

CITY OF UNALASKA
UNALASKA, ALASKA

RESOLUTION 2019-14

A RESOLUTION OF THE UNALASKA CITY COUNCIL AUTHORIZING THE CITY MANAGER TO ENTER INTO A LOAN AGREEMENT WITH ILIULIUK FAMILY AND HEALTH SERVICES, INC., FOR THE PURPOSE OF EMERGENCY ASSISTANCE FUNDS FOR THE OPERATION OF THE CLINIC, IN AN AMOUNT NOT TO EXCEED \$500,000.

WHEREAS, Iliuliuk Family and Health Services, Inc. (IFHS) requested funds for Emergency Assistance in the amount of five hundred thousand dollars (\$500,000); and

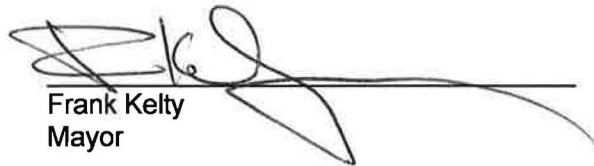
WHEREAS, the City of Unalaska finds that providing such assistance based on the terms and conditions outlined in the attached Loan Agreement and Promissory Note is in the best interest of the citizens of Unalaska, many of whom depend on IFHS for their primary medical care; and

WHEREAS, Ordinance 2019-04 amending the City's FY19 budget to provide such funding, in an amount not to exceed \$500,000, has been introduced and scheduled for public hearing and second reading on April 9, 2019; and

WHEREAS, the emergency funding for IFHS is contingent on the City Council adopting Ordinance 2019-04.

NOW THEREFORE BE IT RESOLVED that the City Manager is authorized to enter into a loan agreement with Iliuliuk Family and Health Services, Inc., for the purpose of emergency assistance funds for the operation of the clinic, in an amount not to exceed \$500,000.

PASSED AND ADOPTED by a duly constituted quorum of the Unalaska City Council on March 26, 2019.


Frank Kelty
Mayor

ATTEST:


Marjie Veeder
City Clerk



LOAN AGREEMENT
Emergency Assistance Support Request
Between the City of Unalaska and
Iliuliuk Family and Health Services, Inc.

This Loan Agreement ("Agreement") is entered into this ____ day of April 2019, by and between Iliuliuk Family and Health Services, Inc., an Alaska non-profit corporation ("IFHS") and the City of Unalaska, an Alaska municipal corporation ("City").

WHEREAS, IFHS has requested funds for Emergency Assistance from the City in the amount of Five Hundred Thousand Dollars (\$500,000); and

WHEREAS, City finds that providing such assistance based on the terms and conditions outlined in this Agreement is in the best interest of the citizens of Unalaska, many of whom depend on IFHS for their primary medical care; and

WHEREAS, an ordinance amending the FY2019 City budget to provide funding, in an amount not to exceed \$500,000, was introduced on March 26, 2019, and scheduled for public hearing, second reading and adoption on April 9, 2019.

NOW THEREFORE, for and in consideration of the mutual covenants herein contained, and subject to appropriation, the parties acknowledge and agree as follows:

1) City agrees as follows:

- a) To make funds available in an amount not to exceed \$500,000, to IFHS for the purpose of funding emergency support for the operation of the IFHS Clinic in Unalaska, under terms of the Promissory Note attached hereto as Exhibit A and the following terms and conditions:
 - i) Evidence of the insurance required by this Agreement in the form of certificates of insurance, including certificates regarding the required waiver of subrogation, shall be submitted to City prior to any disbursement of funds.
 - ii) IFHS shall provide the following documentation as evidence to demonstrate the need for emergency support prior to any disbursement of funds:
 - (1) Current Balance Sheet as of February 28, 2019
 - (2) Income Statement as of February 28, 2019
 - (3) Reconciled Bank Statements for all cash and investment accounts, through February 28, 2019.
 - iii) Funds shall be made available immediately upon approval.

- 2) In addition to complying with the terms of the attached Promissory Note, IFHS agrees as follows:
- a) IFHS shall expend City loan proceeds only to support maintaining operations of the IFHS clinic in Unalaska;
 - b) IFHS shall not expend loan proceeds for any new capital projects or programs, without prior written approval evidence by a resolution by the Unalaska City Council; and
 - c) At all times until the Promissory Note has been repaid, IFHS shall establish and maintain a financial management system conforming to generally accepted accounting principles, that demonstrates the following capabilities:
 - i) Provide accurate, current, and complete disclosure of all financial transactions relating to IFHC use of the loan proceeds;
 - ii) Track loan proceeds in a separate account in the agency's accounting system;
 - iii) Effectively control and account for all loan proceeds and property and/or equipment purchased with those funds; and
 - iv) Provide accounting records supported by source documentation.
 - d) IFHS shall provide a written monthly report of the Clinic's status, including a current Balance Sheet, Income Statement, Bad Debt write-offs and a narrative overview of Clinic operations. Reports shall be provided by the 15th of each month, beginning May 15, 2019.
 - e) IFHS shall provide a written quarterly report to the City Council, documenting the current financial status and the projected cash reserves for the upcoming quarter. Reports shall be provided on July 31, October 31, 2019 and January 31 and April 30, 2020, and quarterly thereafter until such time as the Loan has been repaid in full.
 - f) IFHS shall continuously look for operating efficiencies to reduce the need for emergency support.
 - g) IFHS must immediately notify City, in writing, of any changes in IFHS executive personnel.
 - h) IFHS shall submit a copy their FY2018 audited financial statements no later than July 31, 2019.

INDEMNITY. IFHS acknowledges that City is serving only as a funding source for the IFHS clinic and, as such, is not liable in any manner for any claims or damages arising during or as a result of the services provided by the clinic. IFHS shall defend and save harmless City, its employees, elected officials, volunteers, and representatives from and against all losses, damages, liabilities, expenses, and claims demands against IFHS which arise from or relate to services provided by IFHS during the term of this Agreement.

INSURANCE. IFHS shall provide a current certificate of insurance reflecting the following coverage:

- a) *Commercial General Liability:* insurance of not less than \$1,000,000 per occurrence
- b) *Workers' Compensation:* coverage no less than is required by Alaska State Statute
- c) *Professional Liability:* required for agencies providing medical, legal and/or counseling services with commercially reasonable limits of liability
- d) *Additional Insured:* The City of Unalaska shall be named as an additional insured on all policies except Professional Liability and Workers' Compensation
- e) *Waiver of Subrogation:* a waiver of subrogation in favor of the City of Unalaska must be in place
- f) *Cancellation:* All policies must have a 30 day cancellation clause requiring at least 30 days advance notice to City of cancellation of coverage.

DISCRIMINATION PROHIBITED. To the extent consistent with the purpose for which funds are made available under this Agreement, the services and facilities provided by IFHS will be available to the general public, and IFHS shall not discriminate in the administration of these services based on race, religion, color, national origin, age, sex, physical or mental disability, marital status, changes in marital status, pregnancy, or parenthood.

APPLICABLE LAWS. IFHS shall comply with all local, state, and federal ordinances, statutes, laws, and regulations applicable to the services provided by IFHS. Violation of any such ordinance, statute, law, or regulation is a violation of this Agreement.

RECORDS AND AUDIT. IFHS shall permit City or designee to have access to its records and financial statements during regular business hours on not less than twenty-four (24) hours advance written notice until such time as the loan is fully repaid.

NOTICES. All notices required or permitted under this Agreement shall be personally delivered or sent by certified mail, postage prepaid, to the parties at the following addresses:

To City:

City of Unalaska
Attn: City Manager
P. O. Box 610
Unalaska, AK 99685

To IFHS:

Iliuliuk Family and Health Services, Inc.
Attn: Chief Executive Officer
P. O. Box 144
Unalaska, AK 99685

Any notice or demand which must be given or made by the City or IFHS shall be in writing and shall be complete if personally delivered or sent by United States certified mail to the address shown above or to such other address as each of the parties may designate in writing from time to time.

INTEGRATION AND MODIFICATION. This Agreement and the accompanying Promissory Note are fully integrated and contain the entire agreement between the parties with respect to its subject matter.

AMENDMENTS. This Agreement may not be modified or amended except by a document signed by both parties, and any purported amendment or modification shall be without legal effect until reduced to writing and signed by both parties hereto.

SEVERABILITY OF CLAUSES OF AGREEMENT. If any clause or provision herein contained shall be adjudged to be invalid or unenforceable, it shall not affect the validity or enforceability of any other clause or provision of this Agreement or give any cause of action in favor of either party as against the other.

APPLICABLE LAW. This Agreement shall be governed by the laws of the State of Alaska. The venue for any dispute between the parties shall lie exclusively with the courts for the Third Judicial District for the State of Alaska at Anchorage, or, alternatively, with the United States District Court for the District of Alaska at Anchorage, unless a non-waivable federal or Alaska law should require to the contrary.

SUBJECT TO APPROPRIATION. Disbursement of funds to IFHS pursuant to this Agreement is subject to appropriation. This Agreement does not obligate City to appropriate funds for disbursement to IFHS.

In WITNESS WHEREOF, the parties have executed, or caused to be executed by their duly authorized officials, this Agreement on the respective date indicated below.

CITY OF UNALASKA

IFHS

By: _____
Thomas Thomas
City Manager

By: _____

Chair, Board of Directors

Date: _____

Date: _____

EXHIBIT A

PROMISSORY NOTE

\$500,000

April ____, 2019

FOR VALUE RECEIVED, Iliuliuk Family and Health Services, Inc., an Alaska non-profit corporation ("IFHS"), promises to pay to the order of the CITY OF UNALASKA, an Alaska municipal corporation ("City"), the principal sum of Five Hundred Thousand Dollars (\$500,000), without interest. This Note is payable in monthly installments of principal in the amount of \$4,166.67, commencing on the first day of the month following the month in which IFHS's operating cash reserves as determined solely by City based on the current income statement, balance sheet and reconciled monthly bank statements, required to be submitted by IFHS to the City by the terms of that certain Loan Agreement accompanying this Note, exceed Four Hundred Thousand Dollars (\$400,000), and on the first day of each month thereafter until April 1, 2029, when the remaining principal balance of this Note shall be due and payable. Principal shall be payable in any lawful money of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Installments of principal on this Note shall be paid at the office of the Finance Director of the City of Unalaska, Alaska.

This Note is subject to prepayment by or on behalf of IFHS, in whole or in part, at any time without penalty.

If default be made in the payment of any amounts due under or according to this Note, and if default is not cured within five (5) days after written notice thereof, then and in that event the entire unpaid principal balance of this Note, plus accrued interest, shall at once become immediately due and payable, without notice, at the option of the City. Failure to exercise this option shall not constitute a waiver of the right to exercise the same in the event of any subsequent default.

IFHS, its successors or assigns, whether principal, surety, guarantor, endorser, or other party hereto, agree to be jointly and severally bound; severally waive demand, protest, and notice of demand, protest and nonpayment; and expressly agree that this Note or any payment hereunder may be extended from time to time, and consent may be given to the acceptance of security, including all types of security, all without in any way affecting the liability of such parties.

This Note and the execution, delivery, and performance hereof, are governed by the laws of the State of Alaska.

DATED as of the date first set forth above.

ILIULIUK FAMILY and HEALTH SERVICES, INC.

By: _____

Chair, Board of Directors

MEMORANDUM TO COUNCIL

To: Mayor and City Council Members
From: Thomas Thomas, City Manager
Date: March 26, 2019
Re: Resolution 2019-14 authorizing the City Manager to enter into a loan agreement with Iliuliuk Family and Health Services, Inc., for the purpose of emergency assistance funds for the operation of the clinic, in an amount not to exceed \$500,000

SUMMARY: Over the last couple of years Council has heard from clinic personnel several times regarding the financial condition of the clinic. This resolution, loan agreement and promissory note, along with the related budget amendment, are presented to council for consideration following their wishes expressed during the meeting on March 12, 2019. The funding for the clinic is contingent upon adoption of related Ordinance 2019-04 following second reading and public hearing on April 9, 2019.

PREVIOUS COUNCIL ACTION: On November 28, 2017, Council passed a budget amendment, Ordinance 2017-14, to provide \$500,000 in emergency funding for the clinic. On December 12, 2017 council adopted Resolution 2017-70 authorizing the city manager to enter into an agreement with the clinic for disbursement of emergency assistance funds for operation of the clinic.

Following these actions, clinic personnel indicated to the City that their financial situation had improved and the emergency funding was no longer needed. The funding was not supplied to the clinic.

BACKGROUND: During the council meeting on March 12, 2019, council heard a presentation from clinic board members and personnel about the dire financial crisis facing the clinic, and once again requesting emergency assistance funding.

ALTERNATIVES: The council may choose to adopt Resolution 2019-14 as presented or may choose to modify the terms of the loan agreement and promissory note. The loan agreement authorized by Resolution 2019-14 is contingent upon adoption of the related budget amendment, Ordinance 2019-04.

FINANCIAL IMPLICATIONS: The funding authorized by Ordinance 2019-04 comes from the present year budgeted surplus.

LEGAL: The City Attorney prepared the loan agreement and promissory note.

PROPOSED MOTION: I move to adoption Resolution 2019-14.

CITY MANAGER COMMENTS: This is a council decision.