

AGENDA

FOR THE SPECIAL MEETING OF THE CITY COUNCIL

FOR THE CITY OF THORNE BAY, ALASKA

COUNCIL CHAMBERS OF CITY HALL

120 FREEMAN DRIVE

Tuesday May 14, 2019

6:30 p.m.

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

The public is invited and encouraged to attend

1. CALL TO ORDER:

2. PLEDGE TO FLAG:

3. ROLL CALL:

4. APPROVAL OF AGENDA:

5. MAYOR'S REPORT:

6. ADMINISTRATIVE REPORTS:

- a. City Administrator's Report:
- b. City Clerk Report:

7. PUBLIC COMMENTS:

8. COUNCIL COMMENTS:

9. CONSENT AGENDA:

- a. MINUTES:
 - i. Minutes of the April 16, 2019, Regular City Council Meeting

10. NEW BUSINESS:

- a. Nominations & Appointment of a qualified registered voter to serve on the City Council Seat C until the October 2019 Certification of Election, discussion and action item:
- b. Appointment of Code Enforcement Officer to enforce the Municipal Laws of Thorne Bay, discussion and action item:

- c. Approval of Rental Agreement between the City of Thorne Bay and Tongass Federal Credit Union, discussion and action item:
- d. Approval of Rental Agreement between the City of Thorne Bay and SEARHC Clinic, discussion and action item:
- e. Authorizing the use of the City Ballfield for Adult Cord Softball League, discussion and action item:
- f. Authorizing the donation of cash or prizes for the Kids Fishing Day, Jim Beard Memorial, discussion and action item:

11. ORDINANCE FOR PUBLIC HEARING:

- a) Ordinance 19-05-07-01, amending Title 13 - Utilities, of the Municipal Code is adding Chapter 13.03 – Delinquent Accounts & Securing Collection of Debts, discussion and action item:

12. ORDINANCE FOR INTRODUCTION:

13. EXPENDITURES EXCEEDING \$2,000.00:

- a) Authorizing an expenditure exceeding \$3,875.00, for purchase of Chemicals needed for the operations of the Sewer Utility, discussion and action item:
- b) Authorizing the expenditure exceeding \$3,365.00, to Travis Tripple for Clinic Remodel overages, discussion and action item:

14. EXECUTIVE SESSION: The Council May adjourn to executive session for the purpose of discussing pending or threatened lawsuits in which the city has an interest, which are matters, the immediate knowledge of which would clearly have adverse effect upon the finances of the city.

15. CONTINUATION OF PUBLIC COMMENT:

16. CONTINUATION OF COUNCIL COMMENT:

17. ADJOURNMENT:

POSTED: May 10, 2019

City Hall, AP Market, The Port, USFS , SISD & Thorne Bay
School, Riptide Liquor

City Website: www.thornebay-ak.gov

MINUTES OF THE APRIL 16, 2019-CITY COUNCIL MEETING

MINUTES
FOR THE REGULAR MEETING
OF THE CITY COUNCIL
FOR THE CITY OF THORNE BAY, ALASKA
COUNCIL CHAMBERS
CITY HALL
Tuesday
April 16, 2019
6:30 p.m.

The meeting was preceded by a workshop beginning at 6:00 p.m.
The public was invited and encouraged to attend

1. CALL TO ORDER:

Mayor McDonald called the meeting to order at 6:30 p.m.

2. PLEDGE TO FLAG:

The audience and council stood for the pledge to the flag.

3. ROLL CALL:

Those present were: McDonald, Burger, Edenfield & Hartwell

Those excused were: Williams

Those attending by phone: Carlson, Slayton

4. APPROVAL OF AGENDA:

McDonald moved to approve the agenda. Hartwell seconded the motion. There was no further discussion.

MOTION: Move to approve the agenda.

1st/2nd: McDonald/Hartwell

YEAS: Burger, Hartwell, McDonald, Edenfield, Slayton & Carlson

NAYS: None

STATUS: Motion Passed.

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5. MAYOR'S REPORT:

McDonald reported on the following:

1. Reported on the IFA Board meeting.
 - a. Working toward funding from the State,
 - b. The IFA renewed contract with The Galley another 4 years & amended the phone policies for employees.
 - c. In the process of advertising for a new General Manager of the IFA as the current one is looking to retire.

6. ADMINISTRATIVE REPORTS:

City Administrator Report:

- a) Reported on Water/Waste Water Improvement contract awarded to CBC out of Sitka, First City and Schmolck are the subcontractors. Once signed contract, hope to have preconstruction meeting the first week in May. After many years of working toward this we area ta 2.5 million dollar project ready to break ground.
- b) Working on a couple of grants for the Davidson Landing road and continuing to improved.

City Clerk Report:

FINANCE REPORT:

CITY OF THORNE BAY TONGASS FEDERAL CREDIT UNION

Available Balance

HEALTH PREMIUM	\$35,001.03
OCCUPANCY TAX	\$41,662.32
CHECKING	\$170,473.08
SALES TAX SAVINGS	\$311,389.98
HARBOR	\$69,399.23
FISHERIES	\$19,227.75

TFCU ACCOUNT TOTALS \$647,153.39

FIRST BANK ALASKA \$ 23,624.38

WELLS FARGO INVESTMENTS

MARCH BALANCES: PRIOR MONTH BALANCE:

MONEY MARKET \$ 603,727.53 \$ 602,646.54

BONDS \$ 501,358.76 \$ 500,015.90

TOTAL W/F Balance: \$ 1,105,086.29 \$ 1,102,662.44

Total increase since February 2019 Statement. \$ 2,424.46

MINUTES OF THE APRIL 16, 2019-CITY COUNCIL MEETING

Quick BOOKS INCOME/EXPENSE \$ 1,383,370.71 \$ 1,257,163.61
QuickBooks PL Net income: \$ 126,207.10
TOTAL NET WORTH: \$ 1,902,071.16

Tasks and Projects:

- a. Clinic and TFCU Remodel is moving along quickly.
 - i. Clinic hopes to be open one day the first week in May
 - ii. TFCU Hopeful for June

New Business:

- A. Harbormaster Wendel will speak to the request for additional harbor stalls
- B. Resolution 19-04-16-01,
 - 1. Increases the price for sewer pump out treatment by \$0.10, increasing to \$0.35 per gallon. Equivalent to Ketchikan.
- C. Appointment of Municipal Code Enforcement Officer.
 - 1. Without a VPSO we need someone who is willing to issue citations for code violations. The Kasaan VPSO is unwilling to do this until he can get confirmation from another community who has had a VPSO issue citations.
 - 2. We currently pay for the Kasaan VPSO Fuel at the cost of \$1,668 from July 1, 2018-April 16, 2019, prior year costs were: FY18: \$1,199 from July 1, 2017-June 30, 2018, FY17: \$1,047 from July 1, 2016 to June 30, 2017

Ordinances for Introduction:

- a) Ordinance 19-05-07-01, amending Title 13 - Utilities, of the Municipal Code is adding Chapter 13.03 – Delinquent Accounts & Securing Collection of Debts,
- b) This would allow for the City to place a lien on real or personal property for delinquent accounts. This has been reviewed and amended by our attorney.

Ordinances for Public Hearing:

- a) Ordinance 19-04-16-01, amending Title 16-Subdivisions, of the Thorne Bay Municipal Code, allowing for the enforcement of fines for code violations, discussion and action item:
- b) Ordinance 19-04-16-02, amending Title 1.16.035 of the Thorne Bay Municipal Code, adding the Fine Schedule for Titles 16 and Title 17 of the Thorne Bay Municipal Code, discussion and action item:
- c) Both of these ordinances will allow the City to issue citations for violations. UMOT.

MINUTES OF THE APRIL 16, 2019-CITY COUNCIL MEETING

7. PUBLIC COMMENTS:

Eric Rhodes:

- a.) Easter Egg Hunt at Davidson Landing on Saturday April 20th, beginning at 3:15 p.m. toddler and above, and then 3:45 p.m. everyone else

Linda Rollins:

- a) 924 Rainy Lane. Parking across the street from her home. Neighbors and friends are parking all along making difficult to get out of her driveway. They don't care there is a fire hydrant there and park on top of it.

Eric Rhodes:

- a) Last time I requested an absentee voting at Davidson Landing and received a pretty good explanation that people can vote absentee earlier in town. Requested that the City put polling place at Davidson Landing

Sean McRae Volunteer Fire Department:

- a) Commented on the partially completed addition to the Davidson Landing Fire Hall.
- b) Stated the doors at the Davidson Landing Fire Hall needed to be repaired. The rollup door springs don't work properly, so takes two people to open that door.

8. COUNCIL COMMENTS:

Bob Hartwell commented on the following:

- a) Commented in response to the concerns of parking on Rainy Lane and congestion taking place due to the number of vehicles being parked at one locations. Hartwell stated that parking in a residential zone was only permitted at 1 parking place per dwelling. Hartwell quoted title 17.04.041 of the Thorne Bay Municipal Code for reference of this regulation.

Harvey McDonald:

- a) Commented that Notre Dame was on fire and sent prayers were being sent to Paris.

MINUTES OF THE APRIL 16, 2019-CITY COUNCIL MEETING

9. **CONSENT AGENDA:**

a) **MINUTES:**

- i. Minutes of the March 19, 2019, Regular City Council Meeting
- ii. Minutes of the April 2, 2019, Regular City Council Meeting

McDonald moved to approve the consent agenda. Hartwell seconded the motion. There was no further discussion.

MOTION: Moved to approve the consent agenda.
1st/2nd: McDonald/Hartwell
YEAS: Burger, Slayton, Hartwell, McDonald, Edenfield & Carlson
NAYS: None
STATUS: Motion Passed.

10. **NEW BUSINESS:**

a) **Approving request for 12 additional harbor stalls from Jason Clowar, Adventure Alaska, discussion and action item:**

McDonald moved to approve the 12 additional stalls to Adventure Alaska. Burger seconded the motion. Clowar stated the request was for 11 additional stalls to his annual stall rental.

MOTION: Move to approve the 12 additional harbor stalls for Adventure Alaska
1st/2nd: McDonald/Burger
YEAS: Burger, Slayton, Hartwell, McDonald, Edenfield & Carlson
NAYS: None
STATUS: Motion Passed.

b) **Resolution 19-04-16-01, amending Resolution 18-09-18-01, Rate Schedule for City Services; amending the rate**

McDonald moved to approve Resolution 19-04-16-01. Hartwell seconded the motion. There was no further discussion.

MOTION: Move to approve Resolution 19-04-16-01
1st/2nd: McDonald/Hartwell
YEAS: Burger, Slayton, Hartwell, McDonald, Edenfield & Carlson
NAYS: None
STATUS: Motion Passed.

MINUTES OF THE APRIL 16, 2019-CITY COUNCIL MEETING

c) Appointment of Municipal Ordinance Enforcement Officer, discussion and possible action item:

McDonald explained this position would be to assist with enforcing the City Ordinances in the absence of VPSO. Public inquired whether this was a paid position and if the person needed to have law enforcement background. McDonald stated it was a volunteer position that did not require background in law enforcement.

Hartwell explained the Thorne Bay Municipal Code details that the Code Enforcement Officer would investigate offences, so he felt the person would need some type of training. Hartwell continued that other items like issuing a parking ticket could be dealt with.

Hartwell concluded his comments by stating that he was tired of just waiting for someone to take action and enforce the City's Laws, and submitted his verbal resignation for the City Council Seat D.

d) Authorizing a Low-Cost Dump Day for Saturday May 18th, discussion and action item:

McDonald moved authorize May 18th as a low cost dump day. Burger seconded the motion. There was no further discussion.

MOTION: Move to authorize May 18th at low cost dump day
1st/2nd: McDonald/Burger
YEAS: Burger, Slayton, McDonald, Edenfield & Carlson
NAYS: None
STATUS: Motion Passed.

11. ORDINANCE FOR PUBLIC HEARING:

a) Ordinance 19-04-16-01, amending Title 16-Subdivisions, of the Thorne Bay Municipal Code, allowing for the enforcement of fines for code violations, discussion and action item:

McDonald moved to approve Ordinance 19-04-16-01. Edenfield seconded the motion. City Clerk explained that this ordinance was in connection with the other titles that were amended to allow for the City to issue citations for code violations.

MOTION: Move to approve Ordinance 19-04-16-01
1st/2nd: McDonald/Edenfield
YEAS: Burger, Slayton, McDonald, Edenfield & Carlson
NAYS: None
STATUS: Motion Passed.

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- b) **Ordinance 19-04-16-02, amending Title 1.16.035 of the Thorne Bay Municipal Code, adding the Fine Schedule for Titles 16 and Title 17 of the Thorne Bay Municipal Code, discussion and action item:**

McDonald moved to approve Ordinance 19-04-16-02. Burger seconded the motion. There was no further discussion.

MOTION: Move to approve Ordinance 19-04-16-02
1st/2nd: McDonald/Burger
YEAS: Burger, Slayton, McDonald, Edenfield & Carlson
NAYS: None
STATUS: Motion Passed.

12. ORDINANCE FOR INTRODUCTION:

- a) **Ordinance 19-05-07-01, amending Title 13 - Utilities, of the Municipal Code is adding Chapter 13.03 – Delinquent Accounts & Securing Collection of Debts,**

McDonald moved to approve Ordinance 19-05-07-01. Burger seconded the motion.

City Clerk explained the ordinance. This would allow for the City to place a lien on real or personal property for delinquent accounts. For the record, this would be for seriously delinquent accounts, not accounts that are 30 or 60 days delinquent.

MOTION: Move to approve Ordinance 19-05-07-01
1st/2nd: McDonald/Burger
YEAS: Burger, Slayton, McDonald, Edenfield & Carlson
NAYS: None
STATUS: Motion Passed.

13. EXPENDITURES EXCEEDING \$2,000.00:

- a) **Authorizing the expenditure of \$4,000.00, to DOWL for design and DEC approval of drain field for Davidson Landing Caretaker Facility, discussion and action item:**

McDonald moved to approve the expenditure of \$4,000 to DOWL for engineering and DEC approval of the drain field at Davidson Landing for the Caretaker Facility. Edenfield seconded the motion.

Wayne Explained.

MOTION: Move to approve the expenditure of \$4,000.00 to DOWL for engineering and DEC approval of the drain field at Davidson Landing

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1st/2nd: McDonald/Edenfield
YEAS: Burger, Slayton, McDonald, Edenfield & Carlson
NAYS: None
STATUS: Motion Passed.

14. EXECUTIVE SESSION: The Council May adjourn to executive session for the purpose of discussing pending or threatened lawsuits in which the city has an interest, which are matters, the immediate knowledge of which would clearly have adverse effect upon the finances of the city.

15. CONTINUATION OF PUBLIC COMMENT:

Jason Clowar commented on the following:

- a) Thanked the City Council for approving his request for the additional harbor slips.
- b) Clowar stated he understood where Linda Rollins was coming from in regards to the enforcement of parking regulations along Rainy Lane, and understood the frustrations of being blocked from accessing your property. But that he cautioned the City to tread lightly when implementing the enforcement of these codes. Clowar requested the council to think of how the laws are enforced so that residents can continue to enjoy Thorne Bay. Clowar stated that there were some city's where a person would get a ticket for j-walking, and didn't want to see Thorne Bay get there.

16. CONTINUATION OF COUNCIL COMMENT:

Slayton commented on the following:

- a) Stated that he would miss Hartwell's input, and hoped that the City could get the process going to fill the empty seat. Slayton commented that if Eric Rhodes was still in the audience, that this would be a good opportunity to get South Side represented. Hope to fill the seat soon is all.

McDonald commented on the following:

- a) Suggested the City Council schedule their annual Mile cleanup of Mile 5-6... McDonald stated that the City Council had missed this last year, and didn't want to miss again. With dump day coming up, it would be a good time to do that.

MINUTES OF THE APRIL 16, 2019-CITY COUNCIL MEETING

17. ADJOURNMENT:

McDonald adjourned at 7:15pm

Harvey McDonald, Mayor

ATTEST:

Teri Feibel, CMC

CITY OF THORNE BAY
ORDINANCE NO. 19-05-07-01

AN ORDINANCE AMENDING THORNE BAY MUNICIPAL CODE TITLE 13 – UTILITIES, TO ADD A NEW CHAPTER 13.03-DELINQUENT ACCOUNTS & SECURING COLLECTION OF DEBTS, SECTIONS 13.03.010 THROUGH 13.03.050, AUTHORIZING THE CITY TO UTILIZE THE PLACEMENT OF LIENS TO SECURE PAYMENT OF ACCOUNT FEES INCLUDING UTILITY, HARBOR, PARKING, AND SERVICE FEE CHARGES

- Section 1. Classification. This ordinance is of a general and permanent nature, the new chapter and sections hereby added to Title 13 – Utilities, shall be added to the Thorne Bay Municipal Code.
- Section 2. Severability. If any provisions of this ordinance or any application thereof to any person or circumstances is held invalid, the circumstances shall not be affected thereby.
- Section 3. Amendment of Title. Title 13 - Utilities, of the Thorne Bay Municipal Code is amended to add a new Chapter 13.03 – Delinquent Accounts & Securing Collection of Debts, consisting of new Sections 13.03.010 through 13.03.050. In accordance with the City’s authority under AS 29.35.010 and other relevant statutes, new Chapter 13.03 provides for the creation, recording, and notice of a lien by the City on real or personal property to secure payment of past due utility fees and charges. The Chapter and Sections of 13.03.010 – 13.03.050, shall read as set forth below in Ordinance 19-05-07-01
- Section 4. Effective Date. This ordinance shall become effective upon adoption.

PASSED AND APPROVED May 14th, 2019

Harvey McDonald, Mayor

ATTEST:

Teri Feibel, CMC

[Introduction: April 16, 2019]
~~[Public Hearing: May 7, 2019]~~
[Public Hearing: May 14, 2019]

Ordinance 19-05-07-01

Ordinance 19-05-07-01

ADDITIONS ARE BLUE AND CAPITALIZED

~~Deletions are red and stricken~~

AMENDMENT OF TITLE 13-UTILITIES

ADDITION OF NEW CHAPTER 13.03 – DELINQUENT ACCOUNTS & SECURING COLLECTION OF DEBTS, CONSISTING OF NEW SECTIONS 13.03.010-13.03.050

ADDING SECTIONS:

- ✚ 13.03.010 ACCOUNTS CONSIDERED DELINQUENT.
- ✚ 13.03.020 DELINQUENCY NOTICE.
- ✚ 13.03.030 TERMINATION NOTICE.
- ✚ 13.03.040 TERMINATION OF SERVICE.
- ✚ 13.03.050 LIENS & COLLECTION. .

CHAPTER 13.03 DELINQUENT ACCOUNTS,

13.03.010 ACCOUNTS CONSIDERED DELINQUENT.

UTILITY BILLS NOT PAID BY THE TWENTIETH DAY OF THE MONTH FOLLOWING MAILING SHALL BE CONSIDERED DELINQUENT AND WILL BE ASSESSED A FINANCE CHARGE OF 0.875% (PERCENT) EACH MONTH UNTIL PAID IN FULL.

13.03.020 DELINQUENCY NOTICE.

THE CLERK'S OFFICE MAY, BUT SHALL NOT BE REQUIRED TO, SEND A NOTICE OF DELINQUENT ACCOUNT TEN DAYS AFTER THE ACCOUNT BECOMES DELINQUENT.

13.03.030 TERMINATION NOTICE.

WITHIN FIFTEEN DAYS AFTER AN ACCOUNT BECOMES DELINQUENT, A NOTICE OF TERMINATION OF SERVICE SHALL BE SENT TO THE CUSTOMER. THE NOTICE SHALL STATE A DATE ON, OR WHICH WATER WILL BE TURNED OFF IF THE DELINQUENT ACCOUNT IS NOT PAID IN FULL PRIOR THERETO. SUCH DATE SHALL NOT BE LESS THAN FIVE OR MORE THAN FIFTEEN DAYS FROM THE DATE OF NOTICE. A DELIVERY TO THE PREMISES RECEIVING UTILITY SERVICES OR MAILING TO THE ADDRESS OF RECORD OF THE CUSTOMER SHALL BE CONSIDERED A DELIVERY TO THE CUSTOMER.

13.03.040 TERMINATION OF SERVICE.

AN AGENT OF THE CITY SHALL TERMINATE SERVICES ON THE DATE SO SPECIFIED IN THE NOTICE OF TERMINATION OF SERVICE UNLESS THE ACCOUNT IS PAID IN FULL.

13.03.050 LIENS & COLLECTION.

THE CITY MAY USE ALL LEGAL MEANS AND PURSUE ALL LEGAL REMEDIES TO COLLECT UNPAID UTILITY SERVICE FEES AND CHARGES.

- a. UPON ANY DELINQUENCY, ALL RATES, FEES, CHARGES, ASSESSMENTS, PENALTIES, AND INTEREST DUE AND OWING UNDER THIS TITLE SHALL CONSTITUTE A LIEN OF THE CITY UPON THE REAL PROPERTY RECEIVING THE BENEFIT OF THE SERVICE OR UTILITY.
- b. UPON ANY DELINQUENCY, ALL RATES, FEES, CHARGES, ASSESSMENTS, PENALTIES, AND INTEREST DUE AND OWING UNDER THIS TITLE SHALL CONSTITUTE A LIEN OF THE CITY UPON THE PERSONAL PROPERTY OF PERSON WHO REQUESTED SERVICE.
- c. THE CITY MAY CREATE, RECORD, AND PROVIDE NOTICE OF A LIEN TO SECURE PAYMENT OF PAST DUE UTILITY RATES, FEES, CHARGES, ASSESSMENTS, PENALTIES, AND INTEREST AS DESCRIBED IN THIS SECTION. A LIEN MAY BE RECORDED BY THE CITY IN THE KETCHIKAN RECORDER'S DISTRICT, RECORDING DISTRICT 102, IN THE FIRST JUDICIAL DISTRICT, AND IN THE STATE RECORDER'S OFFICE UCC CENTRAL FILE SYSTEM, AS APPLICABLE; HOWEVER, FAILURE TO SO RECORD SAID INTERESTS SHALL NOT BE CONSTRUED AS A WAIVER OR ABROGATION OF ANY AND ALL PRIORITIES, RIGHTS AND INTERESTS OF THE CITY AT LAW AND IN EQUITY.
- d. UPON FULL SATISFACTION OF PAYMENT OF ALL FEES, CHARGES, INTEREST, PENALTIES, AND COSTS FOR RECORDING A NOTICE OF LIEN AND DISCHARGE OF LIEN, DUE AND OWING TO THE CITY, THE CITY SHALL RECORD A CERTIFICATE DISCHARGING THE LIEN.
- e. IN AN ACTION TO ENFORCE A LIEN, THE COURT SHALL ALLOW AS PART OF THE COSTS ALL MONEY PAID FOR DRAWING THE LIEN AND FOR FILING AND RECORDING THE LIEN CLAIM AND DISCHARGE OF LIEN, AND A REASONABLE ATTORNEY FEE FOR THE FORECLOSURE OF THE LIEN.
- f. THE REMEDY PROVIDED IN THIS SECTION IS NOT EXCLUSIVE AND SHALL BE IN ADDITION TO ALL OTHER REMEDIES AVAILABLE TO THE CITY TO COLLECT PAST DUE UTILITY FEES AND CHARGES OWED UNDER THIS CHAPTER.

Appointment of City Council Member to Serve on Council Seat C Until Certification of the October 1, 2019, Regular Municipal Election.

THORNE BAY CITIZENS WHO HAVE SUBMITTED APPLICATIONS TO FILL THE VACANT COUNCIL SEAT

1. Eric Rhodes
2. Victoria Anderson
3. Roger Lonbotham
4. Teri Willard
5. Mark Minnillow
6. Jim Nieland

NEW BUSINESS ITEMS (C) TONGASS FEDERAL CREDIT UNION

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, Tongass Credit Union, (hereinafter called the "RENTER").

1. **Rented Premises.** The City does hereby Rent to the Renter Unit "A" of the Thorne Bay City Hall. 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 June 1, 2019 and ending April 30, 2021. 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. 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.

3. **Monthly Rent Payment.** Renter covenants and agrees to pay City monthly Rent payments in the sum of Ten dollars per month rent plus utility fees of \$179.46 based on FY 19 average fees 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, late payments shall be assessed a 0.87% finance charge (10.5% ARP) 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

NEW BUSINESS ITEMS (C) TONGASS FEDERAL CREDIT UNION

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 N/A . 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", Unit "A".
5. **Use.** Renter shall use the Rented Premises for the purposed of maintaining and operating there on, **Financial Services**. The Rented Premises shall be used for no other purposes without the prior written consent of City.
6. **Utilities and Fees.** The City shall provide Water, Sewer, Garbage, Heat, Electrical, snow removal service, except the walkway / stairs serving the entrance, for Unit "A". Renter shall pay the monthly utility fees as stated in Section 3. Renter shall be responsible for phone and internet service installation and monthly fees. Renter may contract with the City for minimal janitorial service.
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 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

NEW BUSINESS ITEMS (C) TONGASS FEDERAL CREDIT UNION

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 the City, its elected or appointed

NEW BUSINESS ITEMS (C) TONGASS FEDERAL CREDIT UNION

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 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 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 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 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 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
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;

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- (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 or 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 Statutes.
 - (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.

NEW BUSINESS ITEMS (C) TONGASS FEDERAL CREDIT UNION

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 at 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 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.

NEW BUSINESS ITEMS (C) TONGASS FEDERAL CREDIT UNION

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.
 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.

NEW BUSINESS ITEMS (C) TONGASS FEDERAL CREDIT UNION

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 _____
Harvey McDonald, Mayor "City"

By _____

ATTEST:

Teri Feibel, City Clerk

NEW BUSINESS ITEMS (D) SEARHC

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, SEARHC, (hereinafter called the "RENTER").

27. **Rented Premises.** The City does hereby Rent to the Renter Unit "B" of the Thorne Bay City Hall. 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.

28. **Term.** The term of this Rental Agreement shall be Two (2) year(s) beginning June 1, 2019 and ending April 30, 2021. 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. 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.

29. **Monthly Rent Payment.** Renter covenants and agrees to pay City monthly Rent payments in the sum of Ten dollars per month rent plus utility fees of \$179.46 based on FY 19 average fees plus, applicable sales tax payable in advance on the first day of each month of the Rent term. (utility fees to be adjusted if facility used as clinic more than one day per week). In the event any payment required to be made pursuant to this Rental Agreement is more than ten (10) days past due, late payments shall be assessed a 0.87% finance charge (10.5% ARP) per annum on such past due amount will be assessed and charged to Renter by City. At the expiration of the two-year term the monthly Rent payment shall be reviewed

NEW BUSINESS ITEMS (D) SEARHC

and adjusted in accordance with the provisions of Section 2.56.210 of Title 2, Article III of the Thorne Bay Municipal Code.

30. **Deposits.** Renter shall deposit with the City an amount equal to N/A . 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 waived in lieu of improvements to the Rented Premises or other City Facilities as provided by Renter per "Exhibit A", Unit "B".
31. **Use.** Renter shall use the Rented Premises for the purposed of maintaining and operating there on, **Medical Services/Human Health Services**. The Rented Premises shall be used for no other purposes without the prior written consent of City.
32. **Utilities and Fees.** The City will provide Water, Sewer, Garbage, Heat, Electrical, snow removal service, except for walkways accessing the entrances for Unit "B". Renter shall pay the monthly utility fees as stated in Section 3. Renter shall be responsible for phone and internet service installation and monthly fees. Renter may contract with the City for minimal janitorial service.
33. **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 authorization from the City for construction of any and all structures placed on or in the Rented Premises.
34. **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.
35. **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

NEW BUSINESS ITEMS (D) SEARHC

may immediately terminate this Rental Agreement and require that Renter vacate the Rental Premises.

36. **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.
37. **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.

38. **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.

39. **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.
40. **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

NEW BUSINESS ITEMS (D) SEARHC

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

41. **Removal of Renter's Property and Repair of Rented Property.** All 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 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, 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, 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 fixtures, and equipment at a price equal to or less than fair market value.
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44. **Default by Renter.** Each of the following shall be deemed a default by the Renter and a breach of the Rental Agreement:
 - (j) 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;

NEW BUSINESS ITEMS (D) SEARHC

- (k) Upon shut off of utilities;
- (l) 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;
- (m) 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;
- (n) 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;
- (o) The taking possession of Rented Premises of the Renter by any governmental officer of agency pursuant to statutory authority for the dissolution or liquidation of the Renter;
- (p) The making by the Renter of an assignment for the benefit of creditors;
- (q) Renter vacates or abandons the Rented Premises; and
- (r) 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.

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- (h) 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 Statutes.
 - (i) 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;
 - (j) Declare the Term ended;
 - (k) 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;
 - (l) 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;
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 - (n) The City shall use reasonable diligence to re-let 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.

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46. **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 at law or in equity or by statute.
47. **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.
48. **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.
49. **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.
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NEW BUSINESS ITEMS (D) SEARHC

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7. **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.
8. **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.
9. **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.
10. **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.
11. **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.
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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 _____
Harvey McDonald, Mayor "City"

By _____

ATTEST:

Teri Feibel, City Clerk