

THIRD AMENDMENT TO THE OPERATING AGREEMENT FOR SOUTH PENINSULA HOSPITAL

This Third Amendment to the Operating Agreement for South Peninsula Hospital (“Second Amendment to the Operating Agreement”) is by and between South Peninsula Hospital, Inc., an Alaska nonprofit corporation, of 4300 Bartlett, Home, Alaska 99603, hereinafter referred to as “SPHI” and the Kenai Peninsula Borough, an Alaska municipal corporation of 144 N. Binkley, Soldotna, Alaska 99669, hereinafter referred to as “Borough,” collectively referred to as the parties.

WHEREAS, effective January 1, 2020, the parties entered into an operating agreement for South Peninsula Hospital (the “operating agreement”); and

WHEREAS, the SPHI Board of Directors requested an increase to the total cumulative annual cost of real property leases in which SPHI is the sole lessee under the Operating Agreement, Section 14, Paragraph (b) as well as an amendment to the operating agreement amending Section 10(d) and 14(b) of the Operating Agreement, to state that the annual reported Property Lease List will include a category of contract labor housing leases, but that those leases will not count toward the annual cap under Section 14, Paragraph (b) of the operating Agreement; and

WHEREAS, South Kenai Peninsula Hospital Service Area Board approved the requested amendments to the Operating Agreement and recommended approval by the Borough Assembly; and

WHEREAS, Resolution 2023-019 was adopted by the Borough Assembly on February 21, 2023, approving the requests to an increase to the annual cumulative lease total and a Third Amendment to the Operating Agreement; and

WHEREAS, the Third Amendment document did not get executed by the parties and SPHI has subsequently requested an additional increase in the cumulative lease total; and

WHEREAS, Resolution 2023-____, was adopted by the by the Borough Assembly on September 19, 2023, approving the requests to an increase to the annual cumulative lease total, Exhibit A updates, and a Third Amendment to the Operating Agreement;

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

1. That Section 10, paragraph (d) of the Operating Agreement is hereby amended to read as follows:

d. Property Lease List. The *Property Lease List* shall include a list of all real property leases, regardless of term length or cost, and of all other operating and capital leases with terms greater than one year. This shall apply to all leases entered into by SPHI as lessee or lessor. At a minimum, the list must identify the leased property (including the address or legal property description), lessor/lessee, term, and cost. This list will include all leases SPHI has entered into for the purposes of contract labor housing. SPHI shall provide copies of any leases related to the services provided under the terms of this Agreement upon request by the Borough Contract Administrator.

2. That Section 14, paragraph (b) of the Operating Agreement is hereby amended to read as follows:

b. Leases in Which SPHI is the Lessee. Leases in the name of SPHI in which SPHI is the Lessee and no obligation whatsoever is imposed upon the Borough, either express or implied, are not subject to the requirements in subparagraph 14.a. of this agreement. Under no circumstances shall such leases obligate the Borough in any way whatsoever without advance Borough Assembly approval. All such leases shall contain a clause stating: "In the event that the Operating Agreement between SPHI and the Kenai Peninsula Borough is terminated and not renewed or extended, and the Kenai Peninsula Borough either assumes operation of the Medical Facilities or contracts with another entity to continue such operation, the continuation of this lease with the Borough or a subsequent operator is subject to Borough Assembly approval and the availability and appropriation of funds." In any event, written approval by the Borough contract Administrator is required for all such leases costing \$100,000 or more annually. Total cumulative annual costs of such leases shall not exceed \$650,000. This total annual cost ceiling for leases does not include leases entered into by SPHI for the purposes of providing contract labor housing. Increases to the cumulative annual limitation must be approved by the Borough Assembly by resolution.

3. That Exhibit A of the Operating Agreement is hereby amended to read as follows:

EXHIBIT A
DESCRIPTION OF MEDICAL FACILITIES

SPHI manages and operates following described property on behalf of the Borough's South Kenai Peninsula Hospital Service Area (hereinafter the "Medical Facilities") for the term of this Agreement and any extension thereof:

a. The South Peninsula Hospital and its grounds, located at 4300 Bartlett Street, Homer, Alaska, owned by the City of Homer, more particularly described as:

Tract A-2, South Peninsula Hospital Subdivision 2008 Addition, filed under Plat No. 2008-92, Homer Recording District, Third Judicial District, State of Alaska.

b. The hospital parking lot property and buildings owned by the Borough, more particularly described as:

Lots 3, 4, 5 and 6, Block 7; Lot 4, Block 8, Lot 6, Block 9, Fairview Subdivision Plat No. HM 56-2936 Volume 8, Page 196, Homer Recording District, Third Judicial District, State of Alaska.

c. The following leased property located at 4251 Bartlett Street, Homer, Alaska, owned by Mark Halpin and B. Isabel Halpin subject to the terms and conditions of the lease, more particularly described as:

L2-A Block 8 Fairview Subdivision Halpin Addition, according to Plat No. 2009-43, Homer Recording District, Third Judicial District, State of Alaska,

d. 10,520 square ft. of office space located at 4136 Bartlett Street, Homer, Alaska 99603 owned by the Kenai Peninsula Borough, more particularly described as:

Lot 2-A, Block 5, Fairview Subdivision No. 11, as shown on Plat No. 85-28, Homer Recording District, Third Judicial District, State of Alaska.

e. Approximately 1,500 square feet of the office space owned by Westwing LLC located at 4117 Bartlett Street, Homer, Alaska 99603 subject to the terms and conditions of the lease, more particularly described as:

Lot 4, Block 10, Fairview Subdivision, as shown on Plat No. 56-2936, Homer Recording District, Third Judicial District, State of Alaska.

f. 5,500 square feet of office space and 5,500 square feet of basement office space both within the Kachemak Bay Professional Building, 4201 Bartlett Street, Homer, Alaska 99603 subject to the terms and conditions of the lease more particularly described as:

Lot 1-A Block 9, Fairview Subdivision 2003 Addition, as shown on Plat No. 2004-101, Homer Recording District, Third Judicial District, State of Alaska.

- g. Intentionally Deleted
- h. Office space owned by the Kenai Peninsula Borough located at 348 Cityview Avenue, Homer, Alaska 99603, more particularly described as:
- Lot 4, Block 8, Fairview Sub., Section 18, T6N, R13W, Seward Meridian, Plat 1956-2936, Homer Recording District, Third Judicial District, State of Alaska.
- i. Office space owned by the Kenai Peninsula Borough located at 347 Cityview Avenue, Homer, Alaska 99603, more particularly described as:
- Lot 6, Block 9, Fairview Sub., Section 18, T6N, R13W, Seward Meridian, Plat 1956-2936, Homer Recording District, Third Judicial District, State of Alaska.
- j. Office building owned by the Kenai Peninsula Borough located at 4135 Hohe Street, Homer, Alaska 99603, more particularly described as:
- Lot 1 Block 5 Fairview Subdivision, as shown on Plat No. 56-2936, Homer Recording District, Third Judicial District, State of Alaska.
- k. Office building owned by the Kenai Peninsula Borough located at 203 Pioneer Avenue, Suite 1, Homer, Alaska 99603, more particularly described as:
- Tract A, Chamberlain & Watson Sub Plat of Tract A, Section 19, T6S, R13W, S.M., Plat 075063, Homer Recording District, Third Judicial District, State of Alaska.
- l. 1,008 square feet of office space located at 4252 Hohe St. Suite B owned by Homer Health Professional Building LLC, Homer, Alaska 99603, more particularly described as:
- Lot 9 Block 1, Fairview Subdivision, according to Plat filed in Book 8, Page 196, Homer Recording District, Third Judicial District, State of Alaska.
- m. 1,500 square feet of office space and residential housing located at 263 W. Fairview Ave owned by Red Raven LLC, Homer, Alaska 99603, more particularly described as:

Tract 6S R 1 3W Section 19, Seward Meridian HM 0562936,
Fairview Subdivision Lot 12 Block 4, Homer Recording District,
Third Judicial District, State of Alaska.

n. Such other Borough-owned or leased facilities, if any, as are authorized by the Borough pursuant to this Agreement for SPHI to sublease and operate pursuant to this Agreement.

4. All remaining terms and conditions of the Operating Agreement shall remain in full force and effect.

KENAI PENINSULA BOROUGH

SOUTH PENINSULA HOSPITAL, INC.

Peter A. Micciche
Borough Mayor

Kelly Cooper
SPHI Board President

ATTEST:

ATTEST:

Michele Turner, CMC
Borough Clerk

Board Secretary

Approved as to Form
and Legal Sufficiency:

Sean Kelley, Borough Attorney