

## MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (this “**Agreement**”) is entered into as of August \_\_\_, 2021 (the “**Effective Date**”) by and between the **SOUTHEAST ALASKA REGIONAL HEALTH CONSORTIUM**, a consortium of federally-recognized Indian tribes and tribal organization under federal law (“**SEARHC**”) and the **Municipality of Skagway Borough Assembly** (hereafter the “**Assembly**”). SEARHC and the Assembly are sometimes referred to herein individually as a “**Party**” and together as the “**Parties**”.

### RECITALS

A. SEARHC is a provider of high-quality health care services for the residents of the Southeast Alaska region.

B. The Assembly through the Dahl Memorial Clinic (the “**Clinic**”) applied for and received a grant from the U.S. Department of Health and Human Services Health Resources and Services Administration (HRSA) to support the planning and delivery of medical services to medically underserved populations.

C. The Assembly and SEARHC have discussed the Parties’ intent to negotiate terms under which SEARHC will acquire the Clinic through the purchase of the assets of the Clinic and the purchase or lease of the Clinic facility (collectively referred to as the “**Transaction**”).

**NOW, THEREFORE**, the Parties agree as follows:

1. Appointment of Assembly Representative. The Assembly hereby confirms that it has appointed Brad A. Ryan, its Borough Manager (the “**Manager**”), (i) to negotiate in good faith the terms of a letter of intent and the definitive agreement pertaining to the Transaction (collectively, the letter of intent and the definitive agreement are

referred to herein as the “Final Agreements”) and (ii) to engage in due diligence analysis of the Transaction.

2. Agreement of the Parties. The Parties agree as follows:

- a. The designee of SEARHC, and the Manager as the designee of the Assembly, shall negotiate, in good faith, the terms of the Final Agreements between the Assembly and SEARHC;
- b. During the term of this Agreement, the Assembly shall not enter into or continue any discussions, negotiations, understandings, arrangements or agreements, regarding a possible transaction directly or indirectly involving (i) a purchase or sale or acquisition of a substantial portion of the Clinic’s assets, (ii) a change in the control of the Clinic’s operations by any means, or (iii) the lease of the Clinic, with or to (as the case may be) anyone other than SEARHC;
- c. The Assembly shall allow SEARHC to have access to all books and records pertaining to the Clinic, including such materials as may be in the hands of its subsidiaries and/or contractors, so that SEARHC may investigate and inspect (at SEARHC's sole cost and expense) the legal, physical, operational, economic, and environmental condition of the Clinic, and the suitability of the Clinic for SEARHC's intended operation thereof (the "Due Diligence Materials"), as may be consistent with HRSA regulations and any other HIPAA or confidentiality laws.
- d. Each Party acknowledges that it is a Party to that certain Confidentiality and Non-Disclosure Agreement (the “NDA”) dated August\_\_\_\_, 2021, and that such NDA remains in full force and effect and that the contents of this Agreement are subject thereto.
- e. For clarification, neither Party has any obligation to purchase, sell or lease the Clinic.

3. Termination of this Agreement. This Agreement shall remain in effect until the earlier to occur of December 31, 2021, or until terminated as follows: (i) by mutual written agreement of the Parties, or (ii) by the Parties entering into a written agreement that explicitly supersedes this Agreement; or (iii) by either Party, upon forty-five (45) days' written notice to the other Party. For the avoidance of doubt, the forty-five (45) day period following written notice of termination set forth above is intended to allow for an orderly wind-down of SEARHC's Due Diligence investigation with respect to the Transaction. Provided, however, that the expiration, or termination if sooner, of this Agreement will not affect the liability of a Party for breach of any of the terms of Sections 2(b), 2(c), 2(d), 2(e), 3, 4, 5 or 6 (the "Binding Provisions") where such breach occurs prior to the expiration or termination of this Agreement;

4. Notices. Any notice required or permitted under this Agreement shall be delivered by personal delivery or by first class mail, postage pre-paid, or by email addressed as follows:

The Assembly:

Attn:  
Email:

SEARHC: Southeast Alaska Regional Health Consortium  
3100 Channel Drive, Suite 300  
Juneau, Alaska 99801  
Attn: Michael E. Douglas, SVP/Chief Legal Officer  
Email: mdouglas@searhc.org

5. Miscellaneous. This Agreement will be governed by and construed in accordance with the laws of the State of Alaska. The Parties may execute this Agreement in counterparts, including by electronic signature, each of which shall be deemed an

original, but all of which, taken together, shall constitute one and the same instrument. Neither Party may assign any of its rights under this Agreement.

6. HRSA GRANT. The Parties are responsible for working together collaboratively and with HRSA with respect to the current HRSA grant to the Clinic and taking whatever actions are necessary to allow for the transfer of those grant funds to SEARHC if the Parties reach a written agreement on a lease or purchase and transfer of ownership of the Clinic to SEARHC.

7. Non-Binding Agreement. This MOU is not binding on either party and does not create any rights in or for either party that can be asserted against the other party at any time for any reason. This MOU is specifically not a contract to enter a lease agreement or any other agreement for the transfer of ownership or management or assets of the Clinic.

8. No representations. SEARHC acknowledges that, except as stated herein, no additional promises or representations have been made to SEARHC by the mayor, or any assembly member, or any employee or consultant of the Municipality of Skagway or the Dahl Memorial Clinic with respect to this MOU or any possible agreement to transfer of the assets of the Dahl Memorial Clinic to SEARHC.

[SIGNATURE PAGE FOLLOWS]

IN WITNESSETH WHEREOF, the Parties have executed this Agreement effective as of the Effective Date.

**ASSEMBLY:**

**Municipality of Skagway Borough Assembly**

By: \_\_\_\_\_

Name:

Title:

**SEARHC:**

**SouthEast Alaska Regional Health Consortium**

By: \_\_\_\_\_

Name: Charles Clement

Title: President/CEO