicial District, State of Alaska and further described in an unrecorded plat dated June 27, 2005 as follows:

Palmer Municipal Airport, Block 3, Lease Lot 2  
Containing 4.224 acres or 183,997.44 square feet, more or less  
A.K.A. 801 Cope Industrial Way, Palmer, AK. 99645  
See Attached "Exhibit A"

4. Each party has full power and authority to enter this agreement and no further action or approval is required to cause this agreement to be binding and enforceable against either party in accordance with its terms.

**LESSOR: CITY OF PALMER**

By: \_\_\_\_\_  
Nathan E. Wallace, City Manager

\_\_\_\_\_  
Date

**LESSEE: Hageland Aviation Services, Inc.**

By: \_\_\_\_\_  
David H. Pflieger Jr., President Date \_\_\_\_\_

By: \_\_\_\_\_  
John Mannion, Secretary Date \_\_\_\_\_

**NOTARY**

STATE OF ALASKA )  
 )ss.  
THIRD JUDICIAL DISTRICT )

THIS IS TO CERTIFY that on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared, Nathan E. Wallace, to me known and known to me to be the identical individual described in and who executed the within and foregoing Memorandum of Lease, as City Manager of the City of Palmer, freely and voluntarily on behalf of the City of Palmer for the uses and purposes therein mentioned.

WITNESS my hand and official seal the date and year first above written.

\_\_\_\_\_  
Notary Public in and for Alaska

My commission expires: \_\_\_\_\_

**NOTARY**

STATE OF ALASKA )  
 )ss.  
THIRD JUDICIAL DISTRICT )

This is to certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared, David H. Pflieger Jr., President of the corporation named in the forgoing instruments, acknowledged to me that he/she had, in his/her official capacity is authorized by the corporation to execute the foregoing instruments as the free act and deed of the said corporation for the uses and purposes therein stated.

WITNESS my hand and official seal the date and year first above written.

\_\_\_\_\_  
Notary public in and for Alaska

My commission expires: \_\_\_\_\_

**NOTARY**

STATE OF ALASKA )  
 )ss.  
THIRD JUDICIAL DISTRICT )

This is to certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared, John Mannion, Secretary of the corporation named in the forgoing instruments, acknowledged to me that he/she had, in his/her official capacity is authorized by the corporation to execute the foregoing instruments as the free act and deed of the said corporation for the uses and purposes therein stated.

WITNESS my hand and official seal the date and year first above written.

\_\_\_\_\_  
Notary public in and for Alaska

My commission expires: \_\_\_\_\_

DRAFT

## EXHIBIT A

### Legal Description

Commencing at the Section corner common to Sections 9, 10, 4, and 3, Township 17 North, Range 2 East, Seward Meridian, Alaska; thence S 89°49' W along the Section line common to Sections 9 and 4, 800.00 feet; thence N 0°11' W 1,325.00 feet to the True Point of Beginning; thence N 0°11' W 400.00 feet; thence S 89°49' W 460.00 feet; thence S 0°11' E 400.00 feet; thence N 89°49' E 460.00 feet to the True Point of Beginning, containing 4.224 acres more or less; located at the Palmer Municipal Airport, Palmer Recording District, Third Judicial District, State of Alaska.



5 of 5

2007-019434-0

## A. CALL TO ORDER

A regular meeting of the Palmer City Council was held on February 25, 2020, at 7:00 p.m. in the Council Chambers, Palmer, Alaska. Mayor DeVries called the meeting to order at 7:00 p.m.

## B. ROLL CALL

Comprising a quorum of the Council, the following were present:

Edna DeVries, Mayor	Steve Carrington
Linda Combs, Deputy Mayor	Sabrena Combs
Julie Berberich	Jill Valerius
Richard W. Best (participated by teleconference)	

Staff in attendance were the following:

Nathan Wallace, City Manager	Michael Gatti, City Attorney (participated by teleconference)
Norma I. Alley, MMC, City Clerk	Kara Johnson, Deputy City Clerk

## C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was performed.

## D. APPROVAL OF AGENDA

1. Approval of Consent Agenda
  - a. **Action Memorandum No. 20-014:** Authorizing the City Manager to Purchase One New Pickup Truck in the Amount of \$42,092.00 and to Purchase the Pickup Truck Under the Governmental and Proprietary Procurements Section of Palmer Municipal Code 3.21.230 by Attaching to the State of Alaska Contract Pricing Contract Award Number CA 2200-20
  - b. **Action Memorandum No. 20-015:** Authorizing the City Manager to Purchase a New Patrol Vehicle and Equipment in the Amount of \$56,016.00 and to Purchase the Vehicle Under the Governmental and Proprietary Procurements Section of Palmer Municipal Code 3.21.230 by Attaching to the State of Alaska Contract
2. Approval of Minutes of Previous Meetings
  - a. January 28, 2020, Joint Meeting
  - b. January 28, 2020, Regular Meeting
  - c. February 11, 2020, Joint Meeting
  - d. February 11, 2020, Regular Meeting

### Main Motion: To Approve the Agenda, Consent Agenda, and Minutes as Amended

Moved by:	L. Combs
Seconded by:	S. Combs

Mayor DeVries requested a statement be added to the January 28, 2020, where the Mayor directed staff to prepare an ordinance to amend the Code's residency requirement to one year from filing in order to match the Charter. Deputy Mayor Combs requested the minutes for the February 11, 2020, Joint meeting reflect she was in attendance. By consensus of the Council, these items would be amendments to the minutes.

**Vote on Main Motion: To Approve the Agenda, Consent Agenda, and Minutes as Amended**

Vote:	Unanimous
Action:	Motion Carried

**E. REPORTS**

1. City Manager’s Report

City Manager Wallace highlighted his written report and provided his letter of resignation along with a proposed recruitment timeline.

**Main Motion: To Accept City Manager Nathan Wallace’s Resignation and Recruitment Timeline**

Moved by:	L. Combs
Seconded by:	S. Combs
Vote:	Unanimous
Action:	Motion Carried

2. City Clerk’s Report

City Clerk Alley spoke about Council’s Strategic planning session and propose the date of April 18, 2020. Discussion commenced on waiting to set a date until after the new city manager was on board.

3. Mayor’s Report

Mayor DeVries highlighted her written report.

4. City Attorney’s Report

None.

**F. AUDIENCE PARTICIPATION**

Mr. Mike Campfield, Palmer Arts Council President, requested support for Resolution No. 20-009.

Mr. Chmielewski testified about the Smart Community meetings and intergovernmental collaboration.

Mr. David Fuller spoke about a previous incident with Council Member Best and Palmer Police Department and requested Council’s input in the ethical problem this posed.

Mrs. Hilary Palmer’s written testimony regarding a phone call into Palmer Police Department by Council Member Best was read into the record.

**G. NEW BUSINESS**

1. **Resolution No. 20-009:** Supporting the Palmer Arts Council Grant Application for Remediation of the Powerhouse Property

**Main Motion: To Approve Resolution No. 20-009**

Moved by:	S. Combs
Seconded by:	L. Combs
Vote:	Unanimous
Action:	Motion Carried

2. **Action Memorandum No. 20-016:** Approving a Council Grant in the Amount of \$5,000.00 to the Mat-Su Senior Services

Deputy Mayor L. Combs recused herself due to being a Mat-Su Senior Services Board Member.

**Main Motion: To Approve Action Memorandum No. 20-016**

Moved by:	Carrington
Seconded by:	Best

**Primary Amendment #1: To Amend Action Memorandum No. 20-016 to Reduce the Grant to \$1,000.00**

Moved by:	S. Combs
Seconded by:	Best
Vote:	6 Yes/0 No/1 Recused (L. Combs)
Action:	Motion Carried

**Vote on Main Motion: To Approve Action Memorandum No. 20-016, as Amended**

Vote:	6 Yes/0 No/1 Recused (L. Combs)
Action:	Motion Carried

3. **Action Memorandum No. 20-017:** Approve a Council Community Grant in the Amount of \$2,500.00 to the Organizers of Who Let the Girls Out

**Main Motion: To Approve Action Memorandum No. 20-017**

Moved by:	Best
Seconded by:	L. Combs

**Primary Amendment #1: To Amend Action Memorandum No. 20-017 to Only Award an In-Kind Donation of the Depot Rental Fee**

Moved by:	S. Combs
Seconded by:	Valerius

**Secondary Amendment #1: To Add an Award of \$1,000.00 and an In-Kind Donation of the Depot Speaker Rental Fee**

Moved by:	Best
Seconded by:	L. Combs
Vote:	5 Yes/2 No (S. Combs, Valerius)
Action:	Motion Carried

**Primary Amendment #1: To Amend Action Memorandum No. 20-017 to Change the Award to an In-Kind Donation of the Depot Rental Fee, Speaker Rental Fee, and \$1,000.00, as Amended**

Vote:	5 Yes/2 No (S. Combs, Valerius)
Action:	Motion Carried

**Vote on Main Motion: To Approve Action Memorandum No. 20-017, as Amended**

Vote:	6 Yes/1 No (Valerius)
Action:	Motion Carried

## **H. RECORD OF ITEMS PLACED ON THE TABLE**

City Clerk Alley reported the City Manager's resignation packet and Mrs. Hilary Palmer's written testimony were Items Placed on the Table.

## **I. AUDIENCE PARTICIPATION**

None.

## **J. COUNCIL COMMENTS**

Council Member's Berberich, S. Combs, and Valerius requested legislation be written regarding a code of ethics for the Council.

## **K. ADJOURNMENT**

With no further business before the Council, the meeting adjourned at 8:08 p.m.

**Approved this \_\_\_\_ day of \_\_\_\_\_, 2020.**

---

Norma I. Alley, MMC, City Clerk

---

Edna B. DeVries, Mayor



# **Mayor's Memo**

**Council Meeting report for council Meeting  
on March 10, 2020**

**AGENDA SETTING MEETING, 3/11,**

**MAYOR/MANAGER MEETING MARCH 19**

**MAYOR'S GREEN GALLOP RACE – MARCH 22**

**RADIO MARCH 27**

**SORRY TO ANNOUNCE THAT THE CITY IS RECRUITING  
FOR A CITY MANAGER**

**We want and value your input and participation.**

*Edna DeVries Mayor*

**907-355-9933      [edevries@palmerak.org](mailto:edevries@palmerak.org)**



**City of Palmer  
Action Memorandum No. 20-019**

**Subject:** Authorizing the Mayor to Execute an Employment Agreement with City Clerk Norma Alley

**Agenda of:** March 10, 2020

**Council Action:**     **Adopted**                       **Amended:** \_\_\_\_\_  
                                  **Defeated**

**Originator:**                      Mayor DeVries

**Attachment(s):**  
    ➤ None

**Summary Statement/Background:**

After four years of employment with the city of Palmer, it is the wish of the City Council and Norma Alley to renew Norma Alley's employment agreement for another three years. The City Council is authorizing the Mayor, on behalf of the city, to execute and do all other necessary acts to enter into an employment agreement with Norma Alley.

## City of Palmer Employment Agreement

This is an Agreement made and entered into by and between NORMA I. ALLEY, hereinafter called “Employee”, and the CITY OF PALMER, an Alaska municipal corporation, hereinafter called the “City”.

This Agreement is based upon the following premises:

- A. The City desires to employ the services of Norma I. Alley as City Clerk of the City of Palmer, in accordance with the terms of its Home Rule Charter and this contract, ~~which are incorporated herein by this reference~~.
- B. It is the desire of the City Council to provide certain benefits, establish certain conditions of employment, and to set working conditions for Employee.
- C. It is the desire of the City Council to
  1. secure and retain the services of Employee and to provide inducement for her to remain in such employment,
  2. make possible full work productivity by assuring Employee’s morale and peace of mind with respect to future security,
  3. act as a deterrent against malfeasance ~~or~~ dishonesty for personal gain on the part of the Employee, and
  4. provide a just means for terminating Employee’s services at such a time as she may be unable fully to discharge her duties or when City may desire to otherwise terminate her employment.
- D. Employee desires to accept employment as City Clerk of the City.

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

### Section 1. Employment and Duties.

City hereby agrees to employ Employee as City Clerk of the City. ~~Employee agrees~~ to perform the functions and duties ~~thereof~~ specified in the City Charter, this Agreement, the City Code, the job description for the position of City Clerk, ~~all as may be amended from time to time~~, and to perform such other legally permissible and proper duties and functions as the City Council may from time to time assign.

### Section 2. Term.

- A. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Employee to resign at any time from her position with the City, subject only to the provision set forth in Section 3, Paragraph A and B, of this Agreement.

- B. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the City Council to terminate the services of Employee at any time, subject only to the provisions set forth in Section 3, Paragraphs ~~B and~~ C of this Agreement.
- C. Employee agrees to remain in the exclusive employ of the City until April 26, 202~~30~~<sup>30</sup>, unless sooner terminated by the City or Employee.
- D. In the event the parties agree in writing, this Agreement may be extended, by amendment, on the same terms and conditions as herein provided, for additional periods of up to five (5) one (1) years.

### **Section 3. Termination and severance pay.**

- A. In the event Employee voluntarily resigns her position with the City before expiration of the ~~aforsaid~~ term of employment, then Employee shall give the City two (2) three (3)-months' notice in advance. Provided that such notice is given, there will be no breach of this Agreement by reason of said resignation, and Employee shall not be responsible for any damages hereunder.
- B. In the event Employee is terminated by the City Council before expiration of the aforesaid term of employment and during such time that Employee is willing and able to perform the duties of City Clerk, then, in that event, the City agrees to pay Employee, in addition to her accrued benefits (e.g. personal leave), a lump sum cash payment equal to three (3) months' aggregate salary in lieu of any and all other damages or monies that Employee might claim, provided, however, that in the event Employee is terminated because of any illegal act involving personal gain to her, then in that event, City shall have no obligation to pay the aggregate severance sum designated in this paragraph.
- C. In the event the City at any time during the employment term reduces~~ed~~ the salary or other financial benefits of Employee in a greater percentage than an applicable across-the-board reduction for all City employees, then, in that event, Employee may at her option, be deemed to be "terminated" at the date of such reduction.

### **Section 4. Salary.**

- A. City agrees to pay Employee for her services rendered pursuant hereto an annual salary of \$96,360.00 payable in installments at the same time as other employees of the City are paid.
- B. Except as otherwise provided herein, ~~Employee shall be subject to an annual review and~~ City agrees to increase said salary and/or other benefits of Employee in such amounts and to such an extent as the City Council may determine which is desirable to do so on the basis of an annual salary review is applicable. Subsequent to Employee's 2018 annual evaluation, the City Council has approved a one-time four percent (4%) salary adjustment effective on April 26, 2018.

### **Section 5. Hours of work.**

- A. It is recognized that Employee must devote a great deal of her time outside normal office hours to business of the City. Normal office hours hereunder shall be construed to mean a 40-hour work week during daylight hours, when possible.

B. Employee shall not spend more than 10 hours per week in teaching, consulting, or other non-city-connected business without the express prior approval of the Council.

**Section 6. Dues and subscriptions.**

City shall budget and pay the professional dues and subscriptions of Employee necessary for her continuation and full participation in professional associations and organizations necessary and desirable for her continued professional certifications, professional participation, growth, advancement, and for the good of the City.

**Section 7. Professional development.**

City may budget and pay the travel and subsistence expenses of Employee for professional and official travel, meetings, and occasions as may be authorized by the City from time to time.

**Section 8. Personal leave.**

Employee shall accrue, and have credited to her personal account, personal leave at the same rate as other general employees of the City.

**Section 9. Normal retirement system.**

Employee shall be covered under the normal City retirement system.

**Section 10. Other terms and conditions of employment.**

All applicable provisions of the City Charter and Code, and regulations and rules of City (except as provided in this agreement) relating to personal leave, ~~probationary period~~, retirement and pension system contributions, holidays, and other fringe benefits and working conditions, except Palmer Municipal Code Chapters 4.40: Grievances and 4.50: Disciplinary Action and Termination, as they now exist or hereafter may be amended, also shall apply to Employee as they would to other employees of City.

**Section 11. General provisions.**

- A. The text herein shall constitute the entire agreement between the parties.
- B. This Agreement shall become effective commencing April 26, 20~~18~~<sup>20</sup> and supersedes ~~the previous agreements~~ between City and Employee ~~dated April 6, 2016~~.
- C. Except as otherwise provided, this Agreement cannot be changed or modified except by an agreement in writing signed by the Employee and duly authorized by the City Council and signed by the Mayor and Employee. This instrument and all appendices and amendments hereto embody the entire agreement of the parties.

- D. All notices, requests, demands and other communications hereunder shall be in writing, and shall be deemed to have been duly given if duly delivered, or if mailed, first class United States certified or registered mail, postage prepaid
1. by the City to the Employee at such address as she may from time to time indicate in writing to the City, and
  2. by the Employee to the Mayor at the City's address.

E. Both parties have provided input into the drafting of this Agreement and agree that this Agreement shall not be construed against either party as drafter.

F. This Agreement shall be construed and enforced in accordance with the laws of the State of Alaska and the City of Palmer, and venue shall be in Palmer, Alaska, only.

G. This Agreement may be executed in duplicate originals, both of which when so executed and delivered shall be deemed to be an original, but such duplicate originals shall together constitute but one and the same instrument.

E.H. Agreement shall be governed by the laws of the State of Alaska and the City of Palmer and any litigation brought shall be in Palmer, Alaska. Employee expressly waives any rights he might otherwise have as provided in Alaska Rules of Civil Procedure to remove any action from Palmer, Alaska.

IN WITNESS WHEREOF, the City of Palmer, an Alaska municipal corporation, has caused by proper action this Agreement to be signed and executed in its behalf by its Mayor and the Employee has signed and executed this Agreement, both in duplicate.

Date: \_\_\_\_\_

\_\_\_\_\_  
Norma I. Alley, Employee

CITY OF PALMER, ALASKA

Date: \_\_\_\_\_

\_\_\_\_\_  
Edna B. DeVries, Mayor





**City of Palmer  
Action Memorandum No. 20-020**

**Subject:** Directing the City Manager to Notify the State of Alaska of the City Council's Statement of Non-Objection to Liquor License No. 1436 for Pizzeria Delphi Restaurant, Located at 103 W. Arctic Avenue

**Agenda of:** March 10, 2020

**Council Action:**     **Approved**                       **Amended:** \_\_\_\_\_  
                                   **Defeated**




**Originator Information:**

**Originator:**    City Manager

**Department Review:**

Route to:	Department Director:	Signature:	Date:
_____	Community Development	_____	_____
_____	Finance	_____	_____
_____	Fire	_____	_____
_____	Police	_____	_____
_____	Public Works	_____	_____

**Approved for Presentation By:**

	Signature:	Remarks:
City Manager	<u></u>	_____
City Attorney	<u></u>	_____
City Clerk	<u></u>	_____

**Certification of Funds:**


Total amount of funds listed in this legislation:    \$ Unknown

This legislation (√):

- Creates revenue in the amount of:                      \$ Unknown
- Creates expenditure in the amount of:                      \$ \_\_\_\_\_
- Creates a saving in the amount of:                      \$ \_\_\_\_\_
- Has no fiscal impact

Funds are (√):

- Budgeted                      Line item(s): \_\_\_\_\_
- Not budgeted

Director of Finance Signature: 

**Attachment(s):**

- Notice for License No. 1436
- Administration Review Form

**Summary Statement/Background:**

Pizzeria Delphi Restaurant has applied for renewal of their liquor license. State law requires local governing bodies (per AS 04.21.080, this is defined as the City Council) to review requests pertaining to liquor licenses within their municipalities. The City may voice a non-objection or may file a protest to a request.

As of the date of staffing, the Administration had not received any written comments or phone calls from the public expressing concern or support for this application.

**Administration's Recommendation:**

To approve Action Memorandum No. 20-020.



February 17, 2020

City of Palmer

Matanuska- Susitna Borough

Via Email: [cityclerk@palmerak.org](mailto:cityclerk@palmerak.org) ; [adam.bradway@matsugov.us](mailto:adam.bradway@matsugov.us) ; [alex.strawn@matsugov.us](mailto:alex.strawn@matsugov.us)  
[permitcenter@matsugov.us](mailto:permitcenter@matsugov.us)

**Re: Notice of 2020/2021 Liquor License Renewal Application**

1436	Pizzeria Delphi Restaurant	Restaurant/Eating Place
------	----------------------------	-------------------------

We have received a completed renewal application for the above listed license (see attached application documents) within your jurisdiction. This is the notice required under AS 04.11.480.

A local governing body may protest the approval of an application(s) pursuant to AS 04.11.480 by furnishing the director **and** the applicant with a clear and concise written statement of reasons for the protest within 60 days of receipt of this notice, and by allowing the applicant a reasonable opportunity to defend the application before a meeting of the local governing body, as required by 3 AAC 304.145(d). If a protest is filed, the board will deny the application unless the board finds that the protest is arbitrary, capricious, and unreasonable.

To protest the application referenced above, please submit your written protest within 60 days, and show proof of service upon the applicant and proof that the applicant has had a reasonable opportunity to defend the application before a meeting of the local governing body.

Sincerely,

Glen Klinkhart, Director

[amco.localgovernmentonly@alaska.gov](mailto:amco.localgovernmentonly@alaska.gov)

# City of Palmer • Liquor License Review Form

**BUSINESS NAME:** Pizzeria Delphi Restaurant

**OWNER:** Kenneth John Christensen

**LICENSE TYPE:** Restaurant

**LOCATION:** 103 W Arctic Avenue

*Route to: Department of Finance*

### Department of Finance

Business License/Sales  
Tax/Utilities/Assessments  
Current:

Yes

No

If no, explain:

Has not renewed his 2020 business license as of this signing

Other Comments:



Finance Director

2/20/2020

Date

*Route to: Department of Community Development*

### Department of Community Development

Code (PMC/Bldg/Fire)  
Compliant:

Yes

No

If no, explain:

Other Comments:



Community Development Director

2/20/2020

Date

*Route to: Police Department*

### Police Department

Excessive Calls:

Yes

No

If yes, explain:

Other Comments:



Chief of Police

2-21-2020

Date

**City of Palmer  
Action Memorandum No. 20-021**

**Subject:** Approving a Council Community Grant in the Amount of \$2,000.00 to the Organizers of the Mayor's Green Day Gallop


**Agenda of:** March 10, 2020

**Council Action:**     **Approved**                       **Amended:** \_\_\_\_\_  
                                   **Defeated**




**Originator Information:**

**Originator:**    City Manager

**Department Review:**

Route to:	Department Director:	Signature:	Date:
_____	Community Development	_____	_____
<u>X</u>	Finance		<u>02/11/2020</u>
_____	Fire	_____	_____
_____	Police	_____	_____
_____	Public Works	_____	_____

**Approved for Presentation By:**

	Signature:	Remarks:
City Manager		_____
City Attorney		_____
City Clerk		_____

**Certification of Funds:**


Total amount of funds listed in this legislation:    \$ **2,000.00**

This legislation (√):

<input type="checkbox"/>	Creates revenue in the amount of:	\$ _____
<input checked="" type="checkbox"/>	Creates expenditure in the amount of:	\$ <u>2,000.00</u>
<input type="checkbox"/>	Creates a saving in the amount of:	\$ _____
<input type="checkbox"/>	Has no fiscal impact	

Funds are (√):

<input checked="" type="checkbox"/>	Budgeted	Line item(s): <u>01-02-10-6068</u>
<input type="checkbox"/>	Not budgeted	_____

Director of Finance Signature: 

**Attachment(s):**

- 2020 Grant Application

**Summary Statement/Background:**

MatSu Miners is requesting a \$2,000 grant to help support costs for the Mayor’s Green Day Gallop 2020, a running event to be held in downtown Palmer. Grant funds will be used to support marketing, equipment, supplies, and pay for depot usage.

Mayor’s Green Day Gallop has received funding from Palmer in 2017 (\$1,000), 2018 (\$1,000), and 2019 (\$2,000).

The event is open to the public and is located within the city limits of Palmer and is expected to draw 350 participants plus family and friends to the event. Last year had over 200 participants and a post report was provided in 2019.

In February 2014, the City Council adopted Ordinance No. 14-043, which established the Council Community Grant program. The Council also approved \$12,000.00 in the Community Council Grants line item for 2020 that would finance approved Council grants.

Legislation #	Organization	Amount	Date Approved
20-004	HPAC 2020 Winter support	3,000	1/14/2020
20-016	MatSu Senior Center	1,000	2/25/2020
20-017	WLTGO	1,630	2/25/2020
Total 2020 Grants approved prior:		5,630	

**Administration’s Recommendation:**

To approve Action Memorandum No. 20-021



**City of Palmer • City Manager's Office**  
**231 W. Evergreen Avenue • Palmer, AK 99645**  
 Phone: 907-745-3271 Fax: 907-745-0930

**Council Community Grant Application**

Program, service, project or event title: Mayor's Green Day Gallop  
 Date(s) of program, service, project or event: March 22, 2020

**Applicant Information**

Name: Denise Christopher, Mat-Su Baseball Inc. dba Mat-Su Miners  
 Address: P.O. Box 2690  
 City: Palmer State: AK Zip: 99645  
 Phone: 907-745-6401 Email: gmminers@gci.net

**Organization Information**

Name of organization/group: Mat-Su Baseball Inc. dba Mat-Su Miners  
 Type of organization:  Non-profit  Volunteer community group  Other

**Funding Request**

Amount of Request: \$ 2000.00  
 Matching funds provided by applicant: \$ 2000.00

**Project Summary Information**

In the space below, provide a concise, on paragraph summary of your proposed program, service, project or event and how it promotes economic development for the City of Palmer.

The marathon last year was a BIG success and as planned with our growing event,  
1/2 marathon; 5K and 1 mile free kids run. It will start at the Palmer Depot and we will  
utilize the streets of Palmer for the race. We have aid stations and staff along the course.  
Volunteers will also be on routes to help monitor the course. We have been working  
towards a qualifier for marathons outside the community and strive to keep growing.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Project Scope of Work**

Please list the steps to be taken to conduct the program, service, project or event. Be sure to address issues such as: beginning and ending date, who will work to conduct the event/project, clean-up team, where is the project going to occur (location).

We have 25+ volunteers and staff to monitor aid stations; assist along the course and provide cleanup. Registration will begin @ 8am and the course cutoff time at 6:30pm.

There are awards and food at the Palmer Depot afterwards. The start and finish will be at the Palmer Depot and we will have medical staff on hand for emergencies.

**Eligibility**

Describe how your program, service, project or event meets the eligibility guidelines.

We truly believe that the economic impact of beginning and ending an event in Palmer as a spectator or participant will bring an abundance of people to our community. Keeping the community involved, staying active, promoting healthy lifestyles and letting everyone experience our great town of Palmer. Our advertising increases every year and we are in State; Anchorage and Local running calendars. The Mat-Su Miners and AKtive Soles work hard to campaign to bring revenue to Palmer and healthy lifestyles.

**Matching Funding Source**

Describe source of matching funding. Have alternate sources of funding been explored?

We have an advertising package and sponsors that will bring in \$3000.00. As we work on this event each year we look to find ways to improve the equipment and raise funds to sustain this annual event. Our expenses include venue rental, street closing equipment; food and water; aid station supplies; race insurance.. etc. We work with local businesses to collect funding for this large event.



### Community Benefit

Please indicate how the results of your program, service, project or event will enhance economic development or generally benefit the City of Palmer. Describe the expected number of participants to be attracted by the event or project. Please explain how your organization will evaluate the community benefit of your event. Examples might include surveys, registrations, sign-in sheets, number of people served, etc.

We are looking to limit the race to 350 participants; we have online registration that will assist in keeping track of the number of people entered in the event. We are confident that Palmer businesses will benefit from this event. Last year was 200+ entries with friends and families enjoying the activities while cheering on the runners. We hope that businesses will let us know more about how to promote their stores during the event. We plan to make a list of businesses that will be open on Sunday to promote our attendees, supporters and race fans to do some shopping.

#### Detailed Budget

##### Revenue:

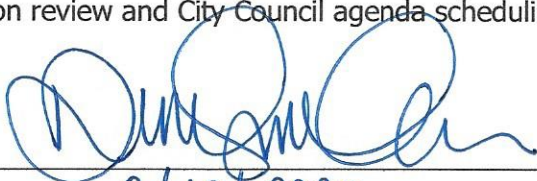
Source:	Cash	In-Kind	Total
UPS Store	\$	\$ 200	\$ 200
Humdingers	\$	\$ 200	\$ 200
Sponsors	\$ 3000	\$	\$ 3000
Pioneer Peak Orthopedic	\$	\$ 250	\$ 250
Arkose/Fred Meyer	\$	\$ 250	\$ 250
Totals	\$ 3000	\$ 900	\$ 3900

##### Expenditures:

Item/Service:	Cash	In-Kind	Total
Insurance	\$ 400	\$	\$ 400
Building Rental	\$ 350	\$	\$ 350
Aid Stations EMB	\$ 500	\$	\$ 500
Web Design/Updates	\$ 200	\$	\$ 200
Equipment/Timing Chips	\$ 2500	\$	\$ 2500
Totals	\$ 3950	\$	\$ 3950

Applications may be submitted at any time to the address listed above. Please allow at least six weeks lead time for application review and City Council agenda scheduling.

Applicant signature:



Date:

2/10/2020

For Office Use Only

Date received by Manager's Office:

\_\_\_\_\_

City Council agenda date:

\_\_\_\_\_

Action Memorandum No.:

\_\_\_\_\_

City Council:

Approved

Denied

Date Manager's Office notified applicant of request outcome:

\_\_\_\_\_

**City of Palmer  
Action Memorandum No. 20-022**

**Subject:** Approving a Council Community Grant in the Amount of \$1,000.00 to the Organizers of the Palmer Spring Classic


**Agenda of:** March 10, 2020

**Council Action:**     **Approved**                       **Amended:** \_\_\_\_\_  
                                   **Defeated**




**Originator Information:**

**Originator:**    City Manager

**Department Review:**

Route to:	Department Director:	Signature:	Date:
_____	Community Development	_____	_____
<u>X</u>	Finance		<u>2/20/2020</u>
_____	Fire	_____	_____
_____	Police	_____	_____
_____	Public Works	_____	_____

**Approved for Presentation By:**

	Signature:	Remarks:
City Manager		_____
City Attorney		_____
City Clerk		_____

**Certification of Funds:**


Total amount of funds listed in this legislation:    \$ **1,000.00**

This legislation (√):

<input type="checkbox"/>	Creates revenue in the amount of:	\$ _____
<input checked="" type="checkbox"/>	Creates expenditure in the amount of:	\$ <u>1,000.00</u>
<input type="checkbox"/>	Creates a saving in the amount of:	\$ _____
<input type="checkbox"/>	Has no fiscal impact	

Funds are (√):

<input checked="" type="checkbox"/>	Budgeted	Line item(s): <u>01-02-10-6068</u>
<input type="checkbox"/>	Not budgeted	_____

Director of Finance Signature: 

**Attachment(s):**

- 2020 Grant Application

**Summary Statement/Background:**

A volunteer community group (9 member organizing committee) is requesting a \$1,000 grant to help support costs for the Palmer Spring Classic 2020, a cycling event to be held (start/finish) in downtown Palmer. Grant funds will be used to support marketing, equipment, supplies, and insurance costs.

Palmer Spring Classic has received funding from Palmer in 2019 (\$1,000). The group collects race fees to help offset the cost of the event.

The event is open to the public and is located within the city limits of Palmer. Last year the Classic had over 230 participants and a post report was provided in 2019.

In February 2014, the City Council adopted Ordinance No. 14-043, which established the Council Community Grant program. The Council also approved \$12,000.00 in the Community Council Grants line item for 2020 that would finance approved Council grants.

Legislation #	Organization	Amount	Date Approved
20-004	HPAC 2020 Winter support	3,000	1/14/2020
20-016	MatSu Senior Center	1,000	2/25/2020
20-017	WLTGO	1,630	2/25/2020
20-021	Mayor's Green Day Gallop		
Total 2020 Grants approved prior:		5,630	

**Administration's Recommendation:**

To approve Action Memorandum No. 20-022



## City of Palmer • City Manager's Office

231 W. Evergreen Avenue • Palmer, AK 99645

Phone: 907-745-3271 Fax: 907-745-0930

### Council Community Grant

The City of Palmer recognizes the valued contributions being provided through the volunteer efforts of community organizations, agencies, and individuals on behalf of its citizens. Community grant funding demonstrates Council's commitment to programs, services, projects and events that are benefits to the community while at the same time recognizing the financial constraints impacting the City's ability to provide funding.

#### **The objectives of the City of Palmer Council Community Grant are:**

- to provide modest levels of support and assistance to help foster and develop community programs, services, projects, and events that enhance the greater Palmer community's cultural and economic environment; and
- to treat all organizations fairly and consistently while creating a minimal administrative process.

#### **Applicant eligibility**

Preference will be given to organizations and groups that demonstrate Palmer community support and that propose a program, service, project or event (event) having the potential for positive economic and cultural impacts and that show evidence of efficient use of resources, sound business practices/accountability, and describe the organization's or group's knowledge, skills and self-reliance.

An applicant organization must meet the following general criteria in order to be considered for a Council Community grant:

1. Program, service, project or event must primarily benefit the community and residents of Palmer.
2. Program, service, project or even has City wide significance and is expected to bring economic and/or public relations benefit to the City.
3. Grant applicants should be able to demonstrate active fundraising efforts to support the continuation of the program, service, project or event. The City grant should not be considered as the primary source of funding for the organization.
4. Funding requests can be defined as programs, services, projects and events that economically benefit Palmer by supporting, sustaining, promoting, informing, educating, celebrating, preserving and/or providing access to the arts, culture, environment, heritage, recreation and/or health activities.
5. To qualify for funding, the group must demonstrate its commitment to all of the following principles:
  - a. Program, service, project or event is open – accessible – to all members of the community;
  - b. Program, service, project or event must take place within the Palmer city limits or within one mile of the city limits;
  - c. Program, service, project or event is effective in providing an economic benefit to Palmer;
  - d. applicant is accountable through sound management and financial practices;
  - e. Individuals are not eligible.



**City of Palmer • City Manager's Office**

**231 W. Evergreen Avenue • Palmer, AK 99645**

Phone: 907-745-3271 Fax: 907-745-0930

**Council Community Grant Application**

Program, service, project or event title: Palmer Spring Classic  
Date(s) of program, service, project or event: May 16, 2020

**Applicant Information**

Name: Leah Werner  
Address: 132 W. Arctic Ave.  
City: Palmer State: AK Zip: 99645  
Phone: 907-746-5018 Email: wernerleah1@gmail.com

**Organization Information**

Name of organization/group: Palmer Spring Classic  
Type of organization:  Non-profit  Volunteer community group  Other

**Funding Request**

Amount of Request: \$ 1000.00  
Matching funds provided by applicant: \$ 3000.00+

**Project Summary Information**

In the space below, provide a concise, on paragraph summary of your proposed program, service, project or event and how it promotes economic development for the City of Palmer.  
The Palmer Spring Classic is an annual bicycling event put on by Backcountry Bike and Ski. The ride offers three distances where riders of all levels and abilities can venture out on their own or with a group, be speedy or take their time and enjoy the scenery. The route is clearly marked, with aid stations, and will give the riders a great view of the Palmer side of the Valley. Last year the PSC attracted 230 riders in addition to family and volunteers. This year, the 8th annual, the event will be on Saturday, May 16. The purpose of the event is to celebrate spring, promote cycling in Palmer and to encourage the patronage of several local establishments both before and after the ride.

### **Project Scope of Work**

Please list the steps to be taken to conduct the program, service, project or event. Be sure to address issues such as: beginning and ending date, who will work to conduct the event/project, clean-up team, where is the project going to occur (location).

The PSC has a 9 member organizing committee tasked with pre-event coordination of registration, securing donations, setting up the volunteer committee (approximately 20-25 people to assist in the tasks of check in and registration, man the aid stations, and act as course marshals), securing insurance and communication with Palmer PD and AST, and advertisement. The registration/check has traditionally been at Vagabond Blues but due to the growth of the event we have secured the Palmer Depot. We are confident that Vagabond and other establishments will still see an uptake in business that morning. The finish, like last year, will be at the Palmer Alehouse.

### **Eligibility**

Describe how your program, service, project or event meets the eligibility guidelines.

This event is open to all members of the public, it is not timed and it is non-competitive.

The PSC attracts participants not only from Palmer and Wasilla but also Anchorage, Big Lake, Eagle River, Kenai and Talkeetna. Local businesses are featured to encourage spending money both before and after at these establishments as it starts and ends in downtown Palmer. By it's nature, the entire event cannot take place within the city limits, but we feel it supports our belief that Palmer is an outdoor recreation destination and the routes chosen highlight and enhance this.

### **Matching Funding Source**

Describe source of matching funding. Have alternate sources of funding been explored?

Most of the funding will come directly from registration fees which will cover event insurance, food, water and aid station supplies, advertising, signage and course marking.

We will be securing in kind donations from Vagabond Blues, Matanuska Brewery, 203 Kombucha, Turkey Red and Palmer Alehouse as we have in the past. Our largest expense is the commemorative event swag given to each participant. As the registration fee is minimal we just wish to highlight Palmer as a bicycle friendly community!

### Community Benefit and Reporting

Please indicate how the results of your program, service, project or event will enhance economic development or generally benefit the City of Palmer. Describe the expected number of participants to be attracted by the event or project. Please explain how your organization will evaluate the community benefit of your event. Examples might include surveys, registrations, sign-in sheets, number of people served, etc. Please explain how and when your organization will report results back to the City Council.

Cycling, especially long distance cycling, is hard work leaving participants hungry and thirsty. Pre-check in generally brings business to downtown cafes and post ride the Ale House and other restaurants will see business as well. In 2019, 155 of the 230 participants were from outside of Palmer. Last year we gave a post-event power point presentation to the City Council and would be happy to do that again.

#### Detailed Budget

##### Revenue:

Source:	Cash	In-Kind	Total
Registration Fees	\$ 6000.00	\$	\$ 6000.00
203 Kombucha	\$	\$ 120.00	\$ 120.00
Matanuska Brewery	\$	\$ 180.00	\$ 180.00
Turkey Red	\$	\$ 50.00	\$ 50.00
	\$	\$	\$
Totals	\$	\$	\$ 6350.00

##### Expenditures:

Item/Service:	Cash	In-Kind	Total
Event Insurance	\$ 900.00	\$	\$ 900.00
Advertising/Race Bibs	\$ 300.00	\$	\$ 300.00
Depot Rent/Rent-a-Can	\$ 575.00	\$	\$ 575.00
Aid Station Food	\$ 1500.00	\$	\$ 1500.00
2020 Event Give Away	\$ 5000.00	\$	\$ 5000.00
Totals	\$	\$	\$ 6925.00



Applications may be submitted at any time to the address listed above. Please allow at least six weeks lead time for application review and City Council agenda scheduling.

Applicant signature:

Leah Wilson

Date:

2-20-2020

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For Office Use Only

Date received by Manager's Office: \_\_\_\_\_

City Council agenda date: \_\_\_\_\_

Action Memorandum No.: \_\_\_\_\_

City Council:

Approved

Denied

Date Manager's Office notified applicant of request outcome: \_\_\_\_\_



**City of Palmer  
Information Memorandum No. 20-004**

**Subject:** Committee of the Whole for Discussion on General Election Matters

**Agenda of:** March 10, 2020


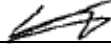
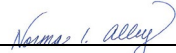
**Originator Information:**

**Originator:** City Council via City Clerk

**Department Review:**

Route to:	Department Director:	Signature:	Date:
_____	Community Development	_____	_____
_____	Finance	_____	_____
_____	Fire	_____	_____
_____	Police	_____	_____
_____	Public Works	_____	_____

**Approved for Presentation By:**

	Signature:	Remarks:
City Manager	<u></u>	_____
City Attorney	<u></u>	_____
City Clerk	<u></u>	_____

**Certification of Funds:**


Total amount of funds listed in this legislation: \$ Unknown

This legislation (√):

- Creates revenue in the amount of: \$ \_\_\_\_\_
- Creates expenditure in the amount of: \$ Unknown
- Creates a saving in the amount of: \$ \_\_\_\_\_
- Has no fiscal impact

Funds are (√):

- Budgeted
  - Not budgeted
- Line item(s): 01-02-10-6099

Director of Finance Signature: 

**Attachment(s):**

- 2014-2019 Council Designated Seats Legislation
  - Res. No. 19-015
  - Ord. No. 14-011
  - Ord. No. 16-009
  - Ord. No. 19-010
- Term Limits Resolution

**Summary Statement/Background:**

By request of the City Council, a Committee of the Whole is called to have general discussion on matters of election. Topics identified, but not limited to, are:

1. Council Seats
2. Term Limits

**City of Palmer  
Resolution No. 19-015**

**Subject:** Submitting a Non-Binding Advisory Question to the City's Qualified Voters at the October 1, 2019, City of Palmer Regular Election to Determine Whether the Public Supports Enacting Designated Council Seats

**Agenda of:** July 9, 2019 – Public Hearing

**Council Action:**     **Approved**                     **Amended:** \_\_\_\_\_  
                                   **Defeated**




**Originator Information:**

**Originator:**    Deputy Mayor Steve Carrington and Council Member Linda Combs

**Department Review:**

Route to:	Department Director:	Signature:	Date:
_____	Community Development	_____	_____
_____	Finance	_____	_____
_____	Fire	_____	_____
_____	Police	_____	_____
_____	Public Works	_____	_____

**Approved for Presentation By:**

	Signature:	Remarks:
City Manager		_____
City Attorney		_____
City Clerk		_____

**Certification of Funds:**


Total amount of funds listed in this legislation:    \$ Unknown

This legislation (√):

- Creates revenue in the amount of:                    \$ \_\_\_\_\_
- Creates expenditure in the amount of:                    \$ \_\_\_\_\_
- Creates a saving in the amount of:                    \$ \_\_\_\_\_
- Has no fiscal impact

Funds are (√):

- Budgeted                    Line item(s):    01-02-10-6099
- Not budgeted

Director of Finance Signature: 

**Attachment(s):**

- Resolution No. 19-015

**Summary Statement/Background:**

Description and Justification by Council Member Steve Carrington.

Traditionally, Palmer city council members have been grouped together where the ballots specifies "Three-year term" and "Vote for not more than two." All the candidates are listed in one group and the first and second place candidates are elected from that common group.

This ordinance would create designated seats where each council seat will be voted on separately from each other. All council seats would remain at-large. This would NOT create districts.

Each potential candidate would have to decide which one seat they will run for. If voters are unsatisfied with a specific council person, this will increase transparency for voters to clearly indicate which candidate they are voting for on the ballot.

This is the same procedure that is used to elect council members in Wasilla, City of Fairbanks, Soldotna and Kotzebue and Nome.

**LEGISLATIVE HISTORY**

Introduced by: Council Members  
Carrington and L. Combs  
Public Hearing Date: July 9, 2019  
Action: Defeated/Failed  
Vote: 4 No/2 Yes/1 Vacant

Yes:	No:
Carrington	Berberich
DeVries	L. Combs
	S. Combs
	Fuller

CITY OF PALMER, ALASKA  
**Resolution No. 19-015**

**A Resolution of the Palmer City Council Submitting a Non-Binding Advisory Question to the City’s Qualified Voters at the October 1, 2019, City of Palmer Regular Election to Determine Whether the Public Supports Enacting Designated Council Seats**

WHEREAS, city of Palmer Municipal Code Section 2.04.021 provides definition to the composition of the City Council; and

WHEREAS, it is the wish of the City Council to send an advisory question to the electorate to get community input on the designation of council seats for council members; and

WHEREAS, the proposed question below is designed to allow the electorate to advise the Council as to whether they support the idea of establishing council seats; and

WHEREAS, the proposed question does not place any requirements on the Council, but rather an advisory from the electorate.

NOW, THEREFORE, BE IT RESOLVED by the Palmer City Council that:

Section 1. At the city of Palmer regular election to be held on October 1, 2019, the following non-binding advisory question shall be submitted to the qualified city of Palmer voters in substantially the following form:

ADVISORY QUESTION NO. \_\_\_\_

Vote Advising the City Council on Designated Council Seats

Should the Palmer City Council consider enacting designated council seats A, B, C, D, E, and F for council members?

ADVISORY QUESTION NO. \_\_: Yes ( )  
No ( )

Section 2. This Resolution shall take effect immediately upon its adoption.

**Defeated** by the Palmer City Council this 9<sup>th</sup> day of July, 2019.

**CITY OF PALMER  
INFORMATION MEMORANDUM NO. 14-019  
ORDINANCE NO. 14-011**

**Subject:** Ordinance No. 14-011: Amending Palmer Municipal Code Section 2.04.021 Composition to Designate City Council Member Seats

**FAILED**

**Agenda of:** April 22, 2014

**Council Action:** Scheduled for public hearing on May 13, 2014

**Approved for presentation by:**

City Manager \_\_\_\_\_  
City Attorney \_\_\_\_\_  
City Clerk \_\_\_\_\_

*Douglas B. Griff*

*[Signature]*

*[Signature]*

**Certification of Funds:**

Total amount of funds listed in legislation:	\$ <u>          0</u>
This legislation (✓):	
<input checked="" type="checkbox"/> Has no fiscal impact	
Creates:	
<input type="checkbox"/> A negative fiscal impact in the amount of:	\$ _____
<input type="checkbox"/> A positive fiscal impact in the amount of:	\$ _____
<input type="checkbox"/> Funds are budgeted.	
Funds are budgeted from this (these) line item(s):	
a) ➤	\$ _____
b) ➤	\$ _____
a) Funds originally budgeted in line item :	\$ _____
Difference in budgeted funds:	\$ _____
b) Funds originally budgeted in line item :	\$ _____
Difference in budgeted funds:	\$ _____
<input type="checkbox"/> Funds are not budgeted.	
Budget amendment required in the total amount of:	\$ _____
Affected line item(s):	
➤	\$ _____
➤	\$ _____
<input type="checkbox"/> General fund unassigned balance (after budget modification)	\$ _____
<input type="checkbox"/> Enterprise unrestricted net position (after budget modification)	\$ _____
Director of Finance signature certifying funds:	_____ <i>[Signature]</i>



**Attachment(s):**

- Ordinance No. 14-011

**Summary statement:** Ordinance no. 14-011 is requested by Council Members Hanson and DeVries and is moved forward to the council for council consideration.

Clerk's note: ordinance no. 14-011 assigns council seats and continues the practice of at-large election by the voters. Once ordinance no. 14-011 is adopted, a resolution designating existing council members to assigned seats will be forwarded to the council for consideration.

**Administration recommendation:** Adopt ordinance no. 14-011.

Introduced by: Council Members Hanson and DeVries  
 Introduced: April 22, 2014  
 Public Hearing: May 13, 2014  
 Action: Failed  
 Vote: 3-4

Yes:	No:
Hanson	Best
Carrington	Combs
Johnson	DeVries
	Erbey

CITY OF PALMER, ALASKA

**Ordinance No. 14-011**

**An Ordinance of the Palmer City Council Amending Palmer Municipal Code Section 2.04.021 Composition to Designate City Council Member Seats**

THE CITY OF PALMER, ALASKA ORDAINS:

Section 1. Classification. This ordinance shall be permanent in nature and shall be incorporated into the Palmer Municipal Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Section 2.04.021 is hereby amended to read as follows (new language is underlined and deleted language is stricken):

**2.04.021 Composition.**

The city council is composed of one mayor and six council members. Council members shall file for ~~who are~~ and be elected at large to seats designated as A, B, C, D, E, and F.

Section 4. Effective Date. Ordinance 14-011 shall take effect upon adoption by the Palmer City Council.

ORDINANCE FAILED

Introduced by: Council Members  
 Carrington and Hanson  
 Introduced: March 8, 2016  
 First Public Hearing: March 22, 2016  
 Second Public Hearing: April 12, 2016  
 Action: Failed  
 Vote: 3-4

Yes:	No:
Carrington	Best
Hanson	Combs
Johnson	DeVries
	LaFrance

CITY OF PALMER, ALASKA

**Ordinance No. 16-009**

**An Ordinance of the Palmer City Council Amending Palmer Municipal Code Section 2.04.021 Composition**

THE CITY OF PALMER, ALASKA ORDAINS:

Section 1. Classification. This ordinance shall be permanent in nature and shall be incorporated into the Palmer Municipal Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Section 2.04.021 is hereby amended to read as follows (new language is underlined and deleted language is stricken):

**2.04.021 Composition.**

The city council is composed of one mayor and six council members. Council members shall file for who are and be elected at large to seats designated as A, B, C, D, E, and F.

Section 4. Effective Date. Ordinance 16-009 shall take effect upon adoption by the Palmer City Council.

ORDINANCE FAILED BY A 3-4 VOTE

**City of Palmer  
Ordinance No. 19-010**

**Subject:** Amending Palmer Municipal Code Section 2.04.021 Creating Designated Council Seats

**Agenda of:** May 28, 2019 – Introduction  
June 11, 2019 – Public Hearing

**Council Action:**     **Adopted**                       **Amended:** \_\_\_\_\_  
                                   **Defeated**




**Originator Information:**

**Originator:**    Council Members Carrington and Fuller

**Department Review:**

Route to:	Department Director:	Signature:	Date:
_____	Community Development	_____	_____
_____	Finance	_____	_____
_____	Fire	_____	_____
_____	Police	_____	_____
_____	Public Works	_____	_____

**Approved for Presentation By:**

	Signature:	Remarks:
City Manager		Signing for Nathan Wallace as Acting City Mgr.
City Attorney		_____
City Clerk		_____

**Certification of Funds:**


Total amount of funds listed in this legislation:    \$ 0.00

This legislation (√):

- Creates revenue in the amount of:                      \$ \_\_\_\_\_
- Creates expenditure in the amount of:                      \$ \_\_\_\_\_
- Creates a saving in the amount of:                      \$ \_\_\_\_\_
- Has no fiscal impact

Funds are (√):

- Budgeted                      Line item(s): \_\_\_\_\_
- Not budgeted

Director of Finance Signature: 

**Attachment(s):**

- Ordinance No. 19-010

**Summary Statement/Background:**

Description and Justification by Council Member Steve Carrington.

The basic change to the election code is adding designated seats. The code phrase will read "Council members will be elected at large to designated seats." This will use seat's A through F to designate individual seats that are at large. This means that all city voters will still vote for all city council seats as specified in Palmer Municipal Code Section 2.04.021. This is the same procedure that is used to elect council members in Wasilla. It does NOT create districts for district voting.

The last 12 years of election shows a higher voter participation when there are clearly defined choices.

For instance, there were five mayoral elections since 2014. The three with only one candidate on the ballot had 80%, 86% and 73% votes of the total counted ballots. In the two elections that had more than one candidate on the ballot, participation for the mayoral votes was 96% and 97%.

For Council Member, the participation averages 65% with a range from 70% down to 53% of the total counted votes.

Whether voters are choosing to only cast one vote or are missing the part of voting for two candidates, we won't really know unless we try another system. Therefore, I am proposing we have at-large designated seats for council voting.

If this ordinance is adopted, the designated seats will be assigned as follows:

- Seat A: Council Member Term Ending 2019 (Carrington)
- Seat B: Council Member Term Ending 2019 (Fuller)
- Seat C: Council Member Term Ending 2020 (L. Combs)
- Seat D: Council Member Term Ending 2020 (S. Combs)
- Seat E: Council Member Term Ending 2021 (Berberich)
- Seat F: Council Member Term Ending 2021 (LaFrance)

**LEGISLATIVE HISTORY**

Introduced by: Council Members  
Carrington and Fuller  
Date: May 28, 2019  
Public Hearing: June 11, 2019  
Action: Failed for Lack of Majority  
Vote: 3 Yes/4 No

Yes:	No:
Carrington	Berberich
DeVries	L. Combs
Fuller	S. Combs
	LaFrance

CITY OF PALMER, ALASKA

**Ordinance No. 19-010**

**An Ordinance of the Palmer City Council Amending Palmer Municipal Code Section 2.04.021 Creating Designated Seats**

THE CITY OF PALMER, ALASKA, ORDAINS:

Section 1. Classification. This ordinance shall be permanent in nature and shall be incorporated into the Palmer Municipal Code.

Section 2. Severability. If any provisions of this ordinance or application thereof to any person or circumstances are held invalid, the remainder of this ordinance and the application to the other persons or circumstances shall not be affected thereby.

Section 3. Palmer Municipal Code is hereby amended to read as follows (new language is underlined and deleted language is stricken):

**2.04.021 Composition.**

The city council is composed of one mayor and six council members. Council members shall file for who are and be elected at large to seats designated as A, B, C, D, E and F.

Section 4. Effective Date. Ordinance No. 19-010 shall take effect upon adoption by the city of Palmer City Council.

**Failed for Lack of Majority Vote** by the City Council of the City of Palmer, Alaska this 11<sup>th</sup> day of June, 2019.

**City of Palmer  
Resolution No. 20-0XX**

**Subject:** Submitting the Question of Amending Charter Section 3.2, Terms of Office to Limit Mayor and Councilmember Terms to Three Three Year Terms, to the City's Qualified Voters at the October 4, 2016, City of Palmer Election

**Agenda of:** Month Day, Year

**Council Action:**     **Approved**                       **Amended:** \_\_\_\_\_  
                                   **Defeated**

**Originator Information:**

**Originator:**    City Council

**Department Review:**

<b>Route to:</b>	<b>Department Director:</b>	<b>Signature:</b>	<b>Date:</b>
_____	Community Development	_____	_____
_____	Finance	_____	_____
_____	Fire	_____	_____
_____	Police	_____	_____
_____	Public Works	_____	_____

**Approved for Presentation By:**

	<b>Signature:</b>	<b>Remarks:</b>
City Manager	_____	_____
City Attorney	_____	_____
City Clerk	_____	_____

**Certification of Funds:**

Total amount of funds listed in this legislation:    \$ \_\_\_\_\_

This legislation (√):

- Creates revenue in the amount of:                      \$ \_\_\_\_\_
- Creates expenditure in the amount of:                      \$ \_\_\_\_\_
- Creates a saving in the amount of:                      \$ \_\_\_\_\_
- Has no fiscal impact

Funds are (√):

- Budgeted                      Line item(s): \_\_\_\_\_
- Not budgeted                      \_\_\_\_\_

Director of Finance Signature: \_\_\_\_\_

**Attachment(s):**

- Resolution No. 20-0xx

**Summary Statement/Background:**

To discuss the possibility of limiting the council members to two consecutive three-year terms and the mayor to two additional consecutive three-year terms. The resolution does not address lifetime term limits.

Matters of consideration could be:

- How Many Consecutive Years to Serve
- How Many Consecutive Years to Wait Before Serving Again
- Date Term Limits Become Effective

Palmer Charter 3.2. **Terms of Office** states the terms of two councilmen shall expire each year, except that in each third year, counting from 1963, the terms of the Mayor and of two Councilmen shall expire. When appointments are made to fill vacancies in the manner provided by Section 2.13(a) of this Charter, appointees shall qualify for and assume the duties of office within ten days after appointment, unless such time be extended for not more than sixty days by the Council.

Palmer Municipal Code Section 2.04.041. **Term of office** states the term of office of each council member shall be for three years and shall commence on the Monday following his or her election.

Palmer Municipal Code Section 2.05.030. **Term of office** states the term of office of the mayor shall be for three years and shall commence on the Monday next following his or her election.

The intent of term limits is for council members to serve no more than two consecutive terms without taking a one-year break. It is not the intent for a council member to have a break in service between serving as a council member and mayor. A member of the council whom is elected to serve as the mayor, may serve two additional terms, for a total of four, at which time a break in service is required.



**LEGISLATIVE HISTORY**

Introduced by:

Date:

Action:

Vote:

Yes:

No:

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CITY OF PALMER, ALASKA

**Resolution No. 20-0XX**

**A Resolution of the Palmer City Council Submitting the Question of Amending Charter Section 3.2, Terms of Office to Limit Mayor and Councilmember Terms, to the City's Qualified Voters at the October 6, 2020, City of Palmer Election**

WHEREAS, Section 14.2 of the Charter of the City of Palmer provides that the Charter may be amended by proceedings commenced by the vote of four members of the Council, and

WHEREAS, Section 14.3 of the Charter of the City of Palmer provides that when an amendment to the Charter is proposed by the Council, it shall be submitted to the qualified voters of the City at any election to be held in the City not less than 60 days after its proposal by the Council; and

WHEREAS, the language of Charter Section 3.2, if approved by the city's qualified voters will limit the terms of Mayor and Councilmembers to three three-year terms applicable to the Mayor and Council members first elected in 2017 and elected thereafter; and

WHEREAS, at least four members of the Council for the City of Palmer have determined that it is in the best interests of the City and its residents that the Charter of the City of Palmer amendment should go before the qualified voters as set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PALMER, ALASKA, that:

Section 1. At the City of Palmer election to be held on October 4, 2016, the following proposition shall be submitted to the qualified City of Palmer voters in substantially the following form:

PROPOSITION NO.

AMENDMENT OF THE PALMER CITY CHARTER, CHAPTER III,  
SECTION 3.2 Terms of Office

Shall Chapter III, Section 3.2 of the Charter of the City of Palmer be amended to read as follows (new language is **underlined** and **bolded** and deleted language is ~~stricken~~ and [bracketed]):

Section 3.2 Terms of office.

The terms of two councilmen shall expire each year, except that in each third year, counting from 1963, the terms of the Mayor and of two Councilmen shall expire. When appointments are made to fill vacancies in the manner provided by Section 2.13(a) of this Charter, appointees shall qualify for and assume the duties of office within ten days after appointment, unless such time be extended for not more than sixty days by the Council.

**A person serving as a council member may not serve for more than two consecutive, full terms without a break in service for at least one full year. No member of the council shall serve more than four consecutive terms, as the mayor and a council member, without a break in service for at least one full year. Years of service of an appointee filling a vacated seat does not count toward the total term limit.**

PROPOSITION NO.    Yes ( )  
                                      No ( )

Section 2. This Resolution shall take effect immediately upon its adoption. The amendment set forth in Section 1 shall become effective for terms served after the \_\_\_\_\_, 2021, regular election upon its approval by a majority of the qualified voters voting on the question at the election of October 6, 2020, and the filing of the amendment as provided in Section 3.2 of the Charter of the City of Palmer, provided that the filing may be made with the Lieutenant Governor in lieu of the Secretary of State of Alaska.

**Approved** by the Palmer City Council this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Edna B. DeVries, Mayor

\_\_\_\_\_  
Norma I. Alley, MMC, City Clerk