

CITY OF THORNE BAY
REQUEST FOR STATEMENTS OF INTEREST

The City of Thorne Bay is requesting Statements of Interest to lease 20' by 40' of city owned real property at Davidson Landing Harbor, located in South Thorne Bay.

Use for this lease must be for the purposes of operating an approved business as described in Thorne Bay Municipal Code 17.04.029- Waterfront Zone.

All persons interested in leasing 20' x 40' municipal owned property for conducting business operations shall submit a letter of interest to the City Administrator no later than 4:00 p.m., January 11, 2019.

The City further encourages interested parties to perform a site visit to ensure adequate space is available for their proposed business use.

The City of Thorne Bay will accept statements of interest for this lease until 4:00 pm Friday, January 11, 2019.

Letters must be sealed and clearly marked "Statement of Interest" on the outside of the envelope. All statements must be received by the City Clerk on or before the deadline at City Hall, 120 Freeman Drive, PO Box 19110, Thorne Bay, Alaska 99919.

Statements will be reviewed by the City Administrator and Mayor beginning January 14th, 2019, and will contact the interested parties for any questions.

Estimated date to approve a lease is April of 2019.

For any questions please contact Wayne Benner, City Administrator at (907) 828-3380 with questions regarding the lease or business operations.

Posted: City Hall, USFS, SISD, The Port, Alaskan & Proud Market

ADDITIONAL INFORMATION:

- PROPERTY:** That certain un-surveyed parcel of real property **(20 FEET BY 40 FEET)** located on South Thorne Bay Road, at Davidson Landing Harbor, within Tract A, _PLAT 81-12, BK. 142, PGS 76-77_(PATENT # 8647), all within Section 34, Township 71 South, Range 84 East, Copper River Meridian, Ketchikan Recording District, First Judicial District, State of Alaska.
- PROPOSED USE:** Approved use is for a commercial facility as approved in the Thorne Bay Municipal Code 17.04.029 WATERFRONT ZONE
- STATEMENT OF INTEREST:** Interested persons should submit a statement of interest to the City Administrator containing the proposed business use
- TERM:** The lease term MAY be for a period of UP TO TEN years with an option to renew for an additional Ten-year period.
- STATEMENTS DUE:** Statement of Interests will be accepted beginning December 10th, until 4:00 p.m., on January 11, 2019

EXPECTED LEASE TERM BEGINNING April 2019

Posted: December 5, 2018
City Hall (2)USFS, SISD, The Port, Riptide , Tackle shack, Thorne Bay Library

THORNE BAY MUNICIPAL CODE
TITLE 17-PLANNING AND ZONING

17.04.029 WATERFRONT ZONE.

The purpose of this zone is to provide for aesthetically pleasing commercial areas along the waterfront while retaining access to the waterfront for both public and private uses.

Development plans are required for all development within the waterfront commercial zone conforming to applicable standards of section 17.04.035.

A. Uses allowed in waterfront zone without special permitting.

1. Port and harbor facilities, including docks, floatplane operations;
2. Marine, vehicle and propane fuel sales;
3. Public, private and commercial moorage associated with approved uses;
4. Post office;
5. Small scale; seafood processing plants, cold storage plants and facilities;
6. Hair salons;
7. Banks and other financial institutions;
8. Parks and open space;
9. Community recreation, community facilities, open space, beaches and buffer strips;
10. Retail sales and rentals;
11. Laundromat;
12. Restaurants and other eating establishments;
13. Residential uses accessory to permitted uses such as watchmen quarters, owner-operator's home or rental unit constructed above an allowed use without special permitting;
14. Water and sanitation facilities;
15. Administrative offices accessory to permitted uses.

B. Uses allowed in waterfront zone-trans-shipment without special permitting.

1. Storage and shipping of containers, equipment, materials, commodities and any other items being shipped to and from Prince of Wales Island;
2. Pick-up and delivery of containers, equipment, materials, commodities and any other items shipped to and from Prince of Wales Island;
3. Loading and unloading freight barges.

17.04.029 WATERFRONT ZONE CONTINUED SUBSECTION:

C. Uses allowed in waterfront zone-business district subdivision without special permitting.

1. Material storage and sales associated with another local commercial operation;
2. Vehicle, boat and equipment parking, storage and repair;
3. Electric and communication facilities;
4. Warehouses and rental storage, including units;
5. Container storage.

D. Uses Considered in Waterfront Zone with Conditional Use Permitting.

1. Bars, taverns and restaurants that sell alcoholic beverages;
2. Hotels, motels and restaurants;
3. Lodges and resorts;
4. Communication facilities;
5. Light industrial facilities;
6. Commercial sales not associated with another local commercial operation;
7. All floating structures or structures on piling, excluding floatplane operations and docks accessory with approved uses;
8. Structures and fences built above the maximum height limit;
9. Telecommunication facilities, towers, and/or antennas.

E. Property Development Standards.

1. Minimum lot size: no minimum lot size.
2. Minimum lot width: no minimum lot width.
3. Setbacks: five feet from road rights-of-way and five feet from side and rear property lines.
4. Building heights: a maximum of thirty-five feet as defined in the definitions for "building height". Severe slopes maybe grounds to seek a variance from building height limitations.
5. Parking: all parking unless is otherwise approved by the planning director is off-street and subject to section 17.04.041.
6. Signs: no signs shall cause glare on any public right-of-way or surrounding property. Signs shall not be illuminated between the hours of eleven p.m. and seven a.m. unless the establishment is open during those hours.
7. Fences, walls and hedges: fences, walls and hedges may occupy a portion of a yard and be built up to the property line with a six-foot maximum height limit and shall not obstruct vehicular visibility.
8. Landscaping or view obscuring screening may be required for uses along the thorne river road and shoreline drive. (Ord 17-08-15-01)

THORNE BAY MUNICIPAL CODE
TITLE 2 – ADMINISTRATION AND PERSONNEL
CHAPTER 2.56 – CITY PROPERTY

ARTICLE III. LONG TERM LEASE OR SHORT-TERM LEASE OF CITY-OWNED REAL PROPERTY

2.56.190 LANDS AVAILABLE FOR LEASING-CLASSIFICATION OF LANDS.

- A. All lands and interest in land owned by the city, including tide and submerged lands, may be leased or rented as hereinafter provided. Thorne Bay RV Park, Thorne Bay Harbor Facilities, Parking and other service rented by the day, week, month or year are regulated in other sections of the Thorne Bay Municipal Code.
- B. Before accepting applications to lease lands, the city shall have zoned by ordinance or otherwise classified the lands in question for leasing and for particular land uses. No lease shall be granted except for the particular uses for which the tract is zoned or classified. The classification of a tract of leased land may be changed by ordinance after consideration by the City.
- C. No city-owned property shall be leased or otherwise developed prior to the assignment of a particular zone or the repeal of the reserved use classification.
- D. **Long Term Lease.** A long-term lease herein referred to as “Lease” may not exceed 30 years. A renewal option exercisable at the discretion of the lessee with approval of the city council may extend a long-term lease, for an additional period of time, not to exceed 30 years. Long term leases are subject to terms set forth in Article III.
- E. **Short Term Lease.** A short-term lease herein referred to as “Rental Agreement” may not exceed 5 years. A renewal option exercisable at the discretion of the lessee with approval of the city council may extend a short-term lease for additional periods of time not to exceed 5 years. The City may in its discretion require amendments or revisions to the lease as a condition of approval for extension. Short term leases are subject to the specific short-term lease terms set forth in Article III. (Ord. 16-03-01-02)

2.56.200 LEVELS OF APPROVAL REQUIRED.

- A. Except as provided in subsection B and C, leases of city-owned property shall be authorized by non-code ordinance.
- B. Leases valued at ten thousand dollars or less and for a lease term (including the lessee's rights of renewal) of 5 years or less, and involving two acres or less, may be authorized by the council by resolution.
- C. All short-term leases or rental agreements may be authorized by the city council.

2.56.210 RENT.

- A. Rent for short term leases and lands leased for public use, shall be derived through negotiations with the City based on the best interest of the city. All monthly or annual rents or lease payments shall be reviewed and adjusted, at a minimum, every five (5) years unless provisions provide for automatic adjustments to the rent or lease payments.
- B. **Public Use.** City lands may be leased or rented to any state or federal agency or political subdivision of the state or to a nonprofit organization and for a consideration determined by the council to be in the best interest of the city.
- C. **Appraisal.** With the exception of the public uses described in paragraph B of this section, the City Council may determine it is in the best interest of the City, that prior to leasing of land, or renewal of a lease that the land be appraised according to Municipal Code, but the council is not required to obtain an appraisal.
- D. **Short Term Leases.** With the exception of the public uses described in paragraph B of this section, all lands leased through a short-term lease "rental agreement", or a renewal lease issued therefore, shall be negotiated by the city and approved by the city council. (Ord. 16-03-01-02)

2.56.220 TERM OF LEASES.

- A.** Any Long-Term Lease will be negotiated between the applicant and the city and be for a term not to exceed 30 years with the option of renewal, in the sole discretion of the City, for a period not to exceed 30-year increments and with such revisions and amendments as deemed by the City in the best interest of the City. The applicant shall state in the application the term desired. In determining whether to grant a lease for the requested term, the council shall consider the nature, extent and cost of the improvements which the applicant agrees as a condition of the lease to construct and the value of the other relevant factors. The term of any given lease shall depend upon the desirability of the proposed use, the amount of investment and improvements proposed to be made by the lessee, and the nature of the improvements proposed with respect to the durability and time required to amortize the proposed investment. A renewal option exercisable at the discretion of the lessee, with approval of the council, shall be considered in determining the term of the lease for purposes of this subsection.
- B.** Any Short-Term Lease will be negotiated between the applicant and the city and be for a term not to exceed 5 years with the option of renewal in the sole discretion of the City, for periods not to exceed 5 years and with such revisions and amendments as deemed by the City in the best interests of the City. The applicant shall state in the application the term desired. In determining whether to grant an agreement for the requested term, the council shall consider the nature, extent and cost of the improvements which the applicant agrees as a condition of the rent to construct and the value of other relevant factors. The term of any given rental agreement shall depend upon the desirability of the proposed use, the amount of investment and improvements proposed to be made by the renter, and the nature of the improvements proposed with respect to the durability and time required to amortize the proposed investment. A renewal option exercisable at the discretion of the lessee with approval of the Council, shall be considered in determining the term of the rental agreement for purposes of this subsection. (Ord. 16-03-01-02)

2.56.230 PUBLIC NOTICE.

Public Notice for competitive leasing shall be given as stated in Section 2.56.230 of the Thorne Bay Municipal Code. A Thirty-day notice shall be given by posting notice thereof in three public places and by publication in a newspaper of general circulation twice. The notice must contain the name of the applicant, a brief description of the land, its area and general location, proposed use, term, computed annual minimum rent, limitations if any, a declaration stating the particular

method of disposal to be used and the time and place set for a hearing on the proposed lease.
(Ord. 16-03-01-02)

2.56.240 LEASING LAND - NEGOTIATED OR COMPETITIVE

- A. Negotiated leasing may be conducted with a single prospective lessee or renter through the use of resolution.
- B. Competitive leasing may be conducted if determined by the City, though a non-code ordinance and competitive bidding requirements. (Ord. 16-03-01-02)

2.56.250 APPLICATIONS, FEES, TERMS, AND PAYMENTS FOR COMPETITIVE BIDDING.

Unless otherwise provided by the council in the ordinance or resolution authorizing the lease of specific lands, the following procedures shall be followed for competitive bidding:

- A. Qualifications of applicants or bidders.** An applicant or bidder for a lease is qualified if the applicant or bidder:
 - 1. Is eighteen years or age or over;
 - 2. Is a group, association, partnership or corporation which is authorized to conduct business in the State of Alaska; or
 - 3. Is acting as an agent for another meeting one of the above criteria and has qualified by filing with the administrator or his designee, prior to the time set for the disposition, a power of attorney or a letter of authorization creating such agency. The agent shall represent only one principal, to the exclusion of himself.
- B. Applications for lease.** All applications for lease of lands shall be filed with the City Clerk on forms provided by the city. Only forms completed in full and accompanied by a one hundred dollar (\$100.00) nonrefundable filing fee will be required for filing. Applications that qualify as a public use as defined in 2.56.210 (B) may be exempted from the filing fee. With every application the applicant shall submit a development plan showing and stating:
 - 1. The purpose of the proposed lease;
 - 2. The use, value and nature of improvements to be constructed;
 - 3. The type of construction;
 - 4. Dates construction is estimated to commence and be completed; and

5. Whether the intended use complies with the zoning and the Thorne Bay land use code.

C. Deposits for Cost. All applications filed with the city clerk will be forwarded to the administrator to determine estimated costs required to handle the application, including, but not limited to one or more of the following: survey, appraisal, and advertising of the proposed lease of the area under application. Upon determination of the estimated costs, the administrator shall notify the applicant in writing of such costs, and a deposit must be made within thirty calendar days after the notice is mailed. Failure of the applicant to pay the deposit shall result in the application being cancelled. If the applicant does not accept a lease within thirty-calendar days after it is offered to the applicant, all deposit money spent or encumbered for survey, appraisal or advertising shall be forfeited, and the balance, if any, shall be returned to the applicant. If the land applied for is leased to another, the latter shall be required to pay actual costs of survey, appraisal and advertising, and the original deposit shall be returned to the depositor. The lessee shall be required to pay any excess of costs over deposits, and where the deposit exceeds actual costs, the excess shall be credited to present or future rents under the lease. All survey, appraisal and advertising shall be performed only under the control of the city, and any such work done without such control will not be accepted by the city. Those applications defined as a public use in 2.56.210 may be exempted from the requirements of this subsection. (Ord. 16-03-01-02)

2.56.260 COMPETITIVE BIDDING -- APPEALS.

A. Where competitive bidding is used, the city may either require written sealed bids stating the annual rental amount offered or hold an auction on the rent amount. Only applicants who have completed the application requirements to the city's satisfaction (including submittal of a development plan and the deposits for cost) shall be qualified to bid. The City may base its award of lease on a combination of factors (including the development plan and the extent to which the proposed project will meet community needs) rather than solely upon rental amount bid. The city reserves the right to reject all bids and return the deposits to the applicants.

B. Appeal. In cases involving competitive bidding, an aggrieved bidder may appeal the determination of the winning bid to the council with five days (excluding Saturday and Sunday) following such determination. Such appeals must be in writing, signed and notarized and contain a complete statement of the grounds for appeal. The council shall within thirty days after receipt of a timely appeal review the asserted grounds for appeal and rule on the appeal. The council's decision shall be final.

C. Lease to Successful Bidder. Following the appeal period or the council's ruling, the city administrator shall notify the successful bidder that the city is prepared to issue the lease.

The bidder shall be given thirty calendar days from date of mailing the notice in which to remit to the city clerk any bid balance. Failure to do so shall result in forfeiture of any and all rights previously acquired in the proposed lease, and in addition, any monies paid or deposited with the city shall be forfeited.

- D. Issuance of Lease.** After expiration of the appeal period, or after the ruling on the appeal to the council, the administrator shall cause a lease to be issued and executed containing such terms as the council shall have established. (Ord. 16-03-01-02)

2.56.270 NEGOTIATED LEASES.

The city administrator may commence negotiations with a single prospective lessee for the lease of city land. The final terms of a negotiated lease are subject to approval by the council through a resolution for short term lease and non-code ordinance for a long-term lease. The negotiated lease may not be executed until the effective date of the ordinance or resolution.

(Ord. 16-03-01-02)

2.56.280 RIGHTS PRIOR TO LEASING.

- A.** The filing of an application for a short or long-term lease shall give the applicant no right to a lease nor to the use of the land applied for.
- B.** Any use of city-owned property not authorized by a short or long-term lease shall constitute a trespass against the city.

2.56.320 TERMS AND CONDITIONS OF LONG TERM LEASES AND SHORT-TERM LEASES (RENTAL AGREEMENTS).

In addition to other applicable provisions of this code, the terms, conditions and covenants following as subsections

- A.** through V. of this section shall govern all long term leases and may govern short term leases (rental agreements) made under the provisions of this chapter and shall be as a matter of law incorporated in all such leases of land made, or issued by the city unless the council by resolution provides otherwise as to a specific lease, and are incorporated as though set out in full in the lease. Each lease shall contain such additional provisions as the council deems

necessary to protect the public interest. Violation by the lessee of any duty of lessee's contained in subsections A through V shall be grounds for the city's termination of the lease, if, following written notice to lessee of lessee's breach, lessee has not in thirty days entirely remedied the breach to the city's satisfaction. All long term and short-term leases shall be reviewed every five years throughout the life of all leases. Additions, modifications, adjustments or changes may be made to all leases at the time of review.

- B. Lease Utilization.** Leased lands shall be utilized only for purposes within the scope of the applicable land use classification or zoning and the terms of the lease, and in conformity with the ordinances of the city, Federal and State Laws and Regulations. Utilization or development for other than the allowed uses shall constitute a violation of the lease and subject the lease to termination or cancellation by the city at any time.
- C. Adjustment of Rent for long term or short-term leases.** The annual rent payable pursuant to any lease becomes subject to adjustment by the council on the fifth anniversary of the date of the lease and at each five-year interval thereafter unless specified otherwise in the lease. The process upon which rents may be adjusted by the City Council will be determined prior to finalizing any lease.
- D. Subleasing.** The lessee may sublease lands, or any part thereof leased to him hereunder, provided that the lessee obtains the approval of the council to such sublease. Leases not having improvements thereon shall not be sublet. Subleases shall be in writing, and subject to the terms and conditions of the original lease and such further terms and conditions, as the council may deem proper including adjustments to rents and conditions. A copy of the sublease shall be filed with the city administrator.
- E. Assignments.** The lessee shall not assign the lease without prior approval of the City Council, which may impose terms and conditions on the assignment. The assignee shall be subject to all of the provisions of the original lease, and the assignor shall not be relieved of his obligations there under. A copy of any assignment shall be filed with the city administrator. The City Council will not approve an assignment to an LLC unless all the members of the LLC sign a personal guarantee for performance of the lease terms and conditions.
- F. Modification.** Any modification or amendment of a lease shall be in writing, signed by both the city and the lessee. Modification of any lease does not require authorization by ordinance or resolution where the lease was negotiated with a single prospective lessee.
- G. Cancellation and Forfeiture.**

1. Leases in good standing may be cancelled in whole, or in part, at any time, upon mutual written agreement by lessee and the council. Any lease may, at the council's option, include a term providing that the lease may be terminated by the lessee upon ninety days' notice in writing to the city before the end of an annual rental period unless stated otherwise in the lease.
2. If the lessee defaults in the performance or observance of any of the lease terms, covenants or stipulations, or any applicable term of this chapter, or any portion of the city code as applied to the property in question, the lessee is automatically in default on the lease by operation of law. Incurring debt with the City shall not constitute a default. If such default continues for thirty calendar days after service upon lessee of written notice of default by the city without remedy of lessee of the default, the council shall take such action as is necessary to protect the rights and best interests of the city, including the exercise of any or all rights after default permitted by the lease. Lessee shall not remove any improvements during the time the lessee is in default.
3. The city may terminate or cancel the lease if the land is used for any unlawful purpose.
4. Failure to make substantial use of the land, consistent with the proposed use, within one year shall with the approval of the council constitute grounds for termination or cancellation. This time period may be extended by the council by resolution or by council authorization to the administrator.

H. Site contamination Prohibited-Environmental Compliance Required.

1. Any violation, at the site of the leased land, by lessee, or by a third-party present upon the land with lessee's permission, of an environmental statute or regulation of the city, state or federal governments shall be grounds for immediate termination of the lease by the city, at the city's sole discretion. By entering into the lease, the lessee agrees not to make any claim for monetary damages against the city for lease termination or cancellation pursuant to this subsection.
2. The lessee shall at all times manage lessee's activities upon the leased lands, and the activities of third parties present with lessee's permission, so as to positively prevent any and all contamination of the site which would violate any Federal or State statute or regulation, which could subject the city to an enforcement action or any administrative proceeding by a state or federal agency, or which could subject the city to statutory or common law liability, diminish the value of the land, or cause city expenditures for response costs or remediation costs caused by a hazardous substances release, discharge, or spill. The City shall have the right to inspect or otherwise enter on to the leased

premises during the term of the lease to assure lessee's compliance with federal and State Environmental Laws and Regulations.

3. By entering into the lease, the lessee agrees to defend and indemnify the city from and against any and all claims of any kind and any nature, including death, by third parties (including governmental entities and industry pollution-based claims) brought against city arising out of or relating to in any way the use of the leased premises by the lessee or anyone on the leased premises by invitation or authorization of the lessee. This obligation to defend and indemnify the City shall extend beyond the term of the lease to any claim or action occurring during the term of the lease.
 4. By entering into the lease, the lessee agrees to reimburse the city for any and all expenses reasonably incurred by the city (including any response, remediation or site cleanup costs) because of activities on the land during the period of lessee's lease, including the City's attorney's fees.
- I. **Rights of Mortgagee or Lien holder.** In the event of cancellation or forfeiture of a lease for cause, the holder of a properly recorded mortgage of the improvements on the land shall be given a duplicate copy of any notice of default in the same manner as notice is given the lessee, provided such mortgagee has given the city clerk notice of such mortgage and the mortgagee's address.
 - J. **Payment of Annual Rentals.** Unless otherwise provided by the council by ordinance or resolution, all rent, and lease payments shall be due and payable on the first of the month. Payments not made by the 10th of the month shall be considered delinquent.
 - K. **Entry and Re-entry.** In the event the lease is terminated, or in the event that the demised lands, or any part thereof, are abandoned by the lessee during the term,
 - 1) The city or its agent or representative may, immediately or any time thereafter, reenter and resume possession of such lands or such part thereof and remove all persons and property there from either by summary proceedings or by a suitable action or proceeding at law without being liable for any damages therefore. No reentry by the city shall be deemed an acceptance of a surrender of the lease.
 - L. **Re-Lease.** In the event that a lease is terminated, the city council may offer the lands for lease or other appropriate disposal pursuant to the provisions of this Chapter.
 - M. **Forfeiture of Rental.** In the event that the lessee terminates the lease because of any breach, the rental payment last made by the lessee shall be forfeited and retained by the city.

- N. Written Waiver.** The receipt of rent by the city with knowledge of any breach of the lease by the lessee, or of any default on the part of the lessee in observance or performance of any of the conditions or covenants of the lease, shall not be deemed to be a waiver of any provision of the lease. No failure on the part of the city to enforce any covenant or provision of the lease, nor any waiver of any right thereunder by the city unless in writing, shall discharge or invalidate such covenants or provisions or affect the right of the city to enforce the same in the event of any subsequent breach or default. The receipt by the city of any other sum of money after the termination in any manner, of the term demised, or after the giving by the city of any notice thereunder to effect such termination, shall not reinstate, continue or extend the resultant term therein demised, or destroy, or in any manner impair the efficiency of any such notice or termination as may have been given thereunder by the city to the lessee prior to the receipt of any such sum of money or other consideration, unless so agreed to in writing and signed by the city administrator.
- O. Expiration of Lease.** Unless the lease is renewed or sooner terminated, as provided herein, the lessee shall peaceably and quietly leave, surrender and yield up unto the Lessor all of the leased land on the last day of the term of the lease.
- P. Renewal of Lease.**
- 1.** Upon the expiration of the term of any lease, or the cancellation of a lease by mutual consent of all parties, thereto, the council may grant a new lease to the lessee or his assignee who owns valuable improvements thereon, provided:
 - i.** The lessee or his assignee makes written application at least ninety days prior to such termination;
 - ii.** The lessee is not in default under the lease;
 - iii.** The use to which the land is to be put is compatible with the current use classification (or with such new classification as the council may adopt effective at the end of the current lease term) or with the applicable zoning provisions;
 - iv.** The lessee's improvements on the leased land are in compliance with applicable building codes, fire and safety codes;
 - v.** The lessee has complied with all requirements of the lease, particularly including the provisions of subsection G of this section, and there are no outstanding and unresolved environmental enforcement actions or proceedings or notice of violation pertaining to the leased premises;

- vi. The lessee is current in all monetary obligations to the city, including property taxes, sales taxes, utility bills, and rents for any other lands leased from the city; and
 - vii. Mutually agreeable terms, consistent with the provisions of this chapter governing lease terms, are negotiated by the city and the prospective lessee.
 - 2. Such lease shall be for an annual rent equal to the value of the land which is then being charged for new leases or a consideration is determined by the council to be in the best interest of the city and shall be subject to adjustment on every fifth anniversary.
 - 3. Any renewal preference granted the lessee is a privilege and is neither a right nor bargained for consideration.
- Q. Removal or Reversion of Improvements upon Termination of Lease.** Improvements owned by a lessee may within thirty calendar days after the termination of the lease be removed by the lessee, provided, such removal will not cause injury or damage to the lands or improvements of the City; and further provided that the city council may extend the time for removing such improvements in cases where actual hardship is Established to the satisfaction of the City Council. All periods of time granted the lessee to remove improvements, are subject to the lessee paying to the city pro rata lease rentals for such periods. If any improvements and/or personal property are not removed within the time allowed, such improvements and/or personal property shall revert to, and absolute title shall vest in, the city, without further notice to the lessee.
- R. Inspection.** The lessee shall allow an authorized representative of the city to enter the leased land at any reasonable time for the purposes of inspecting the land and improvements thereon. Upon the city's request, the lessee shall permit an authorized representative of the Alaska Department of Environmental Conservation (ADEC) to make an environmental audit of the leased premises. Notwithstanding any confidentiality provisions in federal or state law, by entering into the lease, the lessee agrees that the results of any environmental audit of the premises made by or at the order of any state or federal agency shall be made available to the city as land owner.
- S. Use of Material.** All coal, oil, gas and other minerals, and all deposits of stone, earth or gravel valuable for extraction or utilization, are reserved by the city and shall not be removed from the land except with written permission of the council. The lessee shall not sell or remove for use elsewhere any timber, stone, gravel, peat moss, topsoil, or any other material valuable for building or commercial purposes; provided, however, that material required for the development of the leasehold may be used, if its use is first approved by the council in writing.

- T. Rights-of-way.** The lessor expressly reserves the right to grant easements or right-of-way across leased land if it is determined in the best interest of the city to do so. If the lessor grants an easement or right-of-way across any of the leased land, the lessee shall be entitled to damages for all lessee-owned improvements destroyed or damaged. Damages shall be limited to improvements only and loss shall be determined by fair market value. Annual rentals may be adjusted to compensate the lessee for the loss of uses.
- U. Warranty.** The city does not warrant by its zoning, classification or leasing of land that the land is ideally suited for the use authorized under the zoning, classification or lease, and no guaranty is given or implied that it will be profitable to employ the land for any use.
- V. Notice or Demand.** Any notice or demand, which under the terms of a lease or under any statute must be given or made by the parties shall be in writing and be given or made by registered or certified mail, addressed to the other party at the address of record. However, either party may designate in writing such new or other address to which such notice or demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed delivered when deposited in the U.S. mails enclosed in a registered or certified mail prepaid envelope addressed as herein provided. Email shall not constitute proper notice under this section.
- W. Additional Lease Terms.** Any lease shall contain such additional limitations, reservations, requirements or special conditions as the council may determine to protect the city's interest, including (without limitation) requirements (a) for improvements of a specified kind and value to be constructed or located on the land by the lessee within a specified time period, (b) for the lessee to complete the improvements set forth in the development plan submitted with the lease application within a specified time period, or (c) requirements that the lessee defend and indemnify the city against the third party claims for personal injury or property damage arising from lessee's occupancy of or use of the land, and provide liability insurance in an amount determined by the city and requiring that the city be named as an additional insured.

CITY OF THORNE BAY
RESOLUTION 18-11-20-03

A RESOLUTION OF THE CITY COUNCIL OF THORNE BAY, ALASKA, AUTHORIZING THE CITY TO OFFER FOR SHORT-TERM/LONG-TERM LEASE, UP TO ONE ACRE OF LAND AT THE DAVIDSON LANDING HARBOR, FOR THE PURPOSES OF OPERATING A COMMERCIAL VENTURE

WHEREAS, the City Council is the governing body of Thorne Bay, Alaska; and

WHEREAS, the Thorne Bay Municipal Code Chapter 2.56, authorizes the City Council to offer for lease City owned property through the competitive bid process; and

WHEREAS, it is the intent of the City Council for the City of Thorne Bay to encourage and promote economic growth within Thorne Bay; and

WHEREAS, the Davidson Landing Harbor located on Tract A, South Thorne Bay, is large enough for the City to lease up to one acre of land for a commercial venture, while retaining the space needed for all harbor uses within the area; and

WHEREAS, the City Council recognizes the need for certain commercial services within the South Thorne Bay Subdivision and finds that entering into a lease for commercial use would be economically beneficial for the community and residents of South Thorne Bay; and

NOW, THEREFORE, BE IT RESOLVED THAT THE City Council hereby authorizes the City Administrator or designee to offer for lease up to one acre of land at Davidson Landing for Commercial use.

PASSED AND APPROVED on 20th day of November 2018

Harvey McDonald, Mayor

ATTEST:

Teri Feibel, CMC

[Sponsor: Harvey McDonald]

