AGENDA
FOR THE REGULAR
CITY COUNCIL MEETING
FOR THE CITY OF THORNE BAY
CITY HALL COUNCIL CHAMBERS,
TUESDAY, July 3, 2018
@ 6:30 P.M.

The meeting will be preceded by a workshop beginning at 6:00 p.m.

1. CALL TO ORDER:
2. PLEDGE TO FLAG:
3. ROLL CALL:
4. APPROVAL OF AGENDA:
5. MAYOR’S REPORT:
6. ADMINISTRATIVE REPORTS:
   City Administrator & City Clerk Report:
7. PUBLIC COMMENTS:
8. COUNCIL COMMENTS:
9. NEW BUSINESS:
   A. Approval of MOU between the City of Thorne Bay and Klawock EMS; Agreement would place Klawock EMS as Emergency Response for 911 Calls in Thorne Bay, discussion and action item:
   B. Approval of Rental Agreement between the City of Thorne Bay and SISD for parking on Lot 4 of the Downtown Business District, discussion and action item:
   C. Approval of Rental Agreement between City of Thorne Bay and Sportsman Cove Lodge for ½ to 1 Acre of Sort Yard Land, discussion and action item:
   D. Pacific Air use of City Harbor Facilities for Seaplane Landing, discussion and possible action item:
   E. Approval of Liquor License Transfer from Ben Williams, of Williams Inc. to Ben F. Williams Jr., discussion and action item:

10. EXPENDITURES EXCEEDING $2,000.00:
    A. Authorizing the expense of $2,519.00, to Cleary Computer Services, repairs to Administrative Computers, discussion and action item:

11. EXECUTIVE SESSION: The Council May adjourn to executive session.
12. CONTINUATION OF PUBLIC COMMENT:
13. CONTINUATION OF COUNCIL COMMENT:
14. ADJOURNMENT:

AGENDA Posted & Published: June 29, 2018 - City Hall (2), A&P, SISD, USFS, The Port, Thorne Bay School,
EMERGENCY MEDICAL SERVICE AGREEMENT

BETWEEN THE CITY OF THORNE BAY and THE CITY OF KLAWOCK

This Emergency Medical Service Agreement (the “Agreement”) is made and entered into effective on the ___ day of ____________, 2018 (the “Effective Date”), by and between the City of Thorne Bay (“Thorne Bay”) and the City of Klawock (“Klawock”).

WHEREAS, Thorne Bay recognizes the need for assistance in the operation and management of its emergency medical service program (“EMS Program”) for the citizens of Thorne Bay; and

WHEREAS, Klawock has the capacity and capabilities to provide assistance in the operation and management of the EMS Program as more fully described below; and

NOW, THEREFORE, in consideration of the services to be rendered and the mutual covenants contained below, it is agreed by and between Thorne Bay and Klawock as follows:

SECTION 1. OPERATION OF EMS PROGRAM

1. Klawock will receive and dispatch emergency EMS calls for Thorne Bay in accordance with and in the same manner and fashion it receives and dispatches such calls for the Klawock emergency medical services program. Klawock shall maintain sole discretion and control over the manner in which it receives and dispatches emergency EMS calls for Thorne Bay. All 911 calls will be routed through the Klawock emergency medical services program. Klawock has established an Incident Command System (ICS) and Standard Operating Procedures (SOPs) and shall provide the incident commander or the incident commander’s designee who shall act as the EMS Program Captain.

2. Thorne Bay acknowledges and agrees that Klawock shall have sole responsibility for management of all EMS Program operations and personnel.

3. Klawock will follow such policies and procedures in place for Klawock’s emergency medical services program which are necessary and proper for the operation of the EMS Program.

SECTION 2. PERSONNEL, AMBULANCE AND EQUIPMENT

1. Klawock shall employ or contract with such personnel as Klawock, in its sole and exclusive discretion, determines is required to operate the EMS Program in accordance with state law, federal law or applicable standards. All personnel will be qualified, licensed, and registered with the State of Alaska as required by law.

2. Thorne Bay shall provide an ambulance and all necessary equipment at all times during the term of this Agreement for use by Klawock for purposes of providing the services outlined in this Agreement. The Thorne Bay ambulance and equipment shall be available to Klawock for the provision of services under this Agreement at all times unless prior
arrangements are made and agreed to in writing by Klawock. All costs associated with maintaining or replacing the ambulance or equipment shall be solely the responsibility of Thorne Bay. The ambulance and equipment shall meet or exceed the minimum recommended specifications under applicable state and federal law. Thorne Bay shall provide for ambulance and equipment purchase and maintenance, and shall furnish all fuel, lubricants, parts, and supplies necessary to conduct ambulance service operations.  
3. Thorne Bay shall provide and maintain a fixed-site ambulance and equipment storage and maintenance facility to ensure the proper operating condition of the ambulance and equipment at all times.

SECTION 3. BILLING AND PAYMENT

1. In consideration of the services provided by Klawock pursuant to this Agreement, Thorne Bay agrees to pay Klawock Ten Thousand Dollars ($10,000) annually.  
2. Klawock shall be responsible for billing patients and third party payors for services provided pursuant to this Agreement beginning with the first ambulance call after the Effective Date. All transport services will be billed under Klawock’s provider number. Additionally, Klawock shall be the sole recipient of payments received for services billed under this Agreement. Thorne Bay acknowledges and agrees that it is not entitled to any portion of any payments received for services billed under this Agreement.

SECTION 4. TERM AND TERMINATION

1. The term of this Agreement shall begin as of the Effective Date and continue until terminated by either party as provided below.  
2. Either party may terminate this Agreement upon 30 days written notice to the other party.  
3. This Agreement contains the entire agreement between the parties and may not be amended or modified except in a written amendment executed by both parties. If any provision of this Agreement shall be determined to be invalid or unenforceable, the remaining provisions shall remain in full force and effect.

SECTION 5. REPORTING AND RECORDKEEPING

Both parties shall maintain records related to this Agreement and the services provided pursuant to this Agreement, including the frequency of the use of the services, and provide them to the other party upon request. In compliance with Section 1861(v) (1) (I) of the Social Security Act, until the expiration of four (4) years after furnishing of services under this Agreement, Thorne Bay shall make available upon written request of the Secretary of Health and Human Services or the Comptroller General of the United States, or any of their duly authorized representatives, this Agreement and such books, documents and records of Thorne Bay as are necessary to certify the nature and extent of the cost hereunder. This provision shall be of no force or effect if not required by federal law.

SECTION 6. LIABILITY
1. Both parties hereby waive all claims against the other for compensation for any property loss or damage and/or personal injury or death occurring as a consequence of the performance of this Agreement.

2. Thorne Bay shall not bring any claim whatsoever against Klawock for failure to send the requested personnel or equipment where such failure is based on the judgment of Klawock that such personnel and equipment are either not available or are needed to provide service elsewhere.

3. Klawock shall be immune from any liability in connection with all acts performed or required in accordance with this Agreement.

4. Thorne Bay assumes all liability and/or cost resulting from damage to its ambulance or equipment when performing services under this Agreement.

SECTION 7. INSURANCE

Each party shall procure and maintain such insurance as is required by applicable federal and state law and as may be appropriate and reasonable to cover its personnel, equipment, vehicles, and property, including but not limited to liability insurance, workers' compensation (if applicable), unemployment insurance, automobile liability insurance, and property damage insurance. Thorne Bay shall, at its own expense, maintain Automobile Liability Insurance at a combined single minimum limit of not less than $5,000,000 per occurrence, to include coverage for the ambulance used to provided services under this Agreement, whether owned, non-owned, or a hired automobile.

SECTION 8. CONFLICT RESOLUTION

In the event of any dispute under this Agreement between the parties, either party may bring an action in Superior Court, First Judicial District, State of Alaska, at Ketchikan, Alaska. Notwithstanding the foregoing, the parties may agree to another dispute resolution process such as mediation or arbitration.

SECTION 9. GOVERNING LAW

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Alaska.

SECTION 10. ASSIGNMENT

This Agreement may not be assigned, in whole or in part by either party without the prior written consent of the other party. Any purported assignment in violation of this section shall be null and void and of no force and effect.

SECTION 11. NOTICES
All notices under this Agreement shall be sent by U.S. first class mail, certified mail, personal delivery or email to the following:

City of Klawock Emergency Medical Services
Attn: City Administrator
PO Box 469
Klawock, AK 99925
lisaacs@cityofklawock.com

City of Thorne Bay Emergency Medical Services
Attn: City Administrator
PO Box 19110
Thorne Bay, AK 99919
administrator@thorne-bay-ak.gov

IN WITNESS THEREOF, the following have duly executed this Agreement:

CITY OF KLAWOCK

By ____________________________
Lawrence Armour, Mayor

ATTEST:

_______________________________
Sybil Galaktianoff, City Clerk

CITY OF THORNE BAY

By ____________________________
Harvey McDonald, Mayor

ATTEST:

_______________________________
Teri Feibel, City Clerk
RENTAL AGREEMENT

This Rental Agreement is entered into by and between the City of Thorne Bay, Alaska, P.O. Box 110, Thorne Bay, Alaska 99919 (hereinafter called the “CITY” and, Southeast Island School District, (hereinafter called the “RENTER”).

1. Rented Premises. The City does herby Rent to the Renter Lot 4, Business District Subdivision. See Attached Exhibit A on municipally owned property within the corporate boundaries of the City of Thorne Bay.

Municipal Code, Title 2, Article III, Incorporated. The provisions of “Title 2, Article III of the Thorne Bay Municipal Code shall apply to the terms of this Rental Agreement unless otherwise amended in this Rental Agreement.

2. Term. The term of this Rental Agreement shall be Two (2) year(s) beginning July 1, 2018 and ending June 30, 2020. Monthly rental payments due the City shall commence prior to use of Rented Premises and continue throughout the term of this Rental Agreement. Monthly Sales Taxes due the City shall commence upon the signing of Rental Agreement. Renter shall have the option to renew this Rent for an additional period of time subject to renegotiations of Rent terms and payments acceptable to both the City and Renter. The option to renew and Rent for the additional period can only be effective upon approval by the Thorne Bay City Council. This option to renew shall be exercised by the Renter in writing sixty (60) days prior to the expiration of the original Rent term. The option to renew is specifically waived if not exercised in full compliance with this provision.

This Rental Agreement expires automatically on the last day of the Two (2) year period absent the approval of a new Rental Agreement by the Thorne Bay City Council or the removal of the Float House. Absent an approved Rental Agreement the Renter shall vacate the premise on or before the ending date of this Rental Agreement.

In addition to any rights of the City to terminate this Rental Agreement as specified in this Rental Agreement, or as specified in the Thorne Bay Municipal Code, the City shall have all rights to terminate this Rental Agreement in accordance with any provision of applicable law.

Either party may terminate this Agreement for any reasonable cause, by giving 10 (ten) day’s written notice to the other party of the intent to terminate.

3. Monthly Rent Payment. Renter covenants and agrees to pay City monthly Rent payments in the sum of One Hundred and Fifty Dollars ($150) plus applicable sales tax payable in advance on the first day of each month of the Rent term. In the event any payment required to be made pursuant to this Rental Agreement is more than ten (10) days past due, a late charge equal to ten percent (10%) per annum on such past due amount will be assessed and charged to Renter by City. At the expiration of two year term the monthly Rent payment shall be reviewed and adjusted in accordance with the provisions of Section 2.56.210 of Title 2, Article III of the Thorne Bay Municipal Code.
RENTAL AGREEMENT

4. **Deposits.** Renter shall deposit with the City an amount equal to One Month Rent. Upon termination of the Rental Agreement the Renter shall vacate the premise leaving it in the same clean condition as presented at the time said Rental Agreement was initiated. If the premise is in need of cleaning, repairs or the Renter is in default in payments said deposit shall be used to offset such costs. In the event the Rented Premise is clean and in need of no repairs the deposit will be refunded in full. First and last month may be waved in lieu of improvements to the Rented Premises or other City Facilities as provided by Renter per “Exhibit A”.

5. **Use.** Renter shall use the Rented Premises for the purposes of maintaining and operating thereon, Parking of School and Float House Vehicles, Float House Guest Vehicles and Other Items Belong to Float House Residents. The Rented Premises shall be used for no other purposes without the prior written consent of City.

6. **Utilities and Fees.** Renter shall be responsible for all utility accounts and applicable deposits for said accounts. Renter agrees to pay, and keep current, ALL charges, including deposits, for all utilities, including but not limited to water, sewer, refuse collection, electricity, propane, fuel oil and telephone. Failure to do so will result in the utility being shutoff. Activation of a city shutoff shall constitute a material breach of the Rent Agreement resulting in the City’s termination of the Rent Agreement. Absent an approved Rental Agreement the Renter shall vacate the premise immediately.

7. **Repairs, Maintenance and Compliance with Laws.** Renter shall maintain the Rented Premises at Renter’s sole cost and expense and at all times keep the Rented Premises neat, clean and in a sanitary condition. Renter shall keep and use the Rented Premises in accordance with applicable laws, ordinances, rules, regulations and requirements of all governmental authorities. Renter shall permit no waste, damage or injury to the Rented Premises. Renter’s use of the Rented Premises in violation of any law or regulation of any governmental entity related to public health or safety or environmental pollution shall be a material breach of the Rental Agreement and grounds for City’s termination of the Rental Agreement. Renter is required to obtain building permit authorization from the City for construction of any and all structures placed on or in the Rented Premises.

8. **Signs, Alterations and Improvements.** All signs or symbols placed on or about the Rented Premises shall be subject to City’s prior written approval. After prior written consent of City, Renter may make alterations and improvements to the Rented Premises, at Renter’s sole cost and expense. City may elect to require Renter to remove any such alterations and improvements upon termination of this Rental Agreement at Renter’s sole cost and expense. Any of Renter’s improvements remaining on the Rented Premises longer than thirty (30) days after Renter’s possessors rights to the Rented Premises have expired shall become Rented Premises of City.
RENTAL AGREEMENT

9. **Insolvency.** In the event Renter becomes insolvent, bankrupt or if a receiver, assignee or other liquidating officer is appointed for the business of Renter, City, in City’s sole discretion may immediately terminate this Rental Agreement and require that Renter vacate the Rental Premises.

10. **Subletting or Assignment.** Renter shall not sublet the whole or any part of the Rented Premises nor assign this Rental Agreement without the prior written consent of City. This Rental Agreement shall not be assignable by operation of law. All terms and conditions of the Rental Agreement shall be binding upon any sub Renter or assignee of this Rental Agreement and Renter shall remain fully responsible to City for performance of this Rental Agreement.

11. **Permits and Compliance with Law.** Renter shall obtain all necessary local, state and federal permits necessary for the operation of Renter’s business and shall comply with all local, state and federal laws, rules and regulations.

   Failure to comply with any requirements of this section shall constitute a material breach of the Rental Agreement. Failure to remedy the violation within 30 days will result in the City’s termination of the Rental Agreement. Absent an approved Rental Agreement the Renter shall vacate the premise immediately.

12. **Insurance.** General Liability Insurance: The Renter shall procure and maintain during the life of this agreement, General Liability Insurance on an “occurrence basis” with limits of liability not less than $1,000,000 per occurrence and /or aggregate combined single limit, personal injury, bodily injury and property damage.

   Proof of Insurance shall be provided to City within thirty (30) days after the parties have executed this agreement and prior to public use of said premises. City shall be notified at least thirty (30) days before the cancellation or termination of any policy.

   City shall be named as additional insured.

13. **Accidents and Liability.** City or its agent shall not be liable for any injury or damage to the persons or property sustained by Renter or others, in and about the Rented Premises.

14. **Indemnification and Waiver of Subrogation.** To the fullest extent permitted by law, the Renter agrees to defend, indemnify and hold harmless the City, its elected and appointed officials, employees and volunteers against any and all liabilities, claims, demands, lawsuits, or losses, including costs and attorney fees incurred in defense thereof, arising out of or in any way connected or associated with this agreement. To the extent permitted by law, the Renter hereby re-Rents the City, its elected and appointed officials, employees and volunteers from any and all liability or responsibility to the Renter or anyone claiming through or under the Renter by way of subrogation or otherwise, for any loss or damage to the property caused by fire or any other casualty, even if such fire or other casualty shall have been caused by the fault or negligence of
RENTAL AGREEMENT

the City, its elected or appointed officials, employees or volunteers. This provision shall be applicable and in full force and effect only with respect to loss or damage occurring during the time of the Renter's occupancy or use.

Renter understands that the City accepts no responsibility whatsoever for loss of, or damage to Renter’s property.

15. Removal of Renter’s Property and Repair of Rented Property. All buildings, fixtures and equipment of whatsoever nature, that Renter shall have acquired and installed upon Rented premises, whether permanently affixed or otherwise, shall continue to be the property of the Renter and must be removed by the Renter at the expiration or termination of this Rental Agreement; and at its own expense, Renter shall repair any injury to Rented Premises resulting from such removal. Renter shall remove all buildings, fixtures, and equipment, and make all repairs, within thirty days of the date the Renter vacates Rented Premises. If the Renter fails to remove its buildings, fixtures, and equipment, and fails to make the necessary repairs, the City may do so, and seek reimbursement from the Renter for the full amount of the repairs, without any deduction for the value of any buildings, fixtures, or equipment left on the premises by the Renter. If City determines that it is in City’s best interest to acquire the improvements, it may negotiate to purchase Renter’s buildings, fixtures, and equipment at a price equal to or less than fair market value.

16. Taxes. Renter shall be solely and fully responsible for the payment of all applicable federal, state, and Thorne Bay municipal taxes including all Monthly Sales Taxes due the City.

17. Liens. Renter shall maintain Rented Premises free of any and all liens. Renter will not permit any mechanics', laborers’ or materialmen’s liens to stand against the Rented Property or improvements for any labor or materials furnished to Renter or claimed to have been furnished to Renter, or to Renter’s agents, contractors, or sub-Renters, in connection with work of any character performed or claimed to have been performed on Rented premises or improvements by or at the direction or sufferance of Renter; provided, however, Renter shall have the right to contest the validity or amount of any such lien or claimed lien, In the event of such contest, Renter shall give to the City such reasonable security as may be demanded by the City to insure payment of such lien or such claim of lien. Renter will immediately pay any judgment rendered with all proper costs and charges and shall have such lien re-Rented or judgment satisfied at Renter’s own expense. Renter agrees to indemnify, hold harmless and to defend the City and Rented premises from such liens. Renter consents to the City’s recording of and posting of a statutory notice of non-responsibility in accordance with Alaska Statute 34.35.065.
RENTAL AGREEMENT

18. Default by Renter. Each of the following shall be deemed a default by the Renter and a breach of the Rental Agreement:
(a) A failure to make payment of any installment, of rent or of any other sum herein specified to be paid by Renter, and Renter fails to cure such default within ten (10) days after receipt of a written notice has been received by Renter specifying such failure to make payment;
(b) Upon shut off of utilities;
(c) A default in the performance of any other covenant or condition on the part of the Renter to be performed for a period of thirty (30) days after receipt by Renter of a notice specifying the particular default or defaults;
(d) The filing of a petition by or against Renter for adjudication as a bankrupt, or for reorganization or arrangement within the meaning of the Bankruptcy Act;
(e) The dissolution or the commencement of any action or proceeding for the dissolution or liquidation of the Renter or for the appointment of a receiver or trustee of Rented Premises of the Renter;
(f) The taking possession of Rented Premises of the Renter by any governmental officer of agency pursuant to statutory authority for the dissolution of liquidation of the Renter;
(g) The making by the Renter of an assignment for the benefit of creditors;
(h) Renter vacates or abandons the Rented Premises; and
(i) A failure that continues for five (5) days or more to have the City named as an additional insured as required under paragraph 18, and Renter fails to cure such default within ten (10) days after receipt of a written notice has been received by Renter specifying such failure to name the City as an additional insured.

The specification of events constituting default by the Renter in this Section, are in addition to any defaults specified in the Thorne Bay Municipal Code.

19. City’s Remedies for Default. In the event of any default of the Renter, the City shall have the following rights and remedies – all in addition to any rights or remedies that may be given to the City by statute, common law, or under Thorne Bay Municipal Code.
(a) Distraint for rent due and subsequent sale of chattels so distrained. The sale of any such chattels shall be in accordance with the procedure set forth in Alaska Statues.
(b) Re-enter Rented Premises and take possession thereof, remove all persons therefrom, and remove Renter’s property therefrom and store it in a public warehouse or elsewhere at the cost of Renter, all without service of notice or resort to legal process (all of which Renter expressly waives) and without becoming liable for trespass, forcible entry, detainer, or other tort or for any loss or damage which may be occasioned thereby;
(c) Declare the Term ended;
RENTAL AGREEMENT

(d) Re-let Rented premises in whole or in part for any period equal to or greater, or less, than the remainder of the Term for any sum which is commercially reasonable;

(e) Cure any such default, if possible, and demand immediate payment until all costs incurred in curing the default have been reimbursed fully, together with interest calculated at the rate of ten percent (10%) per annum at the then current prime rate as established by the First Bank of Alaska;

(f) Collect all reasonable damages, costs and expenses that the City may incur by reason of default by Renter, together with interest calculated at the rate of ten percent (10%) per annum at the then current prime rate as established by the First Bank of Alaska.

(g) The City shall use reasonable diligence to relet Rented Premises in or to mitigate the City's damages, consistent with the uses of Rented Premises, and all applicable Thorne Bay code provisions related to this Rent and Rented Premises.

20. Rights and Remedies. Except insofar as this is inconsistent with or contrary to any provision of this Rent, no right or remedy herein conferred upon reserved to the City or Renter is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter existing al law or in equity or by statute.

21. Waiver. Except to the extent that a party may have otherwise agreed in writing, no waiver by a party of any breach by the other party of any of its obligations, agreements or covenants hereunder shall be deemed to be a waiver of any subsequent breach of the same or any other covenant, agreement or obligation. Nor shall any forbearance by a party to seek a remedy for any breach of the other party be deemed a waiver of its rights or remedies with respect to such breach.

22. Changes. No modifications, amendments, deletions, additions or alterations of the Rent Agreement shall be effective unless in writing and signed by all of the parties hereto and such representatives of the parties as have been duly authorized to make such changes.

23. Joint Product. The language set out in this Rental Agreement represents the joint product of the parties and shall not be construed against one party in favor of the other. Each party hereto has had the option of seeking the advice of legal counsel in the drafting of this Rental Agreement, and the rule of construction favoring construction against the drafter shall not apply. Renter acknowledges and agrees that Renter has not received any legal advice from the City's attorney or from anyone associated with the City.

24. Authority. The parties and their undersigned representatives warrant that they have full authority to enter into this Rental Agreement and to execute this Rental Agreement.

25. Hazardous Materials. The Renter shall not permit, store, manufacture or dispose on Rented Premises any hazardous material or controlled substance as determined by
RENTAL AGREEMENT

federal, state, or municipal statutes or laws now or at any time hereafter in effect, including but not limited to, the Comprehensive Environmental Response, Compensation and liability Act (42 U.S.C. 9601 et seq.), the Hazardous materials Transportation Act (42 U.S.C. 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Toxic Substance Control Act, as amended (15 U.S.C. 2601 et seq.), and the Occupational Safety and Health Act (29 U.S.C. 651 et seq.), and Title 46 of the Alaska Statutes as these laws have been and may hereafter be amended or supplemented. “Hazardous Substance” means any pollutant, contaminant, toxic substance, flammable, explosive, radioactive material, urea formaldehyde foam insulation, asbestos, PCB’s or any other substance the removal of which is required, or the manufacture, preparation production, generation, use maintenance, treatment, storage, transfer, handling or ownership of which is restricted, prohibited, regulated or penalized by any and all federal, state, or municipal statutes or laws now or at any time hereafter in effect. Hazardous material shall not include cleaning supplies used in the routine daily cleaning and operation of a restaurant.

26. Acceptance of the Rented Property by Renter. Renter acknowledges that it has thoroughly examined Rented Premises. Renter accepts Rented Premises in their “AS IS” condition, and the City shall not be required to perform any work to prepare Rented Premises for the Renter. Renter’s taking possession of Rented Premises shall be conclusive evidence against it that, at the time possession was taken, Rented Premises were in good and satisfactory condition. Renter acknowledges that, except for those representations and statements regarding the condition of Rented Premises expressly stated herein, Renter has not relied upon any representations or statements of the City or its representatives or agents regarding the condition of Rented premises or their suitability for Renter’s uses under this Rent.

1. Attorneys’ Fees and Costs. Should any dispute and/or legal action arise by reason of any default or breach on the part of Renter in the performance of any of the provisions of the Rental Agreement, Renter agrees to pay all reasonable attorneys’ fees and costs incurred by City in connection therewith including City’s attorneys’ fees and costs incurred on appeal. It is agreed that the venue of any legal action brought under the terms of this Rental Agreement will be the First Judicial District, at Ketchikan, Alaska. Renter specifically agrees that venue for trial in any action related to this Rent shall be in Craig, Alaska.

2. No Waiver of Covenants. Any waiver by either party of any breach hereof by the other shall not be considered a waiver of any future or similar breach. This Rental Agreement contains all the agreements between the parties, and there shall be no modification of the agreements contained herein except by written instrument signed by both parties.
RENTAL AGREEMENT

3. **Surrender of Rented Premises.** Upon termination of this Rental Agreement, Renter agrees to peacefully quit and surrender the Rented premises without notice, remove all of Renter’s personal property and leave the Rented premises neat and clean. If City elects to require Renter to remove any alterations or improvements made by Renter, then Renter shall restore the Rented Premises to their previous condition, at Renter’s sole expense.

4. **Binding on Heirs, Successors and Assigns.** The covenants and agreements of this Rental Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of both parties thereto, except as hereinabove provided, and as allowable by law.

5. **Notice.** Any notice required to be given by either party to the other shall be deposited in the United States mail, postage prepaid, addressed to City at P.O. Box 19110, Thorne Bay, Alaska 99919, or the Renter at PO Box 19569, Thorne Bay, AK 99919, or at such other address as either party may designate in writing to the other.

6. **City’s Right of Entry.** The City shall have the right to enter Rented premises at all reasonable times to examine the condition of same.

**IN WITNESS WHEREOF,** The parties hereto have executed this Rental Agreement as of the date first set above written.

CITY:                                      RENTER:

THE CITY OF THORNE BAY

By__________________________________   By__________________________________
Harvey McDonald, Mayor        “City”            Lauran Burch, Superintendent, SISD

ATTEST:

____________________________________
Teri Feibel, City Clerk
RENTAL AGREEMENT
City of Thorne Bay

This Rental Agreement is entered into by and between the City of Thorne Bay, Alaska, P.O. Box 110, Thorne Bay, Alaska 99919 (hereinafter called the "CITY " and, Sportsman's Cove Lodge, (hereinafter called the "RENTER").

1. Rented Premises. The City does hereby Rent to the Renter one-half (1/2) acre plus or minus of land at the Sort Yard on municipally owned property within the corporate boundaries of the City of Thorne Bay.

Municipal Code, Title 2, Article III, Incorporated. The provisions of “Title 2, Article III of the Thorne Bay Municipal Code shall apply to the terms of this Rental Agreement unless otherwise amended in this Rental Agreement.

2. Term. The term of this Rental Agreement shall be One (1) year(s) beginning July 1, 2018 and ending June 30, 2019. Monthly rental payments due the City shall commence prior to use of Rented Premises and continue throughout the term of this Rental Agreement. Monthly Sales Taxes due the City shall commence upon the signing of Rental Agreement. Renter shall have the option to renew this Rent for an additional period of time subject to renegotiations of Rent terms and payments acceptable to both the City and Renter. The option to renew and Rent for the additional period can only be effective upon approval by the Thorne Bay City Council. This option to renew shall be exercised by the Renter in writing sixty (60) days prior to the expiration of the original Rent term. The option to renew is specifically waived if not exercised in full compliance with this provision.

This Rental Agreement expires automatically on the last day of the One (1) year period absent the approval of a new Rental Agreement by the Thorne Bay City Council. Absent an approved Rental Agreement, the Renter shall vacate the premise on or before the ending date of this Rental Agreement.

Either party may terminate this Agreement for any reasonable cause, by giving 10 (ten) day's written notice to the other party of the intent to terminate.

In addition to any rights of the City to terminate this Rental Agreement as specified in this Rental Agreement, or as specified in the Thorne Bay Municipal Code, the City shall have all rights to terminate this Rental Agreement in accordance with any provision of applicable law.
RENTAL AGREEMENT  
City of Thorne Bay

3. Monthly Rent Payment. Renter covenants and agrees to pay City monthly Rent payments in the sum of **Seventy-Five ($75) Dollars** plus applicable sales tax payable in advance on the first day of each month of the Rent term. In the event any payment required to be made pursuant to this Rental Agreement is more than ten (10) days past due, a late charge equal to ten percent (10%) per annum on such past due amount will be assessed and charged to Renter by City. At the expiration of one-year term the monthly Rent payment shall be reviewed and adjusted in accordance with the provisions of Section 2.56.210 of Title 2, Article III of the Thorne Bay Municipal Code.

4. Deposits. Renter shall deposit with the City an amount equal to **One-hundred and fifty ($150) dollars**, or at minimum the deposit rate shall be charged at two times the monthly rate. Upon termination of the Rental Agreement the Renter shall vacate the premise leaving it in the same clean condition as presented at the time said Rental Agreement was initiated. If the premise is in need of cleaning, repairs or the Renter is in default in payments said deposit shall be used to offset such costs. In the event the Rented Premise is clean and in need of no repairs the deposit will be refunded in full. First and last month may be waved in lieu of improvements to the Rented Premises or other City Facilities as provided by Renter per “Exhibit A”.

5. Use. Renter shall use the Rented Premises for the purpose of **Storage, including, but not limited to, the storage of a 70-foot aluminum ramp and dock pilings**. The Rented Premises shall be used for no other purposes without the prior written consent of City.

6. Utilities and Fees. Renter shall be responsible for all utility accounts and applicable deposits for said accounts. Renter agrees to pay, and keep current, ALL charges, including deposits, for all utilities, including but not limited to water, sewer, refuse collection, electricity, propane, fuel oil and telephone. Failure to do so will result in the utility being shutoff. Activation of a city shutoff shall constitute a material breach of the Rent Agreement resulting in the City’s termination of the Rent Agreement. Absent an approved Rental Agreement, the Renter shall vacate the premise immediately.

7. Repairs, Maintenance and Compliance with Laws. Renter shall maintain the Rented Premises at Renter’s sole cost and expense and always keep the Rented Premises neat, clean and in a sanitary condition. Renter shall keep and use the Rented Premises in accordance with applicable laws, ordinances, rules, regulations and requirements of all governmental authorities. Renter shall permit no waste, damage or injury to the Rented Premises. Renter’s use of the Rented Premises in violation of any law or regulation of any governmental entity related to public health or safety or environmental pollution shall be a material breach of the Rental Agreement and grounds for City’s termination of the Rental Agreement. Renter is required to obtain building permit authorization from the City for construction of any and all structures placed on or in the Rented Premises.
8. **Signs, Alterations and Improvements.** All signs or symbols placed on or about the Rented Premises shall be subject to City’s prior written approval. After prior written consent of City, Renter may make alterations and improvements to the Rented Premises, at Renter’s sole cost and expense. City may elect to require Renter to remove any such alterations and improvements upon termination of this Rental Agreement at Renter’s sole cost and expense. Any of Renter’s improvements remaining on the Rented Premises longer than thirty (30) days after Renter’s possessors rights to the Rented Premises have expired shall become Rented Premises of City.

9. **Insolvency.** In the event Renter becomes insolvent, bankrupt or if a receiver, assignee or other liquidating officer is appointed for the business of Renter, City, in City’s sole discretion may immediately terminate this Rental Agreement and require that Renter vacate the Rental Premises.

10. **Subletting or Assignment.** Renter shall not sublet the whole or any part of the Rented Premises nor assign this Rental Agreement without the prior written consent of City. This Rental Agreement shall not be assignable by operation of law. All terms and conditions of the Rental Agreement shall be binding upon any sub Renter or assignee of this Rental Agreement and Renter shall remain fully responsible to City for performance of this Rental Agreement.

11. **Permits and Compliance with Law.** Renter shall obtain all necessary local, state and federal permits necessary for the operation of Renter’s business and shall comply with all local, state and federal laws, rules and regulations.

Failure to comply with any requirements of this section shall constitute a material breach of the Rental Agreement. Failure to remedy the violation within 30 days will result in the City’s termination of the Rental Agreement. Absent an approved Rental Agreement, the Renter shall vacate the premise immediately.

12. **Insurance.** General Liability Insurance: The Renter shall procure and maintain during the life of this agreement, General Liability Insurance on an “occurrence basis” with limits of liability not less than $1,000,000 per occurrence and /or aggregate combined single limit, personal injury, bodily injury and property damage.

Proof of Insurance shall be provided to City within thirty (30) days after the parties have executed this agreement and prior to public use of said premises. City shall be notified at least thirty (30) days before the cancellation or termination of any policy.

City shall be named as additional insured.
RENTAL AGREEMENT
City of Thorne Bay

13. Accidents and Liability. City or its agent shall not be liable for any injury or damage to the persons or property sustained by Renter or others, in and about the Rented Premises.

14. Indemnification and Waiver of Subrogation. To the fullest extent permitted by law, the Renter agrees to defend, indemnify and hold harmless the City, its elected and appointed officials, employees and volunteers against any and all liabilities, claims, demands, lawsuits, or losses, including costs and attorney fees incurred in defense thereof, arising out of or in any way connected or associated with this agreement. To the extent permitted by law, the Renter hereby re-Rents the City, its elected and appointed officials, employees and volunteers from any and all liability or responsibility to the Renter or anyone claiming through or under the Renter by way of subrogation or otherwise, for any loss or damage to the property caused by fire or any other casualty, even if such fire or other casualty shall have been caused by the fault or negligence of the City, its elected or appointed officials, employees or volunteers. This provision shall be applicable and in full force and effect only with respect to loss or damage occurring during the time of the Renter’s occupancy or use.

Renter understands that the City accepts no responsibility whatsoever for loss of, or damage to Renter’s property.

15. Removal of Renter’s Property and Repair of Rented Property. All buildings, fixtures and equipment of whatsoever nature, that Renter shall have acquired and installed upon Rented premises, whether permanently affixed or otherwise, shall continue to be the property of the Renter and must be removed by the Renter at the expiration or termination of this Rental Agreement; and at its own expense, Renter shall repair any injury to Rented Premises resulting from such removal. Renter shall remove all buildings, fixtures, and equipment, and make all repairs, within thirty days of the date the Renter vacates Rented Premises. If the Renter fails to remove its buildings, fixtures, and equipment, and fails to make the necessary repairs, the City may do so, and seek reimbursement from the Renter for the full amount of the repairs, without any deduction for the value of any buildings, fixtures, or equipment left on the premises by the Renter. If City determines that it is in City’s best interest to acquire the improvements, it may negotiate to purchase Renter’s buildings, fixtures, and equipment at a price equal to or less than fair market value.

16. Taxes. Renter shall be solely and fully responsible for the payment of all applicable federal, state, and Thorne Bay municipal taxes including all Monthly Sales Taxes due the City.
RENTAL AGREEMENT
City of Thorne Bay

17. Liens. Renter shall maintain Rented Premises free of any and all liens. Renter will not permit any mechanics’, laborers’ or materialmen’s liens to stand against the Rented Property or improvements for any labor or materials furnished to Renter or claimed to have been furnished to Renter, or to Renter’s agents, contractors, or sub-Renters, in connection with work of any character performed or claimed to have been performed on Rented premises or improvements by or at the direction or sufferance of Renter; provided, however, Renter shall have the right to contest the validity or amount of any such lien or claimed lien. In the event of such contest, Renter shall give to the City such reasonable security as may be demanded by the City to insure payment of such lien or such claim of lien. Renter will immediately pay any judgment rendered with all proper costs and charges and shall have such lien re-Rented or judgment satisfied at Renter’s own expense. Renter agrees to indemnify, hold harmless and to defend the City and Rented premises from such liens. Renter consents to the City’s recording of and posting of a statutory notice of non-responsibility in accordance with Alaska Statute 34.35.065

18. Default by Renter. Each of the following shall be deemed a default by the Renter and a breach of the Rental Agreement:
   (a) A failure to make payment of any installment, of rent or of any other sum herein specified to be paid by Renter, and Renter fails to cure such default within ten (10) days after receipt of a written notice has been received by Renter specifying such failure to make payment;
   (b) Upon shut off of utilities;
   (c) A default in the performance of any other covenant or condition on the part of the Renter to be performed for a period of thirty (30) days after receipt by Renter of a notice specifying the particular default or defaults;
   (d) The filing of a petition by or against Renter for adjudication as a bankrupt, or for reorganization or arrangement within the meaning of the Bankruptcy Act;
   (e) The dissolution or the commencement of any action or proceeding for the dissolution or liquidation of the Renter or for the appointment of a receiver or trustee of Rented Premises of the Renter;
   (f) The taking possession of Rented Premises of the Renter by any governmental officer of agency pursuant to statutory authority for the dissolution of liquidation of the Renter;
   (g) The making by the Renter of an assignment for the benefit of creditors;
   (h) Renter vacates or abandons the Rented Premises; and
   (i) A failure that continues for five (5) days or more to have the City named as an additional insured as required under paragraph 18, and Renter fails to cure such default within ten (10) days after receipt of a written notice has been received by Renter specifying such failure to name the City as an additional insured.
RENTAL AGREEMENT
City of Thorne Bay

The specification of events constituting default by the Renter in this Section, are in
additional to any defaults specified in the Thorne Bay Municipal Code.

19. City’s Remedies for Default. In the event of any default of the Renter, the City shall
have the following rights and remedies – all in addition to any rights or remedies that
may be given to the City by statute, common law, or under Thorne Bay Municipal Code.
(a) Distrain for rent due and subsequent sale of chattels so distrained. The sale of any
such chattels shall be in accordance with the procedure set forth in Alaska Statues.
(b) Re-enter Rented Premises and take possession thereof, remove all persons
therefrom, and remove Renter’s property therefrom and store it in a public
warehouse or elsewhere at the cost of Renter, all without service of notice or resort
to legal process (all of which Renter expressly waives) and without becoming liable
for trespass, forcible entry, detainer, or other tort or for any loss or damage which
may be occasioned thereby;
(c) Declare the Term ended;
(d) Re-let Rented premises in whole or in part for any period equal to or greater, or less,
than the remainder of the Term for any sum which is commercially reasonable;
(e) Cure any such default, if possible, and demand immediate payment until all costs
incurred in curing the default have been reimbursed fully, together with interest
calculated at the rate of ten percent (10%) per annum at the then current prime rate
as established by the First Bank of Alaska;
(f) Collect all reasonable damages, costs and expenses that the City may incur by
reason of default by Renter, together with interest calculated at the rate of ten
percent (10%) per annum at the then current prime rate as established by the First
Bank of Alaska.
(g) The City shall use reasonable diligence to relet Rented Premises in or to mitigate the
City’s damages, consistent with the uses of Rented Premises, and all applicable
Thorne Bay code provisions related to this Rent and Rented Premises.

20. Rights and Remedies. Except insofar as this is inconsistent with or contrary to any
provision of this Rent, no right or remedy herein conferred upon reserved to the City or
Renter is intended to be exclusive of any other right or remedy, and each and every
right and remedy shall be cumulative and in addition to any other right or remedy given
hereunder, or now or hereafter existing al law or in equity or by statute.

21. Waiver. Except to the extent that a party may have otherwise agreed in writing, no
waiver by a party of any breach by the other party of any of its obligations, agreements
or covenants hereunder shall be deemed to be a waiver of any subsequent breach of
the same or any other covenant, agreement or obligation. Nor shall any forbearance by
a party to seek a remedy for any breach of the other party be deemed a waiver of its
rights or remedies with respect to such breach.
RENTAL AGREEMENT
City of Thorne Bay

22. **Changes.** No modifications, amendments, deletions, additions or alterations of the Rent Agreement shall be effective unless in writing and signed by all of the parties hereto and such representatives of the parties as have been duly authorized to make such changes.

23. **Joint Product.** The language set out in this Rental Agreement represents the joint product of the parties and shall not be construed against one party in favor of the other. Each party hereto has had the option of seeking the advice of legal counsel in the drafting of this Rental Agreement, and the rule of construction favoring construction against the drafter shall not apply. Renter acknowledges and agrees that Renter has not received any legal advice from the City's attorney or from anyone associated with the City.

24. **Authority.** The parties and their undersigned representatives warrant that they have full authority to enter into this Rental Agreement and to execute this Rental Agreement.

25. **Hazardous Materials.** The Renter shall not permit, store, manufacture or dispose on Rented Premises any hazardous material or controlled substance as determined by federal, state, or municipal statutes or laws now or at any time hereafter in effect, including but not limited to, the Comprehensive Environmental Response, Compensation and liability Act (42 U.S.C. 9601 et seq.), the Hazardous materials Transportation Act (42 U.S.C. 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Clean Air Act (42 U.S.C.7401 et seq.), the Toxic Substance Control Act, as amended (15 U.S.C. 2601 et seq.), and the Occupational Safety and Health Act (29 U.S.C. 651et seq.), and Title 46 of the Alaska Statutes as these laws have been and may hereafter be amended or supplemented. "Hazardous Substance" means any pollutant, contaminant, toxic substance, flammable, explosive, radioactive material, urea formaldehyde foam insulation, asbestos, PCB's or any other substance the removal of which is required, or the manufacture, preparation production, generation, use maintenance, treatment, storage, transfer, handling or ownership of which is restricted, prohibited, regulated or penalized by any and all federal, state, or municipal statutes or laws now or at any time hereafter in effect. Hazardous material shall not include cleaning supplies used in the routine daily cleaning and operation of a restaurant.

26. **Acceptance of the Rented Property by Renter.** Renter acknowledges that it has thoroughly examined Rented Premises. Renter accepts Rented Premises in their "AS IS" condition, and the City shall not be required to perform any work to prepare Rented Premises for the Renter. Renter's taking possession of Rented Premises shall be conclusive evidence against it that, at the time possession was taken, Rented Premises were in good and satisfactory condition. Renter acknowledges that, except for those representations and statements regarding the condition of Rented Premises expressly stated herein, Renter has not relied upon any representations or statements of the City or its representatives or agents regarding the condition of Rented premises or their suitability for Renter's uses under this Rent.
RENTAL AGREEMENT
City of Thorne Bay

1. **Attorneys' Fees and Costs.** Should any dispute and/or legal action arise by reason of any default or breach on the part of Renter in the performance of any of the provisions of the Rental Agreement, Renter agrees to pay all reasonable attorneys' fees and costs incurred by City in connection therewith including City's attorneys' fees and costs incurred on appeal. It is agreed that the venue of any legal action brought under the terms of this Rental Agreement will be the First Judicial District, at Ketchikan, Alaska. Renter specifically agrees that venue for trial in any action related to this Rent shall be in Craig, Alaska.

2. **No Waiver of Covenants.** Any waiver by either party of any breach hereof by the other shall not be considered a waiver of any future or similar breach. This Rental Agreement contains all the agreements between the parties, and there shall be no modification of the agreements contained herein except by written instrument signed by both parties.

3. **Surrender of Rented Premises.** Upon termination of this Rental Agreement, Renter agrees to peacefully quit and surrender the Rented premises without notice, remove all of Renter's personal property and leave the Rented premises neat and clean. If City elects to require Renter to remove any alterations or improvements made by Renter, then Renter shall restore the Rented Premises to their previous condition, at Renter's sole expense.

4. **Binding on Heirs, Successors and Assigns.** The covenants and agreements of this Rental Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of both parties thereto, except as hereinabove provided, and as allowable by law.

5. **Notice.** Any notice required to be given by either party to the other shall be deposited in the United States mail, postage prepaid, addressed to City at P.O. Box 19110, Thorne Bay, Alaska 99919, or the Renter at,______________________________, or at such other address as either party may designate in writing to the other.
6. **City’s Right of Entry.** The City shall have the right to enter Rented premises at all reasonable times to examine the condition of same.

**IN WITNESS WHEREOF,** The parties hereto have executed this Rental Agreement as of the date first set above written.

**CITY:**

**THE CITY OF THORNE BAY**

By _______________________________
Harvey McDonald, Mayor "City"

**RENTER:**

**SPORTSMAN’S COVE LODGE**

By _______________________________
Sportsman’s Cove Lodge "Renter"

**ATTEST:**

____________________________________
Teri Feibel, City Clerk
June 11, 2018

City of Thorne Bay
Attn: Teri Feibel, City Clerk
Via email: cityclerk@thornebay-ak.gov

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☐ New Application
☐ Transfer of Location Application
☒ Transfer of Controlling Interest Application

We have received a completed application for the above listed license (see attached application documents) within your jurisdiction. This is the notice required under AS 04.11.480.

A local governing body may protest the approval of an application(s) pursuant to AS 04.11.480 by furnishing the director and the applicant with a clear and concise written statement of reasons for the protest within 60 days of receipt of this notice, and by allowing the applicant a reasonable opportunity to defend the application before a meeting of the local governing body, as required by 3 AAC 304.145(d). If a protest is filed, the board will deny the application unless the board finds that the protest is arbitrary, capricious, and unreasonable. To protest the application referenced above, please submit your protest within 60 days and show proof of service upon the applicant.

AS 04.11.491 – AS 04.11.509 provide that the board will deny a license application if the board finds that the license is prohibited under as a result of an election conducted under AS 04.11.507.

AS 04.11.420 provides that the board will not issue a license when a local governing body protests an application on the grounds that the applicant’s proposed licensed premises are located in a place within the local government where a local zoning ordinance prohibits the alcohol establishment, unless the local government has approved a variance from the local ordinance.

Sincerely,

Jedediah Smith, Local Government Specialist
amco.localgovernmentonly@alaska.gov
## Bill To
City of Thorne Bay  
PO Box 19110  
Thorne Bay, AK 99919

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See attached sheets for details. Thank you for allowing me to serve your technology needs!

Total: $2,519.00