

KODIAK CITY COUNCIL

WORK SESSION AGENDA

Tuesday, November 12, 2019
Kodiak Public Library Multi-Purpose Room
7:30 p.m.

Work sessions are informal meetings of the City Council where Councilmembers review the upcoming regular meeting agenda packet and seek or receive information from staff. Although additional items not listed on the work session agenda are sometimes discussed when introduced by the Mayor, Council, or staff, no formal action is taken at work sessions and items that require formal Council action are placed on a regular Council meeting agenda. Public comments at work sessions are NOT considered part of the official record. Public comments intended for the "official record" should be made at a regular City Council meeting.

Discussion Items

1. Public Comments (limited to 3 minutes)
2. Discussion with Representative Louise Stutes
3. Update and Presentation from Dianne Blumer, City Lobbyist1
4. Discussion with Senator Gary Stevens
5. New Fire Station Predesign Phase Presentation and Review of Site Proposals13
6. Climate Change Presentation from Dr. Mike Litzow
7. Update on the Online Sales Tax Compact21
8. Elected Officials Training/Travel Requests
9. November 14, 2019, Agenda Packet Review

To Be Scheduled

1. Long Term Plan Discussion for the Harbor

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Dianne Blumer

Lobbying and Governmental Affairs

MEMORANDUM

To: Pat Branson, Mayor
Mike Tvenge, City Manager
City of Kodiak

RE: Legislative Overview Report to City Council

Date: November 5, 2019

This was a challenging year given the new Administration and a dramatically different approach to the budget. There were several pieces of legislation introduced in addition to budget cuts that would have negatively impacted Alaskans and devastated certain areas of the State. We were able to circumvent some of unrealistic measures thanks to those who articulated their priorities, delivered creditable community impacts, provided testimony and personally called and wrote to Legislatures and members of the Administration.

One of the challenges was remaining focused on priorities since there were so many issues that would have adverse impacts, not to mention the political gamesmanship this year. Upon the conclusion of an extended 120-day session, no reasonable agreement was reached in regard to the operating and capital budgets. The Governor called the Legislature back for two special sessions. After much ado around the physical location of the second special session, the amount of the permanent fund dividend, the delay of the Capital budget - that jeopardized federal funding, the legislature finally reached an agreement and adjourned on August 6th, reversing many of the Governor's original \$400 million in vetoes.

On August 19th Governor Dunleavy signed House Bill 2001 that provided for a permanent fund dividend (PFD) payment of approximately \$1600.00, but indicated that he would likely be calling the Legislature back this fall for a third special session, solely requesting payment of \$1400.00 to provide for a full PFD based on a formula in 1982 state law.

Due to the passing of Senator Chris Birch and the delay in filling the vacancy, it is unlikely that a special session will be called this year. On November 2, 2019,

Representative Josh Revak was confirmed, by the Senate majority, to fill the vacant seat. The Governor now has 30 days to select a candidate for the House seat vacated by Representative Revak.

In the end, the Governor vetoed just over half of the funds reinstated by the Legislature. This included the additional \$5 million that Representative Stutes had sponsored for the Alaska Marine Highway System funding; the AMHS has been under attack by the Administration since the original budget was rolled out in February.

Also vetoed were:

- \$2.7 million for Public Broadcasting
- \$3.4 million for the Ocean Ranger Program, which places Coast Guard certified engineers on cruise ships to monitor environmental safety
- Behavioral Health Treatment and Recovery Grants, affecting homeless services
- Rural Airport Maintenance
- Capitalization of Community Assistance Fund
- \$27 million for Medicaid enhanced dental
- \$50 million for Medicaid
- \$3 million for Village Public Safety Program
- 50% of School Bond Debit reimbursement & REAA School Fund
- Renewable Energy Grant Fund

Items not vetoed:

- Nearly \$4 million for the Alaska State Council on the Arts
- \$20.7 million for Senior Benefits
- Early Childhood Grants, Parents as Teachers, Head Start, Best Beginnings
- OWL Broadband
- Another \$100,000 for the Department of Military and Veterans Affairs
- About \$2.2 million for the human services and community initiative grants
- Slightly more than \$500,000 to reopen the Utqiagvik law office
- More than \$2.7 million for the state's agricultural program

After intense negotiations the Governor reached an agreement with the University of Alaska to spread \$70 million in budget cuts over a three-year period rather than \$135 million in a single year.

Also vetoed was the allocation of \$5.5 billion in transfers from the permanent fund earnings reserve to the constitutionally protected portion of the fund.

All things considered, our lobbying efforts should be viewed as successful – we had support of the House and Senate, specifically on the shared fish tax. Mayor Branson was instrumental in her continuous and impactful testimony on matters of important to the city.

Unfortunately, some of the decisions at the end of the session, and throughout the special sessions, were wrapped up in the appropriation of the PFD. This affected the reverse sweep and the ability to override many of the Governor's vetoes. It was pretty clear throughout the session that we would be unable to change the Governor's mind on the budget, especially in light of the guide of the former OMB director.

With the recent staff changes in the Governor's office, the departure of his Chief of Staff and his OMB Director, and the recall campaign, we have seen a slight shift toward more cooperation and willingness to meet with leaders and Alaskans.

The Governor has said that this is a multi-year process, which means we have our work cut out for us next year. Again, we anticipate that community assistance, shared fish tax, PERS and other cuts not achieved this year will be heavily targeted and more cost shifting in education funding will be an issue. We must advocate on the State's Constitutional and statutory obligations, and in the best interests of Alaska's local governments, residents and businesses.

31ST LEGISLATIVE SESSION- YEAR ONE



GOVERNOR'S FISCAL PLAN

- Match Expenditures to Revenue
- Pay a Statutory Dividend
- No New Taxes
- No Use of Reserves

- = \$1.6 Billion Deficit

GOVERNOR'S BUDGET PROPOSAL

- **Operating Budget Reductions**
 - K-12, Pupil Trans, Early Education, University
 - One-Time \$50 million "out-side" the Formula Education Funding
 - Alaska Marine Highway System Privatization
 - Public Broadcasting
 - Medicaid
 - VPSO
- **Elimination of Programs/Funds:**
 - Repeal Senior Benefits Program
 - Repeal School Bond Debt Reimbursement & Capital and Energy Project Debt Reimbursement Programs and funding
 - Sweep PCE, Community Assistance, & Higher Education Scholarship Endowments

GOVERNOR'S BUDGET PROPOSAL continued

- **Taking of Municipal Tax Revenues**
 - Petroleum Property Tax
 - Shared Fisheries Business and Resource Landing Tax
- **Constitutional Amendments**
 - New New or Increase Taxes without a Vote of the People
 - Enshrine the Dividend
 - Spending Limit

LEGISLATURE'S APPROACH

- Reduce Spending
- No New or Increased Taxes
- Limit POMV Draw at Statutory 5.25% or \$2.9 billion
- Fund Services and Current Obligations
- Then fund a reasonable dividend

THE OPERATING BUDGET

\$4.1 Billion in Unrestricted General Fund Spending

The Legislature passed the Operating Budget with approximately \$200 million in reductions including cuts to the \$5 m to University, \$44 m to AMHS, and \$82.6 m to Medicaid.

While making the most significant reductions to the State's Operating budget in decades most programs were restored from the Governor's Budget proposal.

THE VETOES

On June 28th the Governor Vetoes an additional \$444 million indicating that these cuts are just the first in a two-step process to balance the State's Budget.

Vetoed:

- University of Alaska - Veto \$130.2 m
- Medicaid - Veto \$50 m plus \$28 m Adult Dental Preventative
- Community Assistance Fund Capitalization \$30 m
- Senior Benefits - Veto \$20.7 m (FY20) and \$800.0 (FY19 Supplemental)
- School Bond Debt Reimbursement - Veto 50% reduction to reimbursements Total: \$49 m plus \$20 m in REAA funds
- Public Broadcasting - Veto \$2 m for Radio, \$633,300 for TV, and \$46,700 for the Commission
- Village Public Safety Office Program - Veto \$3 m (FY20) and \$3 m (FY19 Supplemental)
- Ocean Rangers - Veto \$3.5 m

THE VETOES *continued*

- Education Funding - Veto FY21 "Forward Funding of Education
- OWL & Live Homework funding
- Behavior Health Grants
- Nome Youth Facility
- Human Services & Community Initiative Matching Grants
- Criminal Prosecutors
- Local Emergency Planning Committee
- Civil Air Patrol
- Municipal Construction and Energy Project Debt Reimbursement
- Civil Legal Services Funding
- Positions Reductions - 62 Full Time, 2 Part Time, and 4 Non-Perm
- Travel Reductions - \$3.5 m

House Bill 2001

While unable to reach the $\frac{3}{4}$ vote needed to override the Governor's vetoes in the 2nd Special Session the Legislature passed HB 2001 restoring the majority of the vetoed appropriations.

- Items NOT Restored:
- \$225 Local Emergency Planning Committee
- \$20 m University of Alaska
- \$200 Citizens' Advisory Commission on Federal Areas
- \$3 m State Agency Travel

IN THE GOVERNOR'S HANDS AGAIN

Both the Capital Budget and HB 2001 were transmitted to the Governor.

He signed the Capital Budget on August 8th but reduced the final Capital Budget by \$34.7 M through his line-item veto authority.

HB 2001 was signed on August 19th but without additional line item vetoes.

The Operating Budget -Finally

- Key programs and services restored in HB 2001:
 - \$21.5M to Senior Benefits Program
 - \$110.25M to the University of Alaska
 - \$8.8M to Early Learning Programs, including Head Start, Early Childhood Grants, Parents as Teachers, and Best Beginning
 - \$759,100 to Alaska Legal Services Corporation
 - \$809,100 to Online with Libraries and Live Homework Help
 - \$3.8M to Alaska State Council on the Arts
 - \$100,000 to Office of Veterans Affairs for an additional Veterans' Services Officer
 - \$2.2M to Human Services Matching Grants and Community Initiative Grants
 - \$533,500 to reopening the Utqiagvik Law Office
 - \$2.7M to Agricultural Programs

Operating Budget *Continued*

Vetoed that were maintained (not inclusive):

- \$48.9 m School Bond Debt Reimbursement
- \$2.7 m Alaska Public Broadcasting Commission
- \$6.1 m Behavioral Health Treatment and Recovery Grants
- \$3.0 m VPSO program
- \$46,900 Rural Airport Maintenance
- \$5.0 m Marine Highway Vessel Operations
- Municipal Debt Service for Ports/Harbors/Energy
- \$30 m Community Assistance Fund recapitalization
- REAA School Fund
- \$454,000 Renewable Energy Grant Fund

Capital Budget

- **Funded:**
- \$73 m for highways and airports, securing \$877.2 million in federal funds
- \$12 m for rural water and wastewater projects, unlocking over \$52 million in federal aid
- \$7.4 m for tourism marketing by the Alaska Travel Industry Association
- \$2.54 m to Hiland Mountain Women's Mental Health Unit
- \$2 m for Northwest Arctic Borough school construction and major maintenance
- \$2.5 m for the state's Arctic Strategic Transportation and Resources program
- \$1.5 m for the AHFC Rental Assistance for Victims Program
- \$3.6 m for the AHFC Homeless Assistance Program
- \$1.75 m for AHFC senior citizen housing
- \$250.0 for the Inter-Island Ferry Authority
- \$13.5 m for AMHS vessel overhaul and certification needed to keep ferries running
- \$1.6 m for the State's Harbor Grant Program

Capital Budget *Continued*

Vetoed:

- \$10 m matching grants for addiction treatment facility construction
- \$5 m for insulating and weatherizing homes
- \$4 m for a natural gas storage facility in North Pole
- \$3.6 m for the AHFC Homeless Assistance Program, (50% reduction)
- \$2.5 m for the earthquake monitoring network
- \$2.5 m for deferred maintenance at the University of Alaska
- \$1.75 m for AHFC to build housing for teachers, health care, and public safety workers
- \$1 million for Public Transportation Matching Grants

ALASKA MARINE HIGHWAY SYSTEMS

- Tazlina & Hubbard Side Doors \$3 m
- AMHS System Vessel Overhaul, Certification and Shoreside Facilities Rehabilitation \$13.5m

The Re-appropriation of Tustumena Vessel Replacement to Federal Highway Match was removed.

Wrap Up

Will there be a 3rd special session?

Preparation for next session

Priorities and capital budget requests

QUESTIONS?





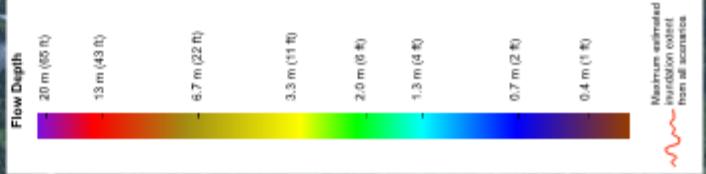
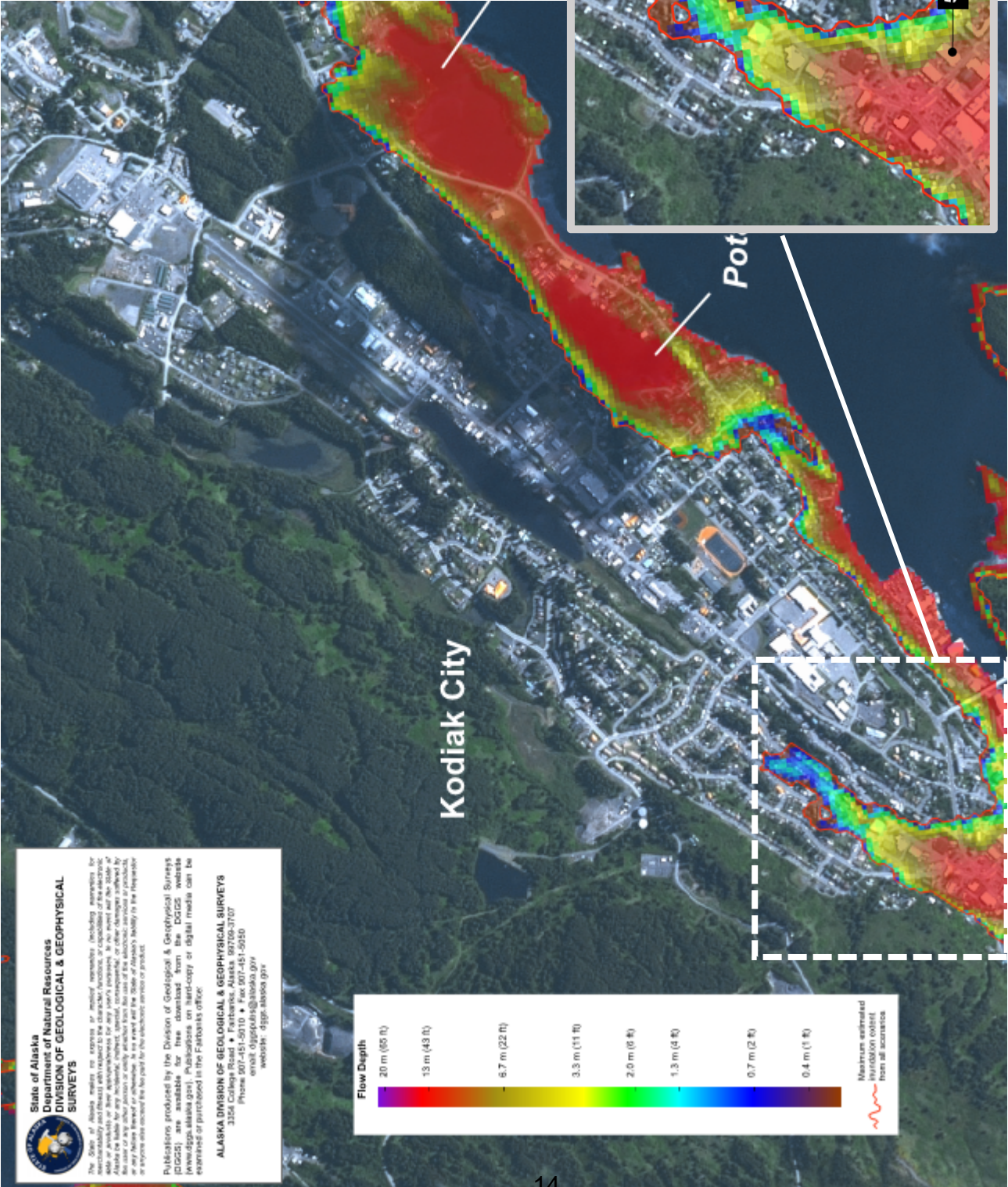
- 1 170 VON SCHEELE WAY
- 2 1950 & 1918 MILL BAY RD
- 3 1240 MILL BAY RD
- 4 MILL BAY RD & POWELL AVE
- 5 MILL BAY RD & CENTER ST


State of Alaska
 Department of Natural Resources
DIVISION OF GEOLOGICAL & GEOPHYSICAL SURVEYS

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KODIAK FIRE STATION
Site Evaluation Summary Table

Criteria Section	Site Number & Description					Comments
	1 - 170 Von Scheele Way	2 - 1950 & 1918 Mill Bay Road	3 - 1240 Mill Bay Road	4 - Mill Bay Road and Powell Avenue	5 - Mill Bay Road and Center Street	
	score	score	score	score	score	
Social and Land Use Factors	0	0	0	0	0	
Construction Factors	0	0	0	0	0	
Maintenance and Operating Factors	0	0	0	0	0	
	0	0	0	0	0	

Notes:

KODIAK FIRE STATION
Social and Land Use Factors

no.	Criteria	Weight Factor (WF)	Site Number & Description						Comments		
			1 - 170 Von Scheele Way	2 - 1950 & 1918 Mill Bay Road	3 - 1240 Mill Bay Road	4 - Mill Bay Road and Powell Avenue	5 - Mill Bay Road and Center Street				
		10 = not very important 20 = somewhat important 30 = important 40 = very important 50 = essential	score	x WF	score	x WF	score	x WF	score	x WF	
1	Size of Site (buildable area)	50		0		0		0		0	Needs to support size of new structure in addition to related site infrastructure
2	Multiple road routes available	50		0		0		0		0	The site should provide acceptable access to secondary streets to allow fire equipment and personnel to respond.
3	Proximity to residential areas	50		0		0		0		0	Consider a buffer zone between residential properties and site entrance and exit
4	Travel time to fire / emergency location	50		0		0		0		0	The site should also provide rapid response time to areas in your community that are target "hazard" areas such as assisted living homes, nursing homes and hospitals. The response time requirements, as outlined in the NFPA 1710/1720 standards.
5	Proximity to Natural Hazards	50		0		0		0		0	avalanche, tsunami, earthquakes, etc. (fatal flaw)
6	Zoning/Land Use	50		0		0		0		0	complies with zoning use and comprehensive plans
7	Road width and slope	50		0		0		0		0	Streets should have adequate width and shoulder width so that vehicles can safely pull over when fire equipment is coming up behind them.
8	Proximity to existing facilities for public staging	50		0		0		0		0	HAZMAT decontamination set up in one of the vehicle bays - consider proximity to location where public can wait
9	Noise	20		0		0		0		0	
10	Potential for Hazardous Materials	40		0		0		0		0	
11	Traffic on road	40		0		0		0		0	The main travel artery should not be a heavily congested area with an overabundance of traffic signals or stop signs, if at all possible.
12	Proximity to public facilities	40		0		0		0		0	Another factor to consider is the proximity of churches, schools or other factors which could cause safety hazards and delays for emergency equipment.
13	Site meets department needs for present and future	40		0		0		0		0	Room for future expansion and look at future traffic issues: congestion, speeds, line of sight, road width and available turning radius.
14	Potential public / neighborhood reaction to site	30		0		0		0		0	
Totals				0		0		0		0	0

Notes:

KODIAK FIRE STATION
Construction Cost Factors

no.	Criteria	Weight Factor (WF)	Site Number & Description										Comments		
			1 - 170 Von Scheele Way	2 - 1950 & 1918 Mill Bay Road	3 - 1240 Mill Bay Road	4 - Mill Bay Road and Powell Avenue	5 - Mill Bay Road and Center Street	score	x	WF	score	x		WF	
1	Site Soils/Foundation Conditions	30	0	0	0	0	0	0	0	0	0	0	0	0	Ranking Criteria: 0 = unacceptable (least desirable/ least cost effective) 1 = poor 2 = fair 3 = good 4 = excellent (most desirable/ most cost effective)
2	Availability & capacity of Water Utilities	50	0	0	0	0	0	0	0	0	0	0	0	0	
3	Availability & capacity of Sewage Utilities	50	0	0	0	0	0	0	0	0	0	0	0	0	
4	Availability & capacity of Electrical Power	40	0	0	0	0	0	0	0	0	0	0	0	0	
5	Availability & capacity of Fuel Storage/Distribution	40	0	0	0	0	0	0	0	0	0	0	0	0	
6	Setbacks, Easements, Future roadway planning	40	0	0	0	0	0	0	0	0	0	0	0	0	
7	Ease of Transporting Construction Materials	40	0	0	0	0	0	0	0	0	0	0	0	0	
8	Adequate construction staging area	20	0	0	0	0	0	0	0	0	0	0	0	0	
9	Site Availability/Acquisition Cost	50	0	0	0	0	0	0	0	0	0	0	0	0	
11	Site Drainage	40	0	0	0	0	0	0	0	0	0	0	0	0	
12	Site Erosion	20	0	0	0	0	0	0	0	0	0	0	0	0	
13	Road frontage and shape	50	0	0	0	0	0	0	0	0	0	0	0	0	
14	Road access	50	0	0	0	0	0	0	0	0	0	0	0	0	Site should be located on, or adjacent to a main travel artery that will provide good access, visibility and egress for emergency apparatus, and adequate alerting of the public of the departing fire equipment.
15	Drive-through capability	50	0	0	0	0	0	0	0	0	0	0	0	0	Ability to access two sides of the building to provide drive through access to the apparatus bays
16	Site topography	20	0	0	0	0	0	0	0	0	0	0	0	0	
17	Existing Site Development	40	0	0	0	0	0	0	0	0	0	0	0	0	obstacles to construction and development

KODIAK FIRE STATION
Construction Cost Factors

no.	Criteria	Weight Factor (WF)	Site Number & Description										Comments
			1 - 170 Von Scheele Way		2 - 1950 & 1918 Mill Bay Road		3 - 1240 Mill Bay Road		4 - Mill Bay Powell Avenue		5 - Mill Bay Road and Center Street		
			score	x WF	score	x WF	score	x WF	score	x WF	score	x WF	
18	Site preparation costs	40		0		0	0		0		0	0	Ranking Criteria: 0 = unacceptable (least desirable/ least cost effective) 1 = poor 2 = fair 3 = good 4 = excellent (most desirable/ most cost effective)
19	Wetlands	10		0		0	0		0		0	0	
20	Potential for Hazardous Materials	30		0		0	0		0		0	0	
21	Ecological issues	20		0		0	0		0		0	0	
Totals				0		0		0		0		0	

Notes:

KODIAK FIRE STATION
MAINTENANCE AND OPERATING COST FACTORS

no.	Criteria	Weight Factor (WF)	Site Number & Description										Comments
			1 - 170 Von Scheele Way		2 - 1950 & 1918 Mill Bay Road		3 - 1240 Mill Bay Road		4 - Mill Bay Road and Powell Avenue		5 - Mill Bay Road and Center Street		
			score	x WF	score	x WF	score	x WF	score	x WF	score	x WF	
1	Site Drainage	40		0		0	0		0		0	0	Ranking Criteria: 0 = unacceptable (least desirable/ least cost effective) 1 = poor 2 = fair 3 = good 4 = excellent (most desirable/ most cost effective)
2	Site Erosion	20		0		0	0		0		0	0	
3	Flooding	10		0		0	0		0		0	0	
4	Transportation distance for maintenance	40		0		0	0		0		0	0	
5	Alternative Energy Sources	40		0		0	0		0		0	0	
6	Site provides features that will reduce energy consumption	40		0		0	0		0		0	0	
	Totals			0		0	0		0		0	0	

Notes:

Kodiak Fire Station -- Preliminary Space List for Discussion

SPACE LIST	11/5/2019	QTY	AREA (sf)	NET AREA (sf)	Subtotals (sf)	Notes
Fire Station						
Station Administrative						
Public Arctic Entry (Sally Port)		1	120	120		
Small Waiting Area		1	120	120		2 chairs
Restrooms		2	80	160		Also support training room
Office - Chief		1	180	180		
Office - Deputy Chief		1	150	150		
Office (Open) - Admin Assistant		1	100	100		
Office - Fire Marshal		1	150	150		
Office - Captain		1	120	120		
Office - Firefighters: 4 workstations		1	160	160		
Small Meeting Room		1	240	240		
Training / Conference Room		1	875	875		Standby EOC; consider divider wall
Table and Chair Storage		1	120	120		
Library (Alcove or Closet at Training)		1	48	48		4 @ 36" wide by 6' tall shelves
Files		1	80	80		
			0	0		
Subtotal - Administrative Area					2,623	
Station Operations						
Apparatus Bay -drive-thru, 20' wide 70' deep		6	1400	8,400		Provide additional clearance, min 44" beyond outer bays, to provide access and egress around perimeter when apparatus doors are open, 14' wide x 16' high doors - verify height for ladder truck.
Apparatus Bay -drive-thru, 18' wide 70' deep		0	1170	0		Provide additional clearance, min 44" beyond outer bays, to provide access and egress around perimeter when apparatus doors are open, 14' wide x 16' high doors - verify height for ladder truck.
Clean up /Decon/Extractor/Dryer/Shower		1	240	240		Shared space for Decon/Extractor/Dryer storage and Decontamination shower/restroom - well ventilated to remove harmful chemical off-gassing
Toilet Room with Shower		1	110	110		Near Apparatus Bay
Turn Out Alcove		20	20	400		
Wash Down Alcove (wash off turn out gear)		1	60	60		
Ambulance/Medical Storage		1	200	200		
Fire Supplies Storage		1	200	200		
Maintenance / Small Tool Workshop		1	120	120		
SCBA Fill Station / Bottle Storage / Maintenance		1	250	250		
Hose Washer & Dryer Storage		1	200	200		
Hose / Training Tower	x 4 stories	4	360	1,440		
Staff Arctic Entry		1	120	120		
Apparatus Bay Janitorial		1	80	80		
Subtotal - Operations					11,820	
Station Living Quarters						
Individual Sleep Rooms		6	120	720		1 person per room - •6 Rooms with 3 lockers
Shared Restroom/Shower		3	110	330		Shared between 2 sleeping rooms each
Linen Closet		1	30	30		
Uniform Closet		1	60	60		
Kitchen		1	260	260		Provide large gas stove/oven, microwave , extra size commercial refrigerator with freezer, sinks, garbage disposal, dishwasher, coffee urn, recycling space.
Pantry		1	80	80		
Dining/Lounge		1	600	600		
Family Room		1	300	300		
Fitness		1	600	600		
Toilet rooms with showers		2	100	200		Adjacent to Fitness Room
Laundry Room and Janitorial		1	150	150		
Storage		1	80	80		
Stair 2	x 2 stories	2	220	440		
Building Services						
Boiler/Mechanical		1	400	400		
Electrical		1	120	120		
Generator		1	240	240		
Telecom Room		1	120	120		
Fan Room/Loft		1	800	800		
Compressor Room		1	120	120		
		0	0	0		
Subtotal - Living Quarters and Building Services					5,650	
Subtotal - Station					20,093	
Allowance for Walls & Circulation			13%			2,612
Station Total					22,705	

Outdoor Areas						
Barbeque Area		1	600	600		
Outdoor Work Area - front/back aprons		2	6,300	12600		
Generator (Exterior / Site)		1	240	240		Need to Confirm Generator Size
Parking (20 parking spaces)		20	350	7000		8 staff spaces + public parking (need to determine per City Planning requirements)
Site access / circulation / landscaping		1	19600	19600		TBD
Minimum Site Footprint						65,065



Making the case for a coordinated municipal response to online merchants collecting local sales tax in Alaska

Alaska Municipal League – September 25, 2019

Why now?: The U.S. Supreme Court in June 2018 changed the rules for collecting sales tax on online orders. It removed a long-standing limitation that had blocked states from requiring all online sellers to comply with their sales tax laws. This, in effect, creates a level playing field for local businesses. The Supreme Court decision was clear: It said allowing states to apply their tax laws to online sellers the same as local merchants is a matter of fairness. The court said past practice enabled online sellers to avoid collecting sales taxes “has come to serve as a judicially created tax shelter for businesses that decide to limit their physical presence and still sell their goods and services to a state’s consumers.”

Across the nation, states are working to comply with the Supreme Court decision, namely by ensuring the streamlined, single-level administration of sales tax collection. While this is straightforward in states with a sales, there are five states that don’t have a broad-based sales tax, and Alaska the only one that has local governments who do. Alaska’s cities and boroughs are at an administrative and enforcement disadvantage. Remote sellers have been clear that until this is addressed, they will not collect the sales taxes required by individual local governments. To the extent that there have been isolated cases of collections, some of those businesses get it wrong, misapplying taxes and exemptions and shortchanging municipalities or overcharging residents. (Note: Amazon’s current remittance is not based on remote sales, or the *Wayfair* case)

What the Alaska Municipal League is trying to do: The 165-member Alaska Municipal League, a nonprofit statewide organization, has spent the last year researching options for member local governments, and worked with many members to respond to this opportunity. Together, AML and members have developed an intergovernmental agreement, bylaws for a commission, and a remote sales tax code that local governments with sales tax codes will adopt. AML is developing the structure for centralized sales tax administration for remote merchants (out-of-state online sellers) to register and report their tax collections for distribution to the participating cities and boroughs.

The intergovernmental agreement, or compact, is voluntary, but those local governments that do not sign on are less likely to see remote sellers comply with their individual tax codes. The code that should be adopted by each member is generally consistent with most local governments, with provisions for parity and working toward compliance over time. The important thing to know is that each local government maintains its own tax rate and exemptions. The commission that is established will be delegated taxing authority. The board of directors of the commission will be voted on by members and have responsibility for the governance. The commission will contract with AML to administer the centralized administration, with collection, remittance and reporting that meets the need of each local government. This centralized administrator will include software that maintains a tax variability matrix, able to account for differences between members, and a sales tax boundary map so that remote sellers can comply with municipal boundaries.

A Timeline: There is a governance committee comprised of local government finance officers, attorneys and managers, who have drafted all relevant documents. These will need to be reviewed and adopted by any local government that wishes to participate. Adoption means delegating authority to a municipal

official to sign the intergovernmental agreement on behalf of the city or borough, and delegating taxing authority to the Commission. Adoption also means agreeing to the common tax code for remote sales. AML will contract with a software developer and build up a sales tax staff to administer the program.

We envision the governance being established in late November, perhaps at the annual AML conference, with full implementation in January 2020. Adoption will take time for many local governments, and members should deliberate as needed to come to resolution of adoption. The process accommodates joining at any point.

What are the benefits of taxing online sales the same as local sales

The biggest benefit is fairness:

- Fairness in funding public services in the community – the reason each municipality has a sales tax code is to be able to provide essential services for residents.
- Fairness for local merchants – the current system creates an incentive for residents to shop online, which creates additional burdens to brick and mortar stores.
- Fairness so that residents who shop online are charged the correct amount of tax – maintaining the uniqueness of each jurisdiction is important, and remote sellers can't comply with individual government codes without centralization.

“There is little logic in asking consumers who prefer to shop at local businesses to pay more toward funding public services than consumers who shop via their laptops or smartphones,” the independent Institute on Taxation and Economic Policy wrote of tax-free online shopping in a March 2018 report. “Local economies are harmed by this arrangement,” the report said, noting the competitive disadvantage it creates for “businesses that hire local residents, pay local property taxes, and otherwise contribute to the local economy.”

The numbers

Nationwide, e-commerce sales totaled more than \$500 billion in 2018, and the number is growing. Online sales totaled about 14 percent of total U.S. retail sales of \$3.6 trillion last year, according to Commerce Department estimates. The U.S. Government Accountability Office estimates that states lost about \$13 billion from the inability to fully collect taxes on online sales in 2017. The Alaska Municipal League estimates more than \$20 million in annual sales tax receipts could be at stake for those cities and boroughs with a sales tax.

National trends

A growing number of states have amended or are drafting changes to their tax codes to ensure they fairly and fully collect taxes from remote merchants selling goods online, the same as they do with local merchants. More than 20 states have adopted the Streamlined Sales and Use Tax Agreement, a common set of administrative rules and tax definitions to streamline enforcement nationwide.

The risks of doing nothing

The risks are more problems: Confusion for local consumers from erroneously collected sales taxes, further unfair competition that erodes local businesses, and lost municipal revenue as online shopping continues to grow. That is lost revenue Alaska communities cannot afford. At the same time, without centralized administration, the majority of remote sellers will not comply with local tax codes.

Alaska Intergovernmental Remote Seller Sales Tax Agreement

FINAL

October 11, 2019

Alaska Intergovernmental Remote Seller Sales Tax Agreement

This Agreement is made and entered into by the signatories representing Alaska's cities and boroughs to enable them to implement single-level, statewide administration of remote sales tax collection and remittance. The provisions of the Agreement do not apply to administration and collection of sales taxes for the sales of goods and services originating from within the boundaries of a member municipality nor does this Agreement restrict how a member municipality administers and collects sales tax on such sales, nor on sales made by those retailers with a physical presence in the municipality. The authority to set rates and exemptions is maintained by the member municipality.

Article I. Background Principles.

1. The signatories wish to enable local governments to benefit from opportunities for collection of existing sales tax on sales made by remote sellers. Remote sellers are sellers who sell, often through the internet, products or services in a taxing jurisdiction without having a physical presence in the taxing jurisdiction.
2. The collection of remote sales tax provides a level playing field for local businesses and strengthens the ability of local governments to provide public services and infrastructure.
3. The signatories are particularly mindful of the specific holding in, and implications of, the Supreme Court's *South Dakota v. Wayfair* decision, which provides guidance relative to nexus and the legal defensibility of a single-level statewide administration that reduces or removes potential burdens to interstate commerce.
4. Alaska's local governments have the authority to enter into intergovernmental agreements and applicable taxing authority has been delegated to organized boroughs and cities.
5. The signatories desire to establish an intergovernmental entity to enable cooperative centralized administration of sales tax collection, remittance, and enforcement on sales made by remote sellers.

Article II. Purpose.

The purpose of this Agreement is to:

1. Enable cooperative centralized administration of sales tax collection, remittance, and enforcement on sales made by remote sellers using a single statewide intergovernmental entity;
2. Provide for and promote reasonable uniformity and compatibility in significant components of local sales tax levy and collection on sales made by remote sellers and marketplace facilitators in order to facilitate streamlined joint administration; and
3. Facilitate taxpayer and tax collector convenience and compliance in the filing of tax returns, the payment of tax, and in other phases of tax administration of sales made and services provided by remote sellers and marketplace facilitators.

Article III. Definitions.

As used in this Agreement:

1. “Commission” means the Alaska Remote Seller Sales Tax Commission established pursuant to this Agreement.
2. “Local Government” means any home rule, first class, or second class borough, or any home rule, first class, or second class city, or unified municipality in Alaska.
3. “Member” means a Local Government signatory to this Agreement.
4. “Remote seller” means any corporation, partnership, firm, association, governmental unit or agency, or person acting as a business entity that sells property or products or performs services in the State of Alaska or a taxing municipality in the state, using the internet, mail order, or telephone, without having a physical presence in the state or taxing municipality.
5. “Sales tax” means a tax imposed with respect to the transfer for a consideration of ownership, possession, or custody of property or the rendering of services measured by the price of the property transferred or services provided.
6. “Marketplace facilitator” means a person that provides for sellers a platform to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale of the seller’s products or services (excluding lodging and rentals) 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 seller;
 - ii. Owning or operating the infrastructure, electronic or physical, or technology that brings buyers and sellers together;
 - iii. Providing a virtual currency that buyers are allowed or required to use to purchase products from the seller; or
 - iv. Software development or research and development activities related to any of the activities described in (b) of this subsection (6), if such activities are directly related to a physical or electronic marketplace operated by the person or an affiliated person;
 - 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.

Article IV. The Commission.

1. Organization and Management.

- a. The Alaska Remote Seller Sales Tax Commission (the “Commission”) is hereby established as an intergovernmental entity in the state of Alaska. It will be comprised of one designated representative from each Member, who shall have the authority to act on the Member’s behalf.
- b. Each Member will be entitled to one vote.
- c. To assist conducting business when the full Commission is not meeting, the Commission will annually elect a Board of Directors of seven members, including officers. The Board of Directors will act subject to the provisions of this Agreement and as provided in the bylaws of the Commission, as ratified by the members.
- d. No action will be binding unless approved by a majority of the Directors present at a meeting.
- e. The Commission will adopt an official logo.
- f. The Commission will hold an annual meeting rotating the location of the meeting each year, with telephonic participation provided for, in addition to scheduled regular meetings and special meetings as provided by its bylaws. Notices of special meetings must include the reasons for the meeting and the items to be considered.
- g. The Commission will elect annually, from among its members, a Chairman, a Vice Chairman, and a Secretary/Treasurer. The bylaws of the Commission shall provide for nomination and election of officers.
- h. The Commission will contract at formation for support and administrative

functions with the Alaska Municipal League (AML). The Executive Director of the AML will serve as a liaison between the Commission and AML and may appoint necessary staff support. This provision will be revisited within three years of legal formation of the Commission.

- i. The Commission may contract for supplies and professional services, and delegates to AML the same ability on its behalf.
- j. To carry out any purpose or function, the Commission may accept and utilize donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any Member or governmental entity.
- k. The Commission may establish one or more offices for the transacting of its business. Upon formation, its registered office and place of business will be the Alaska Municipal League at One Sealaska Plaza, Suite 200, Juneau, AK 99801.
- l. The Members will adopt the initial bylaws of the Commission. The Commission will make its bylaws easily accessible for Members and prospective members. The power to adopt, alter, amend or repeal bylaws is vested in the Board of Directors unless it is reserved to the Members per the bylaws. The bylaws shall contain provisions for the regulation and management of the affairs of the Commission not inconsistent with this Agreement.
- m. The Commission will provide annual reports to its members covering its activities for the preceding fiscal year. The Commission may make additional reports.

2. Committees.

- a. In furtherance of its activities, the Commission may establish advisory and technical committees by a majority vote of the membership body. Membership on a technical committee, may include private persons and public officials. Committees may consider any matter of concern to the Commission, including issues of special interest to any member and issues pertaining to collection of sales tax on behalf of members.
- b. The Commission may establish additional committees by a majority vote of the membership or Board of Directors as its bylaws may provide.
- c. Committees may not take any action but may recommend action to the Board of Directors for consideration.

3. Powers.

In addition to powers conferred elsewhere in this Agreement and in the bylaws, the Commission may:

- a. Study federal, state and local sales tax systems, and particular types of state and local taxes.

- b. Develop and recommend proposals to promote uniformity and compatibility of local sales tax laws with a view toward encouraging the simplification and improvement of local tax law and administration.
- c. Compile and publish information to support and assist members in implementing the Agreement or assist taxpayers in complying with local government sales tax laws.
- d. Do all things necessary and incidental to the administration of its functions pursuant to this Agreement, including:
 - i. Sue and be sued.
 - ii. Administer provisions of uniform sales tax ordinances pursuant to authority delegated by Members
- f. The Commission may create and adopt policies and procedures for any phase of the administration of sales tax collection and remittance in accordance with this Agreement and the Commission's bylaws, including delegated authority to administer taxation or prescribing uniform tax forms. Prior to the adoption of any policy, the Commission will:
 - 1. As provided in its bylaws, hold at least one meeting after due notice to all members and to all taxpayers and other persons who have made timely requests to the Commission for advance notice of its policy-making proceedings.
 - 2. Afford all affected members and interested persons an opportunity to submit relevant written comments, which will be considered fully by the Commission.
- g. The Commission will submit any policy adopted by it to the designated representative of all Members to which they might apply. Each such Member will in turn consider any such policy for adoption in accordance with its own laws and procedures.
- h. Amend this Agreement by majority vote of the Members.

4. Finance.

- a. At least 90 days prior to the start of a new fiscal year, the Board of Directors will adopt a budget of its estimated expenditures for the upcoming fiscal year and submit to Members.
- b. The Commission will follow a July 1 to June 30 fiscal year.
- c. The Commission's budgets must contain specific recommendations for service fees built into statewide administration. Service fees will account for direct staff and software costs, and indirect costs, as justifiable to the Board of Directors.

- d. The Commission will not pledge the credit of any member. The Commission may meet any of its obligations in whole or in part with funds available to it, provided that it takes specific action to set aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it, the Commission may not incur any obligation prior to the allocation and commitment of funds adequate to meet the same.
- e. The Commission must keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission will be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the Commission will be audited annually by a certified public accountant and the report of the audit will be included in and become part of the annual report of the Commission to Members.
- f. The accounts of the Commission will be open at any reasonable time for inspection by duly constituted officers of the Members, the State of Alaska, and by any persons authorized by the Commission.
- g. Nothing contained in this Article may be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

Article V. Membership Requirements; Remote Seller Sales Tax Code.

- 1. To obtain and retain full membership, the Local Government must submit either an Ordinance or Resolution authorizing entry into the Agreement, including to:
 - a. Designate the individual at the municipality that may execute initial binding documents on behalf of the municipality and who will be the Member’s representative on the Commission.
- 2. Once the Commission adopts its bylaws and adopts a uniform Remote Sellers Sales Tax Code, members must submit an Ordinance or Resolution that:
 - a. Delegates remote seller sales tax registration, exemption certification, collection, remittance, and audit authority to the Commission.
 - b. Within one hundred twenty (120) days, adopts, by reference or otherwise, the Remote Seller Sales Tax Code in its entirety as it pertains to collection of sales tax from remote sellers and marketplace facilitators. The Remote Seller Sales Tax Code is provided as “Addendum A”.
- 3. To retain full membership status, changes made to the Agreement or Code should be ratified by the Member within one hundred twenty (120) days of the date the Commission adopts the change.
- 4. The Member must provide notice of tax or boundary changes to the Commission and must

assure the Commission of the accuracy of rates and exemptions. Rate and exemption changes will take effect within thirty (30) days of the date the Commission receives notice of the tax or boundary change.

Article VI. Sales Tax Collection and Administration.

1. Collection; Registration; Remittance.

- a. Every remote seller and marketplace facilitator meeting the Threshold Criteria of one hundred thousand (\$100,000) in annual sales or 100 annual transactions occurring in Alaska during the current or previous calendar year, shall collect sales taxes from the buyer at the time of sale or service and shall transmit the sales taxes collected to the Commission on a monthly or quarterly basis.
- b. The Commission will remit and report to Members by the last business day of the month.
- c. 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 adoption of this Remote Seller Sales Tax Code and/or within thirty (30) calendar days of meeting the threshold, whichever occurs later. Registration shall be to the Commission on forms prescribed by the Commission as set out in the remote seller sales tax code.
- d. Upon receipt of a properly executed application, the Commission shall issue the applicant a certificate of registration, stating the legal name of the seller, the primary address, and the primary sales tax contact name and corresponding title. A list of registered sellers in good standing shall be distributed to Members, made public and available on the Commission's webpage.

2. Returns; Confidentiality.

- a. The Commission will provide all sales tax return information to the taxing jurisdiction, consistent with local tax codes.
- b. 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:
 - i. Employees and agents of the Commission and taxing jurisdiction whose job responsibilities are directly related to such returns, reports and information;
 - ii. The person supplying such returns, reports and information; or
 - iii. Persons authorized in writing by the person supplying such returns, reports and information.

3. Title; Penalty and Interest; Overpayment.

- a. Upon collection by the seller, title to the sales tax vests in the Commission and the member on whose behalf the original tax arose. The Commission shall act as a third-party trustee and remit taxes collected on behalf of the member no later than thirty (30) days after each filing deadline.
- b. The Remote Sellers Sales Tax Code shall establish the per annum interest rate and any applicable penalties for late or non-compliant remote sellers.
- c. Upon request from a buyer or remote seller 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 shall process the refund and amend any returns accordingly.

4. Audit; Compliance and Enforcement.

- a. The Commission shall have sole audit authority and will make final determinations regarding: (1) whether a remote seller or marketplace facilitator meets Threshold criteria; (2) the accuracy of returns filed by a remote seller or marketplace facilitator with the Commission; and (3) whether a remote seller or marketplace facilitator filing returns with the Commission is in compliance with collection and remittance obligations.
- b. The Commission shall have authority to enforce issues relating to the Remote Sellers Sales Tax Code including, but not limited to, the collection of late fees and penalties, and filing of civil suits and injunctions.

Article VII. Entry into Force and Withdrawal.

1. This Agreement will be in force and effective when formally approved by any seven signatories and will terminate if membership falls below seven.
2. Any Member may withdraw from this Agreement through ordinance or resolution rescinding signatory action and giving notice to the Commission of the effective date of the ordinance, with a minimum of 30 days' notice. Withdrawal will not affect any liability already incurred by or chargeable to a Member prior to the effective date of such withdrawal. The obligations of the Commission to remit and report remain until no longer necessary.

Article VIII. Effect on Other Laws and Jurisdiction.

Nothing in this Agreement may be construed to:

1. Affect the power of any local government to fix rates or tax exemptions, except that all members must adopt and implement the Commission's common definitions and tax code

changes or demonstrate parity or non-applicability.

2. Withdraw or limit the authority of local government with respect to any person, corporation, or other entity or subject matter, except to the extent that such authority is expressly conferred by or pursuant to this Agreement upon another agency or body.
3. Supersede or limit the jurisdiction of any court of the State of Alaska.

Article IX. Construction and Severability.

This Agreement shall be liberally construed so as to effectuate its purposes. The provisions of this Agreement shall be severable and if any phrase, clause, sentence, or provision is declared or held invalid by a court of competent jurisdiction, the validity of the remainder of this Agreement and its applicability to any government, agency, person or circumstance will not be affected. If any provision of this Agreement is held contrary to the charter of any member, the Agreement will remain in full force and effect as to the remaining members and in full force and effect as to the Member affected in all other provisions not contrary to charter.

**ADDENDUM A
REMOTE SELLER SALES TAX CODE & COMMON DEFINITIONS**

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, and sales tax revenues are the primary source of funding for services provided by local governments; and

WHEREAS, the failure to collect sales tax on remote sales creates market distortions by creating tax shelters 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 less 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 local infrastructure; 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 code 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, amending local sales tax codes reflects recent changes to federal law 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, the [insert name of municipality] agrees to enter 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.

NOW, THEREFORE, it is ordained as follows:

Chapter __ of the [fill in name] Code of Ordinances is hereby amended by adopting a new Chapter __ to read as follows:

Sales Made by Remote Sellers: The Alaska Remote Sellers Sales Tax Code is an ordinance prepared by the Alaska Remote Seller Sales Tax Commission and hereby adopted by reference.

DRAFT

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 (except for lodging and rentals), delivering products or services to municipalities adopting this Code.

XX.XX.020 – Title to Collected Sales Tax

Upon collection by the remote seller, title to sales tax vests in the Commission for remittance to the taxing jurisdiction. The remote seller 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 retail sales, on all sales and services made by remote sellers where delivery is made within a local taxing jurisdiction anywhere within the State of Alaska.
- B. The tax rate added to the sale price shall be the tax rate for the taxing jurisdiction where the property sold or service rendered is received.
- C. An Address/Tax Rate Database will be made available to remote sellers, indicating the appropriate tax rate to be applied.
- D. The applicable tax rate shall be added to the sales price.
- E. When a sale is made on an installment basis, the sales tax shall be collected at the time of the sale, calculated at the sales tax rate in effect at the time of the sale.

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

Any seller who does not have a physical presence in the taxing jurisdiction, or marketplace facilitator, selling property or services rendered within or delivered to the taxing jurisdiction shall collect and remit sales tax in compliance with all applicable procedures and requirements of law as if the seller had a physical presence in the taxing jurisdiction, provided the seller has met one of the following criteria (the “Threshold Criteria” or economic nexus) in the previous calendar year or the current calendar year:

1. The seller's annual statewide gross revenue, or seller's marketplace facilitator's annual statewide gross revenue, from the sale(s) of property, product or services delivered into the state meets or exceeds one hundred thousand dollars; or
2. The seller, or seller's marketplace facilitator, sold property, products, or services delivered into the state in one hundred or more separate transactions.

For purposes of determining whether the Threshold Criteria are met, sellers shall include all gross revenue, including sales made through a Marketplace Facilitator.

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 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 or service, or with respect to credit transactions, at the time of collection. It shall be the duty of each remote seller making taxable sales or providing taxable services to collect the taxes from the buyer and to hold those taxes in trust for the taxing authority. Failure by the remote seller to collect the tax shall not affect the remote seller's responsibility for payment to the Commission.

XX.XX.070 – Remote Seller Registration Requirement

If a seller's or a seller's marketplace facilitator's gross statewide sales from the previous calendar year or the current calendar year meets or exceeds the Threshold Criteria set by Section XX.XX.040, the seller shall register with the Commission.

- A. A remote seller meeting the Threshold Criteria shall apply for a certificate of sales tax registration within twenty (20) calendar days of the effective date of this Remote Seller Sales Tax Code or within twenty (20) calendar days of meeting the Threshold Criteria whichever occurs second. Registration shall be to the Commission on forms prescribed by the Commission.
- B. Upon receipt of a properly executed application, the Commission shall issue the applicant a certificate of registration, stating the legal name of the seller, the primary address, and the primary sales tax contact name and corresponding title. The failure of the Commission to issue a certificate of registration does not relieve the seller of its duty to collect and remit sales tax.
- C. Each business entity shall have a sales tax registration under the advertised name.
- D. 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.* Filing of sales tax returns are due monthly or quarterly.
- C. *Filing to be Continuous.* A remote seller who has filed a sales tax return will be presumed to be making sales in successive periods unless the remote seller files a return showing a termination or sale of the business in accordance with Section XX.XX.190.
- 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 time by the deadline indicated herein:

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 or federal or state holiday, the due date will be extended until the next business day immediately following.
- F. Any remote seller 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 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 intends to cease doing business, a final return shall be filed along with a statement of business closure.
- G. The remote seller shall prepare the return and remit sales tax to the Commission on the same basis, cash or accrual, which the remote seller uses in preparing its federal income tax return. The remote seller shall sign the return, and transmit the return, with the amount of sales tax that it shows to be due, to the Commission.
- H. Remote sellers failing to comply with the provisions of this Code shall, if required by the Commission, 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 monthly or quarterly filing status.
- I. Sales tax returns shall be accompanied by proof as to claimed exemptions or exceptions from tax herein imposed. This proof shall be reviewed and deemed satisfactory by the Commission. In the absence of proof, the claimed exemptions or exceptions from tax shall be disallowed and therefore deemed taxable. The burden of establishing any tax exemption is upon the preparer.
- J. 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 by reason of the failure of the remote seller to keep accurate books, allow inspection, or file a return, or by reason of the remote seller 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 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 seller waives the protection of this section.

- D. The Commission shall notify the remote seller, in writing, that the Commission has estimated the amount of sales tax that is due from the remote seller. The Commission shall serve the notice on the remote seller by delivering the notice to the remote seller's place of business, or by mailing the notice by certified mail, return receipt requested, to the remote seller's last known mailing address. A remote seller 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 shall become a final determination of the amount that is due unless the remote seller, 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 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 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 seller required by this chapter to collect sales tax shall file with the Commission upon forms furnished by it 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. Such other information as may be required by the Commission.
- B. Each tax return remitted by a remote seller shall be signed 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 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 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 shall process the refund and amend any returns accordingly.
- B. If the claimant is a remote seller, and the tax refund is owed to any buyer, the remote seller submits, and the Commission approves, a refund plan to all affected buyers.

X XX.XX.120. – Amended Returns

- A. A remote seller 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 provides a written justification for requesting approval of the amended return; and
 - iii. The remote seller agrees to submit to an audit upon request of the Commission.
- B. The Commission shall notify the remote seller in writing whether it accepts or rejects an amended return, including the reasons for any rejection.
- C. The Commission may adjust a return for a remote seller 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.

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

Upon written application of a seller, 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 seller's 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;
- 2. Such extension is a dire necessity for bookkeeping reasons and would avert undue hardship upon the seller;
- 3. The remote seller has a plan to cure the problem that caused the seller to apply for an extension and the remote seller agrees to proceed with diligence to cure the problem;
- 4. At the time of the application, the remote seller 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 who has established a sales tax account 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 in order to determine whether

appropriate amounts of sales tax revenue have been collected by the seller 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 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 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 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 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 seller at any reasonable hour on the premises of the remote seller and may require the attendance of any officer or employee of the remote seller. Upon written demand by the Commission, the remote seller 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 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 to comply therewith.
- H. Any remote seller 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 resulting from a remote seller's failure to accurately report sales and taxes due thereupon, the remote 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 Commission at the time of the conclusion of the audit.

XX.XX.150.- Audit protest

- A. If the remote seller wishes to dispute the amount of the estimate, or the results of an

examination or audit, the remote seller must file a written protest with the Commission, within 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 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 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, either on its own or upon request of the remote seller, and may also require that the remote seller 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 protest and mail a copy of the determination to the remote seller.
- D. If a written protest is not filed within 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 quarter or partial 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 twenty percent (20%). The penalty does not bear interest.
- D. Penalties and interest shall be assessed and collected in the same manner as the tax is assessed and collected.
- 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 accompanied by a payment of all delinquent sales tax, interest and penalty otherwise owed by the remote seller to the Commission [and taxing jurisdiction], within forty-five (45) calendar days after the date of delinquency. A remote seller 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. No repayment plan shall be valid unless agreed to by both parties in writing.
- B. A remote seller shall not be eligible to enter into a repayment plan with the Commission if the remote seller 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 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 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 (15%) percent 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 is a corporation or a limited liability entity the remote seller agrees to provide a personal guarantee of the obligations under the repayment plan.
 - v. The remote seller agrees to pay all future tax bills in accordance with the provisions of this chapter.
 - vi. The remote 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 Commission at the time the repayment plan is signed. The remote seller shall be responsible for the cost of recording the tax lien.
- D. If a remote seller fails to pay two (2) or more payments as required by the repayment plan agreement, the remote seller 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 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 Record Retention

Remote sellers engaged in activity subject to this chapter 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 is obliged to collect. Remote sellers 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 seller was obliged to collect under this chapter.

XX.XX.190. Cessation or Transfer of Business

- A. A remote seller 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 shall send to the Commission, by approved communication (email confirmation, certified first-class mail, postage prepaid) a notice that the remote seller'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 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 the sales tax code with this section highlighted.

- E. Neither the Commissioner'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 said notice, the Commission shall have sixty (60) days in which to perform a final sales tax audit and assess sales tax liability against the remote 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 later 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 in a business required to collect the tax under this chapter assumes the liability of the remote seller for all taxes due the Commission [taxing jurisdiction], 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 as of the date of the transfer, and shall withhold that amount from the consideration payable for the transfer, until the remote seller 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 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 (50) percent of the ownership interest in a remote seller that is a corporation, limited liability company or partnership; or
 - 2. A sale of substantially all the assets used in the business of the remote seller; or
 - 3. The initiation of a lease, management agreement or other arrangement under which another person becomes entitled to the remote seller'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 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.

- L. A remote seller 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 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 and/or in 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 is disclosed.
- E. Nothing contained in this section shall be construed to prohibit the delivery to a person, or his duly authorized representative, of a copy of any return or report filed by him, nor to prohibit the publication of statistics so classified as to prevent the identification of particular buyers or sellers, 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 agent of any remote seller 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 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 seller 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 registered owner 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 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 liability or to collect the sales tax, including, without limitation, reviewing and auditing the remote 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 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 believed to meet the criteria of [XX.XX.040] 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 where the remote seller has:
 - 1. Failed to file sales tax returns for two consecutive filing periods as required by the Code; or
 - 2. Failed within 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.
- 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 under XX.XX.XX.
 - 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 or remote seller 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 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 three hundred dollars (\$500).
- D. Any remote seller who fails to file a return required under this chapter within fifteen (15) calendar days of the due date, 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, and fifty dollars (\$50) for each subsequent sales tax return not timely filed within a one- (1-) year period thereafter. The filing of an incomplete return shall be treated as the filing of no return.
- E. A remote seller 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 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. The Commission may also recover attorney's fees in any action against a delinquent seller.

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

Sellers with a physical presence in the taxing jurisdiction shall report, remit, and comply with standards, including audit authority, promulgated by this chapter to the taxing jurisdiction. This section applies to all sellers with a physical presence in the taxing jurisdiction even if the seller also has taxable remote sales. If the seller with a physical presence and also remote sales delivers products or services to a buyer outside that taxing jurisdiction, the seller shall file with the Commission. If the seller does not have a physical presence, then the return for the remote sales shall be filed with the Commission.

XX.XX.240. – Definitions

Note: Adoption of definitions does not compel 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. 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].

“Alcoholic beverages” means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume.

“Booking Commissions” means monies received from contracted or subcontracted guides, and lodging or other services sold as components of a recreational package.

“Buyer” means a person to whom a sale of personal property is made or to whom a service is

furnished (see purchaser).

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

“Common carrier” means an individual or a company, which is in the regular business of transporting freight for hire. This is distinguished from a private carrier which transports its own goods and equipment, and makes deliveries of goods sold to its customers.

“Computer” means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

“Computer Software” means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

“Construction materials” means materials, goods, components, fixtures or other items that are incorporated into the construction of real property and become a permanent component of that real property.

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

“Delivery charges” means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing.”

“Drug” means a compound, substance or preparation, and any component of a compound, substance or preparation, other than “food and food ingredients,” “dietary supplements” or “alcoholic beverages:”

- A. Recognized in the official United State Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them; or
- B. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or
- C. Intended to affect the structure or any function of the body.

“Dues, Membership and Subscription” means monies paid for the purpose of membership, or qualifying or becoming eligible for goods or services, or discounts to goods or services.

“Durable medical equipment” means equipment including repair and replacement parts for same, but does not include “mobility enhancing equipment,” which:

- A. Can withstand repeated use; and
- B. Is primarily and customarily used to serve a medical purpose; and
- C. Generally is not useful to a person in the absence of illness or injury; and
- D. Is not worn in or on the body.

“Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical,

electromagnetic, or similar capabilities.

“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.

“Farming supplies” means animal food, seed, plants, fertilizers and other consumables used in an agriculture or mariculture business that sells its harvested grains, produce, meats, animal products or other farm production.

“Food” means any food or food product for home consumption except alcoholic beverages, tobacco, and prepared food. Food or food products includes, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.

“Gasoline, heating fuels and other consumable fuels” means refined petroleum and petroleum-based products used for internal combustion engines and as the primary source for residential heating or domestic hot water. This may also include other types of fossil fuels as well as fuel sources that are renewable.

“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.

“Long-term vehicle lease” means a lease of a motor vehicle, as defined below, for a period of 24 months or longer. As used herein a "motor vehicle" is a motor vehicle, as defined in AS 28.40.100(12), that is either required to be registered under AS 28.10.011, or is exempted from registration under AS 28.10.011(6) and (11). However, "motor vehicle" does not include either an "off-highway vehicle" as defined in 13 AAC 40.010(30) or a "snowmobile" as defined in 13 AAC 40.010(49).

” Manufacturing components” means sales of personal property as raw material to a person engaged in manufacturing 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.

“Marijuana accessories” means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body;

“Marketplace Facilitator” means a person that contracts with sellers to facilitate for consideration, regardless of whether deducted as fees from the transaction, the sale of the seller's products 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 seller;
 - (ii) Owning or operating the infrastructure, electronic or physical, or technology that brings buyers and sellers together;
 - (iii) Providing a virtual currency that buyers are allowed or required to use to purchase products from the 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.

“Medical equipment and supplies, and prescriptions” means all medicines, medical goods or equipment prescribed by a health care provider licensed to practice in Alaska or any other state in the United States.

“Mobility enhancing equipment” means equipment including repair and replacement parts to same, but does not include “durable medical equipment,” which:

- A. Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle; and
- B. Is not generally used by persons with normal mobility; and
- C. Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

“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 at least 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.

“Nexus” means:

1. The seller’s annual statewide gross revenue, or seller’s marketplace facilitator’s annual statewide gross revenue, from the sale(s) of property, products or services delivered into the state meets or exceeds one hundred thousand dollars; or
2. The seller, or seller’s marketplace facilitator, sold property, digital products, or services delivered into the state in one hundred or more separate transactions.

“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.

“Over the counter drug” means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The “over-the-counter-drug” label includes:

- A. A “Drug Facts” panel; or
- B. A statement of the “active ingredient(s)” with a list of those ingredients contained in the compound, substance or preparation.

“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.

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

“Point of Delivery” means the location at which 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 the seller, 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. For products transferred electronically, or other sales where the remote merchant lacks a delivery address for the purchaser, the merchant shall consider the point of delivery the sale to the billing address of the buyer.

“Precious metals” means any mineral, including but not limited to gold, silver, platinum and palladium, that has been put through a process of refining and is in such a state or condition that its value depends upon its precious metal content (such as an ingot or bar) and not its form (such as jewelry or artwork) .

“Prepared food” means:

- A. Food sold in a heated state or heated by the seller;
- B. Two or more food ingredients mixed or combined by the seller for sale as a single item; or

C. Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food.

“Prepared food” in B. does not include food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in chapter 3, part 401.11 of its Food Code so as to prevent food borne illnesses.

“**Prewritten computer software**” means “computer software,” including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more “prewritten computer software” programs or prewritten portions thereof does not cause the combination to be other than “prewritten computer software.” “Prewritten computer software” includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the specific purchaser. Where a person modifies or enhances “computer software” of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person’s modifications or enhancements. “Prewritten computer software” or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains “prewritten computer software;” provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute “prewritten computer software.”

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

“**Prosthetic Device**” means replacement, corrective, or supportive device including repair and replacement parts for same worn on or in the body to:

- A. Artificially replace a missing portion of the body;
- B. Prevent or correct physical deformity or malfunction; or
- C. Support a weak or deformed portion of the body.

“**Purchaser**” means a person to whom a sale of property is made or to whom a service is furnished (see also Buyer).

“**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 possession by a shipping company on behalf of the purchaser.

“Remote Seller” means a Seller making sales or services received or delivered within the State of Alaska, by internet, mail order, or telephone, without having a physical presence in a taxing jurisdiction, or conducting business between taxing jurisdictions.

“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 sale for any purpose other than for resale.

“Sales or Purchase price” means the total amount of consideration, including cash, credit, property, and services, for which personal property 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 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.

“Sales-Type Lease” means at lease commencement, (1) the lease transfers ownership of the underlying property, goods, or services to the lessee by the end of the lease term; (2) the lease grants the lessee an option to purchase the underlying property, goods, or services that the lessee is reasonably certain to exercise; (3) the lease term is for the major part of the remaining economic life of the underlying property, goods, or services. However, if the commencement date falls at or near the end of the economic life of the underlying property, goods, or services, this criterion shall not be used for purposes of classifying the lease; (4) the present value of the sum of the lease payments and any residual value guaranteed by the lessee that is not already reflected in the lease payments equals or exceeds substantially all of the fair value of the underlying property, goods, or services; (5) the underlying property, goods, or services is of such a specialized nature that it is expected to have no alternative use to the lessor at the end of the lease term.

“Seller” means: (1) a person making sales of property or services.

“Senior citizen” means any individual defined by a taxing jurisdiction as qualifying for an age-based exemption from sales tax.

“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 product or sale of property may be involved, including property made to order;
- C. Utilities and utility services not constituting a sale of personal property, 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.

“Software downloads” means software, applications, services and other digital programming for computers, tablets, smartphones and other electronic devices. This includes online subscriptions or purchases of news services, publications, audio books and other similar electronic versions of printed materials.

“Software maintenance contracts” means a contract that obligates a vendor of computer software to provide a customer with future updates or upgrades to computer software, support services with respect to computer software or both.

A “mandatory computer software maintenance contract” is a computer software maintenance contract that the customer is obligated by contract to purchase as a condition to the retail sale of computer software.

An “optional computer maintenance contract” is a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.

“Streaming services” means digital content provided online for on-demand consumption rather than downloadable consumption. This typically includes, but is not limited to, video and audio files.

“Tobacco” means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

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

**Bylaws
of the
Alaska Remote Sales Tax Commission**

Article I - Offices

Section 1. Registered Office

A registered office will be maintained by the Commission in the State of Alaska at One Sealaska Plaza, Suite 200, Juneau, AK 99801, or at such location as the Board of Directors designates.

Section 2. Other Offices

The Commission also may have offices at such other places as the Board of Directors determines or the business of the Commission may require.

Article II – Membership

Section 1. Qualifications

- A. To obtain and retain full membership, the legislative body of an Alaska municipality must submit either an Ordinance or Resolution requesting membership. The Ordinance or Resolution must address the following:
 - 1. Designation of individual at the municipality that may execute all binding documents on behalf of the municipality;
 - 2. Acknowledgment and agreement to follow and be bound by the Remote Sellers Sales Tax Code and the By-Laws of the Commission;
 - 3. Delegation of remote seller sales tax registration, collection, remittance, audit and collection authority to the Commission;
 - 4. Agreement to provide the Commission with notices of any changes to the Municipality's Sales Tax Code;
 - 5. Agreement to provide the Commission with notice of any boundary changes for the Municipality; and
 - 6. Agreement to cooperate in development of a joint database and mapping.

- B. To retain full membership status, a member must adopt, by reference or otherwise, the Remote Seller Sales Tax Code in its entirety as it pertains to collection of sales tax from remote sellers.

Section 2. Privileges.

- A. Voting. Members may vote.
- B. Holding Office. Members may hold office.
- C. Committees. Members may serve on a committee.

Section 3. Dues or fees

- A. Annual dues or fees for all members shall be fixed by the Board. Dues or fees shall become due and payable November 1 and are delinquent if not postmarked or submitted

electronically by December 31. Dues or fees will be billed by and remitted directly to the Executive Office of the Commission.

- B. Dues for a new member joining after August 1 shall be credited to the following year. Members whose dues are not paid by December 31 will be considered delinquent and ineligible to participate in the activities of the Commission, to include casting a vote, until the delinquency is corrected.
- C. Membership belongs to the individual municipality and may not be transferred.

Section 4. Revocation of Membership.

- A. Membership shall be revoked immediately upon the resignation of a member.
- B. A member whose dues are not paid by January 25 shall have their membership revoked.

Section 5. Membership by Alaska Municipal League

The Alaska Municipal League (AML) shall be given two (2) memberships annually at no charge. Those persons designated or approved by AML to serve as members, shall have all of the same rights and privileges as any member in good standing, including the right to vote, run for office and/or serve on a committee.

ARTICLE III - MEETINGS

Section 1. Annual Meetings.

Each year, the Commission shall hold an annual meeting of members on such date and on such time as shall be determined by the Board of Directors, at which meeting the members shall elect a Board of Directors and transact any other business as may properly be brought before the meeting.

Section 2. Location of Meetings.

Meetings of members shall be held at such place as determined by the Board of Directors. Meetings shall rotate annually between member jurisdictions, as possible.

Section 3. Special Meetings.

Special meetings of the members may be called at any time by the President or the Board of Directors, or members holding not less than ten percent (10%) of all the votes entitled to be cast at such meeting. Business transacted at any special meeting shall be confined to the purpose or purposes set forth in the notice of the special meeting.

Section 4. Notice of Meetings.

Whenever members are required to or permitted to take action at a meeting, a Written notice of the meeting shall be provided to each member of record entitled to vote at or entitled to notice of the meeting. The written notice shall state the place, date, and hour of the meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Unless otherwise provided for by law, written notice of any meeting shall be given not less than ten (10) nor more than fifty (50) days before the date of the meeting to each member entitled to vote at such meeting.

Section 5. Written Notice Defined.

Written notice shall be accomplished via first class mail or via email sent to the address or email address last provided by the member.

Section 6. Quorums and Adjournments.

Members may take action on a matter at a meeting only if a quorum exists with respect to that matter. Except as otherwise provided by law, a majority of the outstanding members of the Commission entitled to vote shall constitute a quorum at a meeting of the members. Once a member is represented at a meeting (other than solely to object to the holding of the meeting), the member is deemed present for quorum purposes for the remainder of the meeting and the members present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of sufficient members to leave less than a quorum. The holders of a majority of the outstanding members represented at a meeting, whether or not a quorum is present, may adjourn the meeting from time to time.

Section 7. Voting.

If a quorum exists, action on a matter (other than the election of directors) is approved if the votes cast favoring the action exceed the votes cast opposing the action. Directors shall be elected by a plurality of the votes cast by the members entitled to vote in the election (provided a quorum exists). Unless otherwise provided by law, each member shall be entitled to one vote on each matter.

Section 8. List of Members.

The Secretary of the Board of Directors shall prepare and make, at least ten (10) days before any meeting of the members, a complete list of the members entitled to vote at the meeting, arranged alphabetically, and showing the address of each member. The list shall be open to the examination of any member for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days before the meeting, either at a place in the city where the meeting is to be held, which place must be specified in the notice of the meeting, or at the principal offices of the Board of Directors. The list shall also be produced and kept available at the time and place of the meeting, for the entire duration of the meeting, and may be inspected by any member present at the meeting.

Section 9. Consent in Lieu of Meetings.

Any action required to be taken or which may be taken at any meeting of the members, whether annually or special, may be taken without a meeting, without prior notice, and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by the members having not less than the minimum number of votes necessary to take such action at a meeting at which all members entitled to vote were present and voted. The action must be evidenced by one or more written consents, describing the action taken, signed and dated by the members entitled to take action without a meeting, and delivered to the Commission at its registered office.

No consent shall be effective to take the Commission action referred to in the consent unless the number of consents required to take action are delivered to the Commission or to the Secretary within sixty (60) calendar days of the delivery of the earliest-dated consent.

No Prompt notice of the taking of the Commission action without a meeting by less than unanimous vote shall be given to those members who did not consent in writing.

Section 10. Meeting by Conference Call or Electronic Media.

One or more members may participate in a meeting of the members by means of a conference telephone, videoconferencing, or similar communications equipment by means of which all persons participating in the meeting can hear (and potentially see) each other. Participation in this manner shall constitute presence in person at such meeting.

For meetings held exclusively via conference call or electronic media, the following procedure must be followed: (1) notice to members of the time and locations where the meeting will be held by electronic media has been given in the same manner as if the meeting were held in a single location; (2) members in attendance can hear and have the same right to participate in the meeting as if the meeting were conducted in person; and (3) copies of pertinent reference materials, statutes, regulations and audio-visual materials are reasonably available to the members. A meeting by electronic media as provided in this Section 7 has the same legal effect as a meeting in person.

Section 11. Alaska Open Meetings Law.

All annual and special meetings of the members of the Commission, all regular and special meetings of the Board of Directors and all meetings of committees of the Board of Directors, if any, will be conducted in accordance with the Alaska open meetings law found at AS 44.62.310.

ARTICLE IV - DIRECTORS

Section 1. Powers.

The business and affairs of the Commission will be managed under the direction of, the Board of Directors of the Commission, which may exercise all such powers of the Commission and do all lawful acts and things, subject to any limitations set forth in these Bylaws or under Alaska Statutes.

Section 2. Number. Qualifications and Election.

The number of directors shall be set at seven (7). Each director shall be at least 21 years of age. Board members must be an employee or elected official of a member entity with an active membership. The directors shall be elected by the members at the annual meeting by the vote of the members eligible to vote. Each director shall be elected for a term of two (2) years, and until his or her successor shall be elected and shall qualify or until his or her earlier resignation or removal.

- A. Initial Election - Term. Upon inception of the Board of Directors, all members eligible to vote shall vote for the Board of Directors. The person who receives the greatest number of votes shall serve as the President. The three (3) members receiving the next three highest votes shall serve a term of two (2) years. The remaining three (3) vote-getters shall serve a term of only one (1) year. Thereafter, all vacancies shall be for a two (2) year term.

Section 3. Nomination of Directors

The Board of Directors may nominate candidates to stand for election as directors. Other candidates may also be nominated by any member of the Commission provided such nomination is submitted in writing to the Commission's Secretary at least thirty (30) calendar days prior to the annual meeting.

Section 4. Vacancies.

Except as otherwise provided by law, any vacancy in the Board of Directors occurring by reason of an increase in an authorized number of directors or by reason of death, withdrawal, removal, disqualification, inability to act, or resignation of a director shall be filled by a majority of directors then in office. The successor shall serve the unexpired portion of the term of his or her predecessor. Any director may resign at any time by giving written notice to the Board or the Secretary.

A. Process for Filling Vacancy.

1. The Secretary shall prepare a notice of vacancy stating that a vacancy has occurred and advising interested members as to the procedure for the filling of the vacancy.
2. Eligible members will have thirty (30) calendar days to submit nominations. Nominations shall include a letter of interest describing the nominee's interest to serve on the Board. The person submitting a letter of interest to fill a vacant board position may attach any relevant information such as a resume to his or her letter of interest.
3. The Board of Directors will meet and nominate a qualified person to fill the vacant seat. If there is not a qualified person who submitted a letter of interest to fill the vacant board seat, the Board may nominate a qualified person who has not applied for the vacant board seat. Nominations for the vacant seat shall be made by motion approved by the Board. Once all nominations are made, Board members shall cast votes simultaneously by written ballot for persons nominated. All the ballots will be collected by the Secretary who shall announce the vote of each Board member. The person who receives a majority of the votes shall fill the vacant seat.

Section 5. Compensation.

The Board of Directors shall have the authority to fix the compensation of Directors. A fixed sum and expenses of attendance may be allowed for attendance at each regular and special meeting of the Board. No such payment shall preclude any director from serving the Commission in any other capacity and receiving compensation therefor.

Section 6. Removal of Directors.

Any director or the entire Board of Directors may be removed, with or without cause, by a majority of the members eligible to vote.

Section 7. Resignation.

Any director may resign at any time by giving notice to the Board or the Secretary. Any such resignation will take effect upon receipt of such notice or at any later time specified in the notice. The acceptance of such resignation will not be necessary to make it effective, provided that the Board of Directors may reject any postdated resignation by notice in writing to the resigning director.

ARTICLE V - OFFICERS

Section 1. Positions.

The officers of the Commission shall be a President, a Vice President, a Secretary, and a Treasurer, and such other officers as the Board may from time to time appoint, and such other officers it deems advisable. Each such officer shall exercise such powers and perform such duties as shall be set forth herein and such other powers and duties as may be specified from time to time by the Board of Directors. The officers of the Commission shall be elected by the members. Each of the President and/or the Vice President may execute bonds, mortgages, and other documents under the seal of the Commission, except where required or permitted by law to be otherwise executed and except where execution thereof shall be expressly delegated by the Board to some other officer or agent of the Commission.

Section 2. President.

The President shall:

- A. Preside at all meetings;
- B. Be chair of the Board of Directors;
- C. be an ex-officio member of all committees;
- D. In the event of a vacancy in a committee chairmanship, have the power to appoint a chairperson from among the members of the committee in which the vacancy occurs or from the General membership;
- E. Appoint, subject to the approval of the Board of Directors, committee members to fill vacancies during the year;
- F. Call meetings of the Board of Directors;
- G. Arrange with the treasurer for the auditing of the account books by authorized persons (this should be performed by a person with accounting expertise, preferably an independent public accountant or CPA);
- H. Have the general powers and duties of management and supervision usually vested in the office of President of a corporation. The President will be responsible for carrying out policy directives of the Board of Directors
- I. Perform all other duties as are incident to the office or are properly required of the President by the Board of Directors.

Section 3. Vice President.

The Vice President shall:

- A. Assist the president throughout the year;
- B. Assume the duties of the president in the latter's absence;

- C. Succeed to the office of president in the event of a temporary vacancy in the office or the president's inability to perform the duties of office;
- D. Be available to the president upon the request for assistance.

Section 4. Secretary.

The Secretary shall:

- A. Keep the minutes of all regular and special meetings of the general membership and the Board of Directors;
- B. Record all the votes of the Commission and the minutes of all its transactions in a book to be kept for that purpose;
- C. Provide the president with a copy of the minutes within ten (10) business days after the meeting;
- D. Conduct such correspondence as shall be requested by the president, Board of Directors or the general membership;
- E. Be custodian of all records except financial records and committee reports;
- F. Give, or cause to be given, notice of all meetings of the members and special meetings of the Board of Directors

Section 5. Treasurer.

The Treasurer shall oversee the custody of the funds and securities of the Commission.

The Treasurer shall:

- A. Be maintain oversight of all monies of the Commission and the due payment of all authorized obligations;
- B. Ensure the filing of any necessary tax documents;
- C. Submit and review and annual treasurer's report to the Board and general membership at the annual meeting;
- D. Submit other treasurer's reports as requested by the Board of Directors;
- E. Prepare an annual budget for upcoming year and present it at an annual conference meeting;
- F. Be custodian of all financial records;
- G. Maintain the list of all eligible voting members and make the list available upon reasonable request.

ARTICLE VI – COMMITTEES

Section 1. There shall be standing and special committees.

Section 2. The standing committees shall be Conferences/Meetings, Membership, Code, and Budget and Finance.

Section 3. Special committees are appointed by the President for a special function or task and will remain active until their function is completed and/or they are dissolved upon the completion of their responsibility.

Section 4. The chairman of the standing committees shall be appointed by the President for a one-year term. Any active member is eligible to serve.

Section 5. Membership in the committee is open to any person employed by an active member.

ARTICLE VII – FINANCES

Section 1. Duty of Care.

The assets and reporting to be administered through the Administration, its officers, Directors, employees and agents will be done with the same care, skill, prudence and diligence under the circumstances then prevailing that a tax authority would use in the conduct of an enterprise of a like character and with like aims.

Section 2. Budget.

The Budget and Finance Committee shall prepare a budget for the ensuing year for approval by the Board of Directors. The budget as approved by the Board shall be provided to the General Membership for its information.

Section 3. Fiscal Year.

The fiscal year for the Commission shall be from July 1 to June 30.

Section 4. Checks, Drafts.

All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to the Commission, will be signed or endorsed by such person or persons and in such manner as determined by resolution of the Board of Directors.

Section 5. Annual Audit.

The accounts of the Commission shall be audited annually by an independent public accountant or CPA.

ARTICLE VIII - CERTIFICATES

Section 1. Form of Certificates.

Certificates for membership in the Commission will be in such form (not inconsistent with the Agreement or applicable law) as approved by the Board of Directors and will be numbered and entered in the membership books of the Commission as they are issued. Every certificate for membership will be signed by the President or a Vice President and by the Secretary or designee.

Section 2. Membership Registrars.

The Board of Directors may, from time to time, appoint one or more registrars for memberships in the Commission who will have such powers and duties as the Board of Directors will specify.

Section 3. Presumption of Membership.

The Commission will be entitled to treat the holder of record of any certificate for membership as the holder in fact of that certificate authorizing the holder to vote as such member and, accordingly, will not be bound to recognize any equitable or other claim to or interest in such membership on the part of any other person, whether or not the Commission will have express or other notice thereof, except as expressly provided by applicable law.

Section 4. Membership without Certificates.

Notwithstanding the provisions of Sections 1 through 3 of this Article VIII, the Board of Directors may, by resolution, authorize the issuance without certificates of some or all of the memberships in the Commission. The authorization does not affect memberships that are already represented by certificates until the certificates are surrendered to the Commission.

ARTICLE IX - BOOKS AND RECORDS

Section 1. Correct and Complete, Inspection.

- A. The Commission will keep correct and complete books and records of account and will keep minutes of the proceedings of its members, the Board of Directors, and committees appointed by the board, if any.
- B. All books and records of the Commission may be inspected by any member or its agent or attorney for any proper purpose at any time during normal business hours at the registered office of the Commission.

Section 2. List of Members Entitled to Vote.

The Commission will keep at its registered office a record of the names and addresses of members entitled to vote.

Section 3. Alaska Open Meetings Law.

All annual and special meetings of the members of the Commission, all regular and special meetings of the Board of Directors and all meetings of committees of the Board of Directors, if any, will be conducted in accordance with the Alaska open meetings law found at AS 44.62.310.

ARTICLE X - ADMINISTRATIVE STRUCTURE

Section 1. Executive Director, Staffing.

- A. The day-to-day operations of the Commission will be carried out by an Executive Director under the supervision of the President of the Commission. The Executive Director will carry out other tasks as assigned by the President of the Commission. The position of Executive Director of the Commission will be filled by the executive director of the Alaska Municipal League.
- B. The Executive Director of the Commission will be supported by staff of the Alaska Municipal League and such other staff as the Board of Directors may by resolution approve.

- C. The Commission will share office space and office equipment and furniture with the Alaska Municipal League in the existing offices of the Alaska Municipal League at One Sealaska Plaza, Suite 200 in Juneau, Alaska, or such other offices which the Alaska Municipal League may acquire or lease, and such other office space and office equipment and furniture as the Board of Directors may by resolution approve.
- D. The Commission will enter into agreements with the Alaska Municipal League and as adopted by the Board of Directors setting forth the terms and conditions for the implementation of and compliance with the provisions of (a), (b) and (c) of this Section 1 including but not limited to the following:
 - 1. The sharing of time and payment therefor of the individual who will be the Executive Director of the Commission and the Executive Director of the Alaska Municipal League;
 - 2. The sharing of time and payment therefor of the individuals who will be the staff of the Commission and the staff of the Alaska Municipal League;
 - 3. The sharing of office space and office equipment and furniture with the Alaska Municipal League and the payment therefor; and
 - 4. The providing of general office administrative services, and the payment therefor, by the Alaska Municipal League to the Commission not otherwise provided by a contractor or adviser.

Section 2. Use of Name, Marketing.

- A. The Alaska Municipal League will do the following:
 - 1. Assist in dissemination of information to the membership of the Alaska Municipal League and all municipalities in Alaska pertaining to the tax administration services of the Commission, prepare and publish articles in its publications on those services, arrange for meetings between its members and any contractor retained by the Commission and otherwise assist in apprising the members of the Alaska Municipal League and others of the services of the Commission.

Section 3. Fee for services.

In return for the ongoing services of the Alaska Municipal League as set forth in Sections 1 and 2 of this Article X and for the partnership with the Alaska Municipal League, the Commission will annually set a fee structure for all direct and indirect costs of the League. It is permissible for earnings from sales tax revenue while held by the Alaska Municipal League be used by the Commission to offset payment by members. Any earnings beyond those agreed to in the annual budget shall be returned to members on a pro rata basis or held in a stabilization fund. The annual budget will be established by the Board of Directors, by resolution.

ARTICLE XI – GENERAL PROVISIONS

Section 1. Indemnification.

The Commission will defend, indemnify and hold harmless each director, officer and employee of the Commission for expenses, including attorney's fees, and the amount of any judgment, money decree, fine, penalty or settlement for which he or she may become liable by

reason of his or her being or having been a director, officer or employee of the Commission or who exercises powers or performs duties for the Commission.

Notwithstanding the foregoing, no indemnification shall be made by the Commission if judgment or other final determination establishes that the potential indemnitee's acts were committed in bad faith or were the result of active or deliberate fraud or dishonesty or clear and gross negligence.

Section 2. Insurance.

The Commission shall purchase and maintain insurance in a reasonable amount on behalf of any person who is or was a director, officer, agent, or employee of the Commission against liability asserted against or incurred by such person in such capacity or arising from such person's status as such.

Section 3. Correct and Complete, Inspection.

- a. The Commission will keep correct and complete books and records of account and will keep minutes of the proceedings of its members, the Board of Directors, and committees appointed by the board, if any.
- b. All books and records of the Commission may be inspected by any member or its agent or attorney for any proper purpose at any time during normal business hours at the registered office of the Commission in Alaska.

Section 4. Roberts Rules

The rules contained in Robert's Rules of Order, Newly Revised shall govern the Commission in all cases to which they are applicable.

Section 5. Headings

The headings contained in these Bylaws are for convenience only and will not in any way affect the meaning or interpretation of these Bylaws.

ARTICLE XII – AMENDMENTS TO BYLAWS

Section 1.

These Bylaws may be amended at any meeting of the General Membership by a two-thirds (2/3) vote provided that the proposed amendments shall have been submitted in writing to the voting members at least thirty (30) calendar days prior to the meeting of the General Membership at which they will be considered.

Section 2.

These Bylaws may be amended at the annual meeting of the General Membership without previous vote by the unanimous vote of the voting body.

Section 3. Recordation

Whenever action is taken to amend or alter the Bylaws or adopt a new Bylaw, a copy of the amendment, alteration or new Bylaw will be filed and kept in the minute book with the original Bylaws. If any Bylaw is repealed, the fact of such repeal and the date on which it

occurred will be recorded in the minute book, and a copy of it will be placed next to the original Bylaws.

ARTICLE XIII - DISSOLUTION

Section 1.

In the event of dissolution of the Commission, upon payment of all outstanding obligations, all of the assets shall be distributed evenly among those members who were active, in good standing and qualified to vote at the last General Membership meeting.

Section 2.

It shall be the responsibility of the President and the Treasurer to complete all necessary federal and state forms upon dissolution. Copies of those forms will be sent to the Alaska Municipal League (AML) office.

I, the undersigned being the Secretary of the Alaska Municipal Sales Tax Administration hereby certify the foregoing to be the Bylaws of the Commission, as adopted by the Board of Directors, on the 21st day of November 2019.

Remote (Online) Sales Tax Collection

Background

- Responding to Supreme Court *Wayfair*
 - Streamlined, simplified single-level statewide administration
- AML researched potential paths forward, raised funds to advance implementation
 - Produced FAQ and additional documents
- Convened working group in June
 - Produced general agreement, drafting and governance committees
- Solicited software development proposals

Remote Sales Tax Collection

Current Status

- Intergovernmental agreement – delegates authority
 - Signatories form Commission (an intergovernmental corporation)
- Commission finalizes bylaws – establishing governance
- Draft remote sales tax code – finalized by Commission
 - To come back to members for adoption
- Draft common definitions - Included in the code
- Review and selection of software development
 - AML to contract

Remote Sales Tax Collection

Next steps

- Municipalities adopt Agreement – become members
- Incorporate Commission, register with State of Alaska
 - Finalize bylaws, Launch in November
- Commission to finalize Tax Code
 - Back to members to adopt ordinance
- AML to work on software development
 - Preview in November/ Implemented in Jan/Feb 2020
- AML to begin staffing
 - Program admin early as part of startup

Alaska Intergovernmental Remote Seller Sales Tax Agreement

Agreement Features

- Enable single-level, statewide administration of remote sales tax collection, remittance and enforcement; streamlining and simplifying for remote sellers
- Signatories become members of newly-established Commission with voting rights
- Commission to govern uniform policy, code, and definitions
- Membership agree by ordinance or resolution entry into Agreement; acknowledge and be bound by uniform code and bylaws; and delegate sales tax registration, collection, remittance, audit and collection authority to Commission
- Commission to contract with AML for implementation
- Nothing in compact restricts the power of a local government to fix rates and exemptions, nor relinquishes taxing authority

Alaska Remote Sellers Sales Tax Code

Code Features

- Collection of sales tax by remote seller is due the taxing authority
- Statewide annual threshold set at \$100,000 in sales or 100 transactions annually
- Remote seller to register with Commission
- Remittance to, and filing/reporting with Commission
- Commission to be responsible for compliance – returns, penalties and audits
- Sellers with physical presence in the taxing jurisdiction should register and remit to that taxing authority
- Common Definitions

Alaska Remote Sellers Sales Tax Commission

Bylaws Features

- Membership qualifications – signatories with authority to act on behalf of member government, delegation of tax collection
- Voting rights, meetings
- Board of directors - seven board members, including officers
- Administrative Structure – contract with AML to perform duties as assigned
- Budget and fiscal structure
- Responsible for updating the tax code and agreement, oversight

Process

Intergovernmental Agreement



Agreement for centralized administration of remote sales tax collection and remittance



- Member signatories to delegation of administration to Commission

Commission



Governance - Bylaws and Board of Directors

- Code and Definitions
- Annual Budget
- Delegation of implementation to AML



Alaska Municipal League



Staffing and contracting for central administration

- Registration and exemptions
- Software development and management
- Collection, Remittance, Audit
- Reporting

- Sales Tax Division



Commission Role

- Board to have fiduciary responsibility, and duty of care
- Oversee initial and changes to code, agreement, and definitions
- Oversee administrative implementation
- Set annual budget
- Provide oversight
- Report to members national trends or challenges
- Pursue participation in the SSUTA

AML Role

- Administrative support for Commission board and membership
- Day to day management of centralized administration
 - Software development and management
 - Tax code and boundary updates
 - Banking processes, budget and accounting
 - Registration and exemption certificates
 - Collection, remittance and reporting of sales tax revenue to members
 - Compliance and auditing
 - Legal action
- Annual reports

Budget

- AML to fund software development
- AML to place all sales taxes collected in dedicated account
- % of revenue goes to software
 - 12% 1st \$10 Million, 8% 2nd \$10 million, 4% after; renegotiate within ten years
- % of revenue goes to AML for administration – based on approved direct and indirect expenses
- Remittance and reporting to members – monthly or quarterly
- Additional data management fee collected pro rata
- Positive net revenues deposited in reserve as stabilization fund or to reduce member fees

Ensuring Success

- Government maintains taxing authority
- Government delegates administration to Commission
- Commission delegates management to AML
- AML commits to service contract, with independent governance
 - Work with board to consider potential for future enterprise
- Municipality has opt-out provision
- Legal and fiduciary responsibility lies with Commission
- Day to day operational responsibility lies with AML

Budget Narrative

Revenues

- **Revenues:** Members revenues are based on applying a national online sales average of 20% of physical sales tax revenue collected to Alaska local governments. Thus, if a local government with a sales tax is currently collecting \$1,000,000, then we would anticipate that approximately \$200,000 additional be available for collection of online sales. This will vary by community.
- **MuniRevs:** This is the software developer that has been selected based on a careful national review process. They were most able to accommodate the differences between Alaska local governments, were most affordable, and have done this before. Their fees are 12% on the first \$10 million, 8% on the second, and 4% thereafter, annually. This is how they are able to recoup the initial development costs that are kept low, and which AML is paying for as part of its match for those members who contributed to the research. We expect those rates to be renegotiated within ten years. The effective rate at \$30 million in annual revenue is around 8.5% and at \$40 million around 7.5%.
- **AML Admin Fees:** AML will provide administrative support, and this fee will come out as a pro rata percentage of member revenue, basically cost-shared, for direct and indirect costs described under expenses.
- **Annual member fee – data management:** In addition to the tax collection software, we need to ensure that sales tax boundaries are complied with. We anticipate a 3rd party software to be integrated into ours, which will match postal addresses to tax boundaries and ensure that rates and exemptions are accurate.
- ***Note:** Revenues that come in will be held in a dedicated AMLIP account. Earnings will all be applied to reducing the member fees.

Expenses

- **Software development:** AML will pay for the initial costs of software development, which will be between \$75,000 and \$100,000.
- **Data management:** Described above, a third party contract for postal address look up.
- **Staff costs –** we're anticipating initial hire of a program administrator, who early on will be responsible for a lot of the implementation. We'll add additional staff as the program is built up, to include the potential need for someone to help keep the software updated, bookkeeping/reporting, and then audit and compliance.
- **Legal fees –** expected to be contracted out until such time as it makes sense to be brought in house
- **Governance –** travel and meetings of the board of directors and membership
- **Overhead –** Accounting for indirect fees of AML, including rent, telecommunications, etc.

The budget will be presented to the board of directors for approval annually. It will be budget neutral, meaning that AML retains no overages. Any excess earnings will be applied to member fees.

Alaska Remote Sellers Sales Tax Commission: FY20 DRAFT Budget

Revenues	Q2 - FY20	Q3 - FY20	Q4 - FY20	FY20
FY20 - 10 members		\$ 2,000,000	\$ 5,000,000	\$ 7,000,000
FY21 - additional 20				
Subtotal	\$ -	\$ 2,000,000	\$ 5,000,000	\$ 7,000,000
Less Munirevs %		\$ 240,000	\$ 600,000	\$ 840,000
Subtotal	\$ -	\$ 1,760,000	\$ 4,400,000	\$ 6,160,000
AML Admin fees	\$ -	\$ 52,800	\$ 132,000	\$ 184,800
AML contribution	\$ 75,000	\$ 50,000	\$ 50,000	\$ 175,000
Annual member fee - data management	\$ -	\$ 15,000	\$ 15,000	\$ 30,000
Subtotal - revenue	\$ 75,000	\$ 117,800	\$ 197,000	\$ 389,800
Expenses				
Software development	\$ 75,000			\$ 75,000
Data management - Contract		\$ 50,000	\$ 50,000	\$ 100,000
Program manager - 1 staff (management)	\$ 20,000	\$ 30,000	\$ 30,000	\$ 80,000
Program support - 1 staff (bookkeeping)		\$ 25,000	\$ 25,000	\$ 50,000
Audit/compliance - 1 staff			\$ 25,000	\$ 25,000
Legal fees - contracted		\$ 10,000	\$ 5,000	\$ 15,000
Governance - support, travel		\$ 10,000	\$ 10,000	\$ 20,000
Subtotal expense	\$ 95,000	\$ 125,000	\$ 145,000	\$ 365,000
Overhead @8%		\$ 10,000	\$ 11,600	\$ 21,600
Total expense	\$ 95,000	\$ 135,000	\$ 156,600	\$ 386,600
Balance	\$ (20,000)	\$ (17,200)	\$ 40,400	\$ 3,200