

By: Finance Department
Adopted: August 28, 2017
Yes: Burney, Dryden, Graham, Harvey, Ledford, O'Barr
No: None
Absent: None

**City of Wasilla
Resolution Serial No. 17-24**

A Resolution Of The Wasilla City Council Authorizing The Mayor To Execute An Agreement With The Greater Wasilla Chamber Of Commerce For The Lease Of The Wasilla Depot Building In The Amount Of \$500 For Five (5) Years.

WHEREAS, the City may lease space in a public building to a government agency or nonprofit organization providing a public service; and

WHEREAS, the Greater Wasilla Chamber of Commerce contributes to the area by sponsoring annual community events, providing a forum for local businesses, and by marketing the community to visitors, new businesses; and potential new residents; and

NOW, THEREFORE, BE IT RESOLVED, that the Wasilla City Council authorizes the Mayor to execute an agreement with The Greater Wasilla Chamber of Commerce for the lease of the Wasilla Depot Building in the amount of \$100 for each year with a total five (5) year term (\$500).

ADOPTED by the Wasilla City Council on August 28, 2017.



BERT L. COTTLE, Mayor

ATTEST:



JAMIE NEWMAN, MMC, City Clerk

[SEAL]

WASILLA

• ALASKA •





CITY COUNCIL LEGISLATION STAFF REPORT

Resolution Serial No. 17-24: A Resolution Of The Wasilla City Council Authorizing The Mayor To Execute An Agreement With The Greater Wasilla Chamber Of Commerce For The Lease Of The Wasilla Depot Building In The Amount Of \$500 For Five (5) Years.

Originator: April Dwyer, Purchasing/Contracting Officer

Date: 8/2/2017

Agenda of: 8/28/2017

Route to:	Department Head	Signature	Date
	Chief of Police		
X	Public Works Director		8/14/17
	Recreation & Cultural Services Director		
X	Finance Director		8-11-17
X	Deputy Administrator		8/11/17
X	City Clerk		8/22/17

Reviewed by Mayor Bert L. Cottle:

 8/12/2017

Fiscal Impact: yes or no

Funds Available: yes or no

Account name/number:

Rents & Royalties 001.4300.362.11.00 \$500

Attachments: Resolution Serial No. 17-24 (1 page)
Lease (14 pages)

Summary Statement: In accordance to Wasilla Municipal Code (WMC) 5.32.115 A, the City may lease space in a public building to a government agency or nonprofit organization providing a public service. The Greater Wasilla Chamber of Commerce (Chamber) meets both criteria. This lease agreement is for the use of the Wasilla Depot Building located at 415 East Railroad Avenue. The building is to be used as office space to support Chamber activities. The Chamber has provided a service to the public and local business community through its activities at this location since 1987.

In addition to the \$100 per year lease payment, the Chamber will provide an annual membership for each year of the lease term.

Recommended Action: Adopt resolution 17-24

SUBLEASE OF ALASKA RAILROAD DEPOT BUILDING

SUBLEASE, dated as of September 1, 2017, ("Sublease") between the City of Wasilla, an Alaska municipal corporation ("Sublessor"), whose address is 290 East Herning Avenue, Wasilla, Alaska 99654, and Greater Wasilla Chamber of Commerce, an Alaska nonprofit corporation ("Sublessee"), whose address is 415 East Railroad Avenue, Wasilla, Alaska, 99654.

RECITALS

WHEREAS, Sublessee is a nonprofit corporation formed for the purpose of providing a public service, and this Sublease is in furtherance of that public purpose, which benefits the City of Wasilla and its residents; and

WHEREAS, Sublessor owns the Wasilla Depot Building ARR Bldg. No. 160-01 and leases the following property from the Alaska Railroad Corporation ("ARRC") under a Lease dated as of September 30, 1982 between Sublessor and ARRC, Contract No. 69-25-003-5480, as amended by Supplement No. 1 dated December 29, 1982, Supplement No. 2 dated April 20, 1993, and Supplement No. 3 dated November 13, 2015 (together, "ARRC Lease"):

The north 45 feet of the southerly 85 feet of the Railroad's mainline track right-of-way from the east right-of-way line of the State of Alaska crossing at track Survey Station 5662+12.60, Milepost 159.87 (Main Street extended) east to a point 150 feet east of the east side of the Alaska Railroad's Wasilla Depot Building.

WHEREAS, Sublessee has applied to Sublessor to Sublease the Premises for the purposes described herein; and

WHEREAS, Sublessor is authorized by WMC 5.32.115, A to lease property to a nonprofit corporation formed for the purpose of providing a public service that benefits the City of Wasilla and its residents; and

WHEREAS, the Council of Sublessor has determined that the purpose for which Sublessee has applied to Sublease the Property will provide a public benefit to the City of Wasilla and its residents.

AGREEMENT

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

ARTICLE I
DEFINITIONS; REPRESENTATIONS AND WARRANTIES

Section 1.01 Definitions. The terms defined in this Section shall have the following meanings when used in this Sublease, including the Recitals above:

“Business Day” means any day that is not a Saturday, Sunday or other day on which the offices of Sublessor are authorized or required by law to be closed.

"Council" means the general legislative authority of Sublessor, as the same may be constituted from time to time.

“Event of Default” means any of the events described in Section 9.01.

“Force Majeure” means, without limitation, any of the following: acts of God, strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State of Alaska or any of their departments, agencies or officials, or any civil or military authority; insurrections, riots, landslides, earthquakes, fires, storms, droughts, floods, explosions, breakage or accident to machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of Sublessee.

"Premises" means the real property and improvements described as such in the Recitals.

"Sublease" means this Sublease, as amended from time to time.

“Sublessee” means Greater Wasilla Chamber of Commerce, an Alaska nonprofit corporation, and its permitted successors and assigns.

“Sublessor” means the City of Wasilla, a municipal corporation of the State of Alaska.

"Term" means the duration of the Sublease of the Premises to Sublessee as set forth in Section 2.01, and any extension thereof pursuant to Section 2.02.

Section 1.02 Representations and Warranties of Sublessor. Sublessor warrants, covenants and represents that it is a municipal corporation in good standing under the laws of the State of Alaska with full corporate power and authority to carry out its business as now conducted and to enter into this Sublease, the execution and delivery of this Sublease have been authorized by proper corporate action, and this Sublease constitutes a valid and legally binding obligation of Sublessor.

Section 1.03 Representations and Warranties of Sublessee. Sublessee warrants, covenants and represents that it is a nonprofit corporation in good standing under the laws of the State of Alaska with full corporate power and authority to carry out its business as now conducted and to enter into this Sublease, the execution and delivery of this Sublease have been authorized by proper corporate action, and this Sublease constitutes a valid and legally binding obligation of Sublessee.

ARTICLE II
SUBLEASE OF THE PREMISES; TERM

Section 2.01 Sublease of the Premises; Term. Sublessor leases to Sublessee, and Sublessee leases from Sublessor, the Premises, subject to the terms and conditions of this Sublease, for a Term commencing on September 1, 2017, and expiring on August 31, 2022. The lease term may expire upon 30 days written notice, if the building is relocated.

Section 2.02 Options to Renew. Subject to the remainder of this Section, Sublessee shall have the option to renew this Sublease for the original term if the building is relocated, and for one additional five (5) year period on all of the same terms and conditions. Each option to renew shall be subject to all of the following conditions:

A. Sublessee shall give Sublessor written notice of the exercise of each option not less than one year before the expiration of the current Term;

B. At the time Sublessee gives Sublessor written notice of the exercise of the option, and at all times thereafter through the end of the current Term, no Event of Default, or event which, with the giving of notice or the passage of time, would constitute an Event of Default, shall have occurred; and

C. There has been no finding by the Council that the exercise of the option would conflict with another use of the Premises that the Council has found clearly and convincingly to serve the public interest better than Sublessee's continued use of the Premises pursuant to the exercise of the option.

Section 2.03 Subdivision Requirements. In the event that the length of the Term of this Sublease causes the Premises to be subject to subdivision plat approval by the Matanuska-Susitna Borough, the parties agree to negotiate in good faith the allocation of the costs of obtaining such subdivision plat approval so that each party bears half of that cost, in cash or in kind, or some combination thereof.

Section 2.04 Termination.

A. Either Sublessor or Sublessee may terminate this Sublease for any reason upon thirty (30) days written notice prior to the date such termination is effective.

B. In addition to any right of Sublessor to terminate this Sublease under Article IX upon the occurrence of an Event of Default, Sublessor may terminate this Sublease without liability to Sublessee by written notice to Sublessee upon the occurrence of any of the following:

1. Termination of the ARRC Lease by ARRC.
2. Sublessee has failed to use the Premises for the uses specified in Section 5.01 for a period of thirty (30) consecutive days.

3. The Council fails to appropriate, budget, or otherwise make available sufficient funds for Sublessor's performance under the ARRC Lease or this Sublease.
4. The building is relocated and cannot be occupied during the relocation period.

Section 2.05 Holding Over. If Sublessee shall, with the written consent of Sublessor, hold over after the expiration of this Sublease, such tenancy shall be a month-to-month tenancy for an indefinite period of time, which tenancy may be terminated as provided by the laws of the State of Alaska. During such tenancy, Sublessee agrees to pay to Sublessor the rent provided herein unless a different rate is agreed upon, and to be bound by all of the terms, covenants and conditions as set forth herein so far as applicable.

ARTICLE III CONDITION OF PREMISES; QUIET ENJOYMENT

Section 3.01 Condition of Premises at Commencement of Term. Sublessee has had the use and possession of the Premises as its sublessee continuously since 1987. As a result of that use and possession, Sublessee has knowledge of the condition of the Premises that is superior to that of Sublessor, and Sublessee has had sufficient opportunity to become familiar with the condition of the Premises to Sublessee's satisfaction, including without limitation the opportunity to make such inspections and tests of the condition of the Premises as Sublessee has considered appropriate. Sublessee and Sublessor therefore agree that Sublessee is subleasing the Premises "as is," that is, in its condition as of the date the Term commences.

Section 3.02 Disclaimer of Warranties. SUBLESSOR MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF THE PREMISES. In no event shall Sublessor be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Sublease, or the existence, furnishing, functioning or Sublessee's use of, the Premises.

Section 3.03 Quiet Enjoyment. Except as this Sublease provides otherwise, during the Term Sublessee shall have quiet enjoyment of the Premises.

ARTICLE IV RENT

Section 4.01 Rent. Sublessee shall pay Sublessor as rent for the Premises the sum of One Hundred Dollars (\$100.00) per year in advance on the first Business Day in September, plus provide Sublessor an annual membership in the Greater Wasilla Chamber of Commerce at no cost for each year during the Term. In light of the nominal amount of rent payable by Sublessee, Sublessee recognizes and agrees that its other obligations hereunder constitute additional consideration for its use of the Premises.

ARTICLE V
COVENANTS OF SUBLESSEE

Section 5.01 Sublessee's Use of the Premises. Sublessee shall use the Premises for the following purposes and for no others without Sublessor's prior written consent:

- A. Greater Wasilla Chamber of Commerce business offices;
- B. A historical display of authentic railroad equipment, memorabilia, photos and similar items;
- C. A community conference room available to nonprofit and civic organizations during Sublessee's regular business hours, subject to Section 5.02;
- D. A small gift shop featuring merchandise made in the Matanuska Susitna Valley; and
- E. Other uses similar to those described above that are consistent with the Mission Statement of Sublessee set forth in Exhibit A attached hereto.

Section 5.02 Use of Premises by Nonprofit and Civic Organizations. Sublessee shall limit any fee that it charges a nonprofit or civic organization for using the Premises to the amount that is necessary to reimburse Sublessee for its actual building operation and maintenance costs attributable to the use by the nonprofit or civic organization. Sublessee shall restrict the use of the Premises by any nonprofit or civic organization to activities directly related to the public service purposes of Sublessee. Without limiting the generality of the foregoing, Sublessee shall not permit any nonprofit or civic organization to use or occupy the Premises for any profit-making activity, unless the activity clearly is incidental to the nonprofit purpose of the organization.

Section 5.03 Use of Premises by Sublessor. Sublessee shall permit Sublessor to use the Premises upon request for activities of or sponsored by Sublessor, so long as the activities do not unduly conflict with the normal and general operations of Sublessee on the Premises.

Section 5.04 Sublessee's Performance of ARRC Lease Obligations. Except for the obligation to pay rent, Sublessee hereby assumes and agrees to perform all of Sublessor's obligations under the ARRC Lease, and to comply with all covenants of Sublessor under the ARRC Lease. Without limiting the generality of the foregoing, Sublessee specifically acknowledges and agrees to the following terms of the ARRC Lease:

- A. The ARRC lease requires the lessee to provide office space on the Premises for ARRC if ARRC has a requirement for such space.
- B. ARRC may terminate the ARRC Lease on 90 days' written notice.
- C. Plans for modifications or alterations to the Premises must be submitted to ARRC for its approval.

D. The lessee under the ARRC Lease is required to permit ARRC passengers to use the premises while waiting for trains to arrive.

E. The ARRC Lease requires the lessee to indemnify ARRC from certain claims and liability.

F. The ARRC Lease requires the lessee to comply with certain federal anti-discrimination requirements.

Section 5.05 Compliance with Laws and other Requirements. Sublessee shall comply at all times with any and all federal, state and municipal statutes, ordinances, rules, regulations and judicial and administrative decisions governing the Premises or Sublessee's use of the Premises. Sublessee shall not do, bring or keep anything in or about the Premises that will cause a cancellation of any insurance covering the Premises. Sublessee shall not commit any waste upon the Premises, or permit any nuisance upon the Premises.

Section 5.06 Maintenance of the Premises.

A. Sublessee at its cost shall maintain the Premises and all of Sublessee's personal property on the Premises in good condition, reasonable wear and tear and ordinary use excepted, keeping the Premises and the areas adjacent thereto in good, safe condition, free from trash and debris. Sublessor shall not have any responsibility to maintain the Premises. Without limiting the generality of the foregoing, Sublessee's maintenance obligation includes cleaning and trash removal; sweeping and waxing floors and cleaning carpets as needed; removing snow and ice from walkways, steps, driveways and parking areas; maintaining in good working order and repair all plumbing, heating and electrical fixtures and equipment; and protecting plumbing fixtures and equipment from freezing.

B. In addition to maintaining the Premises as required by Subsection A of this section, Sublessee shall make at its own expense the capital improvements to the Premises that Sublessee submits to Sublessor in a written plan approved by Sublessor, which shall include without limitation the following:

1. Interior painting, interior door and trim replacement, and repair of interior cabinets, countertops and interior floors.
2. Exterior painting, roofing replacement or repair.
3. Heating system upgrades.
4. Repair and replace electrical outlets and covered electrical equipment, including upgrades to meet requirements of the National Electrical Code.
5. Replace or repair exterior doors and windows as required.

6. Replace, repair and paint exterior handicap ramps and railings.

Section 5.07 Alterations of the Premises.

A. Sublessee shall not construct any alterations or additions to the Premises without first submitting a plan or sketch thereof to ARRC for approval, and providing copies of the plan or sketch and the written approval of ARRC to Sublessor. Sublessee shall construct any alterations or additions to the Premises in strict compliance with the plan or sketch approved by ARRC. All alterations or additions to the Premises also are subject to approval as required by WMC Title 16, and shall comply with locally adopted codes applicable to the construction and to the Secretary of the Interior's Standards for Historical Properties.

B. Review and approval by Sublessor of Sublessee's construction plans is solely for the benefit of Sublessor, and by doing so Sublessor assumes no liability to Sublessee. As between Sublessor and Sublessee, Sublessee shall be solely responsible for the conformity of any construction by Sublessee to applicable laws, regulations and ordinances.

C. Sublessee, at its sole cost, shall obtain all permits required by federal, state or municipal agencies for any construction on the Premises.

D. Sublessee may not commence any construction on the Premises until five (5) Business Days after Sublessor has received notice from Sublessee stating the date the construction is to commence, so that Sublessor can post and record an appropriate notice of nonresponsibility.

E. Sublessee shall require all contractors for construction on the Premises to furnish performance and payment bonds to the extent required by A.S. 36.25.010, and provide copies of the bonds to Sublessor at least ten (10) working days before construction commences; provided that if the cost of the work is less than \$50,000, Sublessor may require in lieu of performance and payment bonds, another form of performance guaranty acceptable to Sublessor.

F. Sublessee shall not permit to be enforced against the Premises any mechanic's or materialman's lien arising from any work of improvement, however such lien may arise. However, Sublessee may in good faith and at Sublessee's own expense contest the validity of any such asserted lien, claim, or demand, provided Sublessee has furnished the bond required in A.S. 34.35.072 (or any comparable statute hereafter enacted providing for a bond freeing the Premises from the effect of such a lien claim). Sublessee shall defend and indemnify Sublessor against all liability and loss of any type arising out of work performed on the Premises by Sublessee, together with reasonable attorneys' fees and all costs and expenses incurred by Sublessor in negotiating, settling, defending, or otherwise protecting against such claims. On completion of any substantial construction on the Premises, Sublessee shall file a notice of completion. Sublessee hereby appoints Sublessor as Sublessee's attorney-in-fact to file the notice of completion upon Sublessee's failure to do so after the construction has been substantially completed

G. Any alternation or addition to the Premises made by Sublessee shall remain as part of the Premises, and upon termination of this Sublease shall become the property of Sublessor.

Section 5.08 Liens and Encumbrances; Taxes. Sublessee shall keep the Premises free and clear of all assessments, encumbrances, charges, or liens created by or arising through Sublessee. Sublessee shall pay when due all taxes lawfully assessed or levied against or with respect to the Premises. Sublessee need not discharge any such tax, assessment, encumbrance, charge, or lien against the Premises so long as Sublessee in good faith diligently contests the tax, assessment, encumbrance, charge, or lien, or defends enforcement thereof in legal proceedings which operate to prevent its enforcement against the Premises or any part thereof.

Section 5.09 Utilities. Sublessee shall make all arrangements for, and pay for the installation or connection of, all utilities and services furnished to the Premises, including without limitation trash collection, sewer, water, gas, electricity, light, heat, telephone and cable television, and shall pay all utility and other charges incurred in the operation, maintenance, use or occupancy of the Premises.

Section 5.10 Access. Sublessee shall grant Sublessor and its authorized representatives the right to enter the Premises at all reasonable times for any of the following purposes:

- A. To determine whether the Premises are in good condition and whether Sublessee is complying with its obligations under this Sublease.
- B. To maintain or secure the Premises upon Sublessee's failure to do so.
- C. To serve, post, or keep posted any notices required or allowed under the provisions of this Sublease.

Section 5.11 Cooperation to Secure Grants. Subject to the sole discretion of the Council to seek or appropriate funds for such purpose, Sublessee shall cooperate with Sublessor in applying grants to upgrade and renovate the Premises. Sublessee's duty is limited to a duty of cooperation so as to support and not interfere with or impede the reasonable actions undertaken by Sublessor to secure such grants.

ARTICLE VI INDEMNITY AND INSURANCE

Section 6.01 Insurance. During the Term, Sublessee at its cost will maintain the following minimum amounts of insurance coverage:

- A. Comprehensive or Commercial General Liability Insurance shall cover all operations by or on behalf of Sublessee and provide insurance for bodily injury and property damage liability including coverage for: premises and operations; products and completed operations; contractual liability insuring obligations assumed under Section 6.04; broad form property damage; and personal injury liability. The minimum limits of liability shall be:

1. If Sublessee carries a Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury, property damage and Personal Injury Liability of \$1,000,000 each occurrence; \$1,000,000 aggregate.

2. If Sublessee carries a Commercial General Liability policy, the limits of liability shall not be less than \$1,000,000 each occurrence (Combined Single Limit for bodily injury and property damage); \$1,000,000 for Personal Injury Liability; \$1,000,000 aggregate for Products-Completed Operations; and \$1,000,000 general aggregate.

B. Insurance against loss or damage to the contents of the Premises and loss of use of the Premises, in amounts to be determined by Sublessee, all such risk of loss being borne by Sublessee.

C. Worker's Compensation Insurance as required by law covering all employees of Sublessee who work at the Premises;

D. Business Auto Liability Insurance for all owned, hired and non-owned vehicles with a minimum limit of \$1,000,000 combined single limit bodily injury and property damage.

Section 6.02 Insurers; Policy Forms and Loss Payees. All insurance required by Section 6.01 shall be carried by insurers having policyholder ratings no lower than "A" in the Best's Insurance Guide, latest edition in effect as of the date of this Sublease, and subsequently in effect at the time of renewal of such insurance during the Term. All policies evidencing insurance will be in the usual form and shall name Sublessor as an additional insured or loss payee. Each policy shall contain a provision that the insurer shall not cancel or substantially modify the policy provisions without first giving written notice thereof to Sublessor at least 30 days in advance of such cancellation or substantial modification. The limits and coverages required in Section 6.01 do not limit Sublessee's obligation to indemnify under Section 6.04. Certificates of insurance acceptable to Sublessor shall be filed with Sublessor. Sublessor's acceptance of a deficient certificate of insurance does not waive any insurance requirement in this Sublease.

Section 6.03 Waivers of Subrogation. If permitted by Sublessor's and Sublessee's insurance companies without penalties, Sublessor and Sublessee waive all rights against each other and any of their officers and employees, for damages caused by fire or other perils to the extent of actual recovery of any insurance proceeds under any property insurance applicable to the Premises. The policies of insurance required by this Sublease shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person even though that person would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person had an insurable interest in the property damaged.

Section 6.04 Indemnification of Sublessor. Sublessee shall indemnify, defend and save harmless Sublessor, and its present and former officers and employees, from any and all liability and damages, and against and from any and all actions, claims and demands of every kind, by or on behalf of any person, arising out of or pertaining in any way to the use, occupation, operation,

condition, maintenance, repair or alteration of the Premises, or any accident, injury or damage occurring in, on or about the Premises or in, on or about the streets, sidewalks, curbs or yards in front of or adjacent to the Premises, or arising out of any failure of Sublessee to comply with the terms of this Sublease.

ARTICLE VII DESTRUCTION; CONDEMNATION

Section 7.01 Damage to or Destruction of Premises.

A. Subject to Subsection B of this Section, if the Premises are totally or partially destroyed during the Term, rendering the Premises totally or partially inaccessible or unusable, Sublessor shall restore the Premises to substantially the same condition as they were in immediately before destruction, and such destruction shall not terminate this Sublease.

B. Sublessor shall have no obligation to restore the Premises under Subsection A of this Section, if:

1. Existing laws do not permit the restoration;
2. The remainder of the Term does not exceed the greater of one year and twenty percent (20%) of the entire Term;
3. Sublessor determines that the restoration of the Premises cannot be completed within 90 days; or
4. Sublessor determines that the cost of restoration will exceed the amount of net proceeds received from insurance that Sublessor maintains under the ARRC Lease.

C. Sublessor shall give Sublessee notice of its election not to restore the Premises under Subsection B of the Section within 30 days after the date of destruction. Upon Sublessor's election not to restore the Premises, either party may terminate this Sublease by notice to the other party.

D. In case of destruction there shall be an abatement or reduction of rent between the date of destruction and the date of completion of restoration, based on the extent to which the destruction interferes with Sublessee's use of the Premises.

Section 7.02 Condemnation. If all or any part of the Premises is taken under the power of eminent domain, or if Sublessor sells or transfers all or any part of the Premises under threat of condemnation, and the taking, sale or transfer renders the Premises totally or partially inaccessible or unusable, this Sublease shall terminate on the date of the taking, sale or transfer. Sublessor may retain the condemnation award or consideration for sale or transfer.

ARTICLE VIII ASSIGNMENT

Section 8.01 Consent Required for Assignment. Sublessee shall not voluntarily assign or encumber its interest in this Sublease or in the Premises, or sublease all or any part of the Premises, without first obtaining Sublessor's written consent, which Sublessor may grant or withhold in its sole discretion. This prohibition includes, without limitation, (i) any subletting or assignment which would otherwise occur by operation of law, merger, consolidation, reorganization, transfer or other change of Sublessee's corporate or proprietary structure; (ii) an assignment or subletting to or by a receiver or trustee in any Federal or state bankruptcy, insolvency, or other proceedings; or (iii) the sale, assignment or transfer of all or substantially all of the assets of Sublessee, with or without specific assignment of this Sublease. Consent by Sublessor to any assignment or subletting shall not constitute a waiver of the requirement for such consent to any subsequent assignment or subletting.

Section 8.02 Acceptance of Rent from Transferee. The acceptance by Sublessor of the payment of rent following any assignment or other transfer prohibited by this Article shall not be deemed to be a consent by Sublessor to any such assignment or other transfer nor shall the same be deemed to be a waiver of any right or remedy of Sublessor hereunder.

ARTICLE IX DEFAULT

Section 9.01 Events of Default Defined. Each of the following shall be an "Event of Default" or "Default" hereunder:

- A. Failure to pay rent when due, if the failure continues for five (5) days after Sublessor gives notice to Sublessee.
- B. Abandonment and vacation of the Premises (failure to occupy and operate the Premises for ten (10) consecutive Business Days shall constitute an abandonment or vacation).
- C. Failure to perform any other provision of this Sublease for a period of thirty (30) days after Sublessor gives Sublessee notice specifying the failure to perform; provided that if the failure cannot be cured in thirty (30) days, Sublessee shall not be in default if Sublessee commences within the thirty (30) day period and proceeds diligently to cure the failure.
- D. Sublessee shall (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Sublessee or of all or a substantial part of the assets of Sublessee, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable federal bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against Sublessee in any bankruptcy, reorganization or insolvency proceeding.

E. An order, judgment or decree is entered by any court of competent jurisdiction, approving a petition for or appointing a receiver, trustee, custodian or liquidator of Sublessee or of all or a substantial part of the assets of Sublessee, in each case without its application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of sixty (60) consecutive days.

The provisions of this Section are subject to the limitation that if by reason of force majeure Sublessee is unable in whole or in part to perform its obligations under this Sublease, Sublessee shall not be deemed in default during the continuance of such inability.

Section 9.02 Sublessor's Remedies. Upon the occurrence and continuance of an Event of Default, Sublessor, without notice to Sublessee in any instance (except where expressly provided for below or required by law) may do any one or more of the following:

A. With or without judicial process, enter the Premises and take possession of any and all goods, inventory, equipment, fixtures and all other personal property of Sublessee situated in the Premises without liability for trespass or conversion, and may sell all or any part thereof at public or private sale. Sublessee agrees that five (5) days' prior notice of any public or private sale shall constitute reasonable notice. The proceeds of any such sale shall be applied, first, to the payment of all costs and expenses of conducting the sale or caring for or storing said property, including all attorneys' fees; second, toward the payment of any indebtedness, including without limitation indebtedness for rent, which may be or may become due from Sublessee to Sublessor; and third, to pay Sublessee, on demand in writing, any surplus remaining after all indebtedness of Sublessee to Sublessor has been fully paid.

B. Perform, on behalf and at the expense of Sublessee, any obligation of Sublessee under this Sublease which Sublessee has failed to perform and of which Sublessor shall have given Sublessee notice, the cost of which performance by Sublessor, together with interest thereon from the date of such expenditure, shall be payable by Sublessee to Sublessor upon demand.

C. Elect to terminate this Sublease and the tenancy created hereby by giving notice of such election to Sublessee, and may reenter the Premises, without the necessity of legal proceedings, and may remove Sublessee and all other persons (if Sublessee is still in possession) and property from the Premises, and may store such property in a public warehouse or elsewhere at the cost of and for the account of Sublessee without resort to legal process and without Sublessor being deemed guilty of trespass or becoming liable for any loss or damage occasioned thereby.

D. Exercise any other legal or equitable right or remedy which it may have.

Any costs and expenses incurred by Sublessor (including without limitation attorneys' fees) in enforcing any of its rights or remedies under this Sublease shall be repaid to Sublessor by Sublessee upon demand.

Section 9.03 Nonwaiver of Breach. The failure of Sublessor to insist upon strict performance of any of the covenants and agreements of this Sublease or to exercise any option herein

conferred in any one or more instances shall not be construed to be a waiver or relinquishment of any such breach, or any other covenants or agreements, and the same shall remain in full force and effect.

ARTICLE X GENERAL PROVISIONS.

Section 10.01 Notices. Notice shall be sufficiently given hereunder when delivered or mailed by registered or certified United States mail, postage prepaid, to the other party at the address set forth on the first page of this Sublease (or at such other address as either party from time to time shall designate in writing to the other).

Section 10.02 Binding Effect. This Sublease shall be binding upon Sublessor and Sublessee and their respective successors and assigns, and shall inure to the benefit of Sublessor and Sublessee and their respective permitted successors and assigns

Section 10.03 Severability. If a court of competent jurisdiction finds any provision of this Sublease to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validly; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Sublease in all other respects shall remain valid and enforceable.

Section 10.04 Sublessor's Waivers and Consents. Sublessor shall not be deemed to have waived any rights under this Sublease unless such waiver is given in writing and signed by Sublessor. No delay or omission on the part of Sublessor in exercising any right shall operate as a waiver of such right or any other right. A waiver by Sublessor of a provision of this Sublease shall not prejudice or constitute a waiver of Sublessor's right otherwise to demand strict compliance with that provision or any other provision of this Sublease. No prior waiver by Sublessor, nor any course of dealing between Sublessor and Sublessee, shall constitute a waiver of any of Sublessor's rights or of any obligations of Sublessee as to any future transactions. Whenever the consent of Sublessor is required under this Sublease, the granting of such consent by Sublessor in any instance shall not constitute continuing consent in subsequent instances where such consent is required, and in all cases such consent may be granted or withheld in the sole discretion of Sublessor.

Section 10.05 Amendments. No amendment to this Sublease shall be effective unless made in a writing signed by the party or parties to be charged or bound by the amendment.

Section 10.06 Execution in Counterparts. This Sublease may be executed simultaneously in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 10.07 Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Alaska.

Section 10.08 Captions. The captions or headings in this Sublease are for convenience only and are not to be used to interpret or define the provisions of this Agreement.

Section 10.09 Entire Agreement. This Sublease is the full, final and complete expression of the parties' agreement regarding the subject matter contained herein. This Sublease supersedes all prior or contemporaneous oral or written agreements between the parties with respect to the subject matter of this Sublease.

Section 10.10 Exhibits--Incorporation in Sublease. All exhibits referred to are attached to this Sublease and incorporated by reference.

IN WITNESS WHEREOF, the undersigned have executed this Sublease as of the date first set forth above.

**SUBLESSOR:
CITY OF WASILLA**

**SUBLESSEE:
GREATER WASILLA CHAMBER OF
COMMERCE**

Bert L. Cottle, Mayor
