

CITY OF VALDEZ, ALASKA

RESOLUTION # 18-45

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, AUTHORIZING LEASE AMENDMENT NO. 7 WITH VALDEZ OCEAN DOCK, DBA BIG STATE LOGISTICS FOR LEASE OF PARCEL A, ALASKA TIDELAND SURVEY 564

WHEREAS, in 1976, the City of Valdez entered into a lease with Valdez Alaska Terminals, Inc. for 21 years with an additional six (6), five (5) year renewal options; and

WHEREAS, on July 7, 1997 the Valdez City Council approved the assignment of lease from Valdez Alaska Terminals, Inc. to Valdez Ocean Dock, Inc. dba Big State Logistics; and

WHEREAS, Valdez Ocean Dock, Inc., dba Big State Logistics has previously exercised four (4) of six (6), five (5) year renewal options; one in 1997, one in 2002, one in 2007, and one in 2012; and

WHEREAS, the lease expired on May 31, 2017 and has been in holdover subject to all terms and conditions on a month to month basis; and

WHEREAS, Valdez Ocean Dock, Inc., dba Big State Logistics has requested to exercise renewal option five (5) of six (6), five (5) year renewal options commencing June 1, 2017 and ending May 31, 2022; and

WHEREAS, the Valdez Ocean Dock, Inc., dba Big State Logistics lease area has decreased due to approval of Resolution #17-26 authorizing an overlapping lease with the Valdez Fisheries Development Association, Incorporated for Lot 2, Alaska Tideland Survey 564; and

WHEREAS, the Lease was due for reappraisal in 2017 for the purposes of determining fair rental value and staff ordered an appraisal; and

WHEREAS, the new appraisal was received November 15, 2018 and was appraised at \$95,000.00 x 6% which equals a new annual lease fee of \$5,700.00 which became effective December 4, 2018; and

WHEREAS, Valdez Municipal Code 4.08.010 formerly defined fair rental value as 6% of the appraised value but was amended in 2012 to define fair rental value as 10% of the appraised value; and

WHEREAS, the percentage of the appraised value was not amended in Paragraph 2 of the Lease at that time; and

WHEREAS, the expiration of this five (5) year term on May 31, 2022, if LESSEE wishes to extend the lease for another five (5) year term, calculation of fair rental value annually will be 7% of the appraised value at that time; and

WHEREAS, Valdez Municipal Code 4.08.100 states that the LESSEE “shall be required to pay for any and all survey, appraisal or other costs incurred in connection with the application and lease process.”

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, that:

Section 1. The City Council of the City of Valdez, Alaska authorizes Amendment No. 7 of the Lease of Parcel A, Alaska Tideland Survey 564 with Valdez Ocean Dock, Inc. dba Big State Logistics for and authorizes the City Manager or her designee to negotiate said lease renewal exercising lease renewal option number five (5) of six (6) commencing June 1, 2017 and ending May 31, 2022.

Section 2. Paragraph 2 of the lease dated June 1, 1976 between the City of Valdez and Valdez Ocean Dock, Inc. dba Big State Logistics for Parcel A, Alaska Tideland Survey 564 is amended to read as follows:

“LESSEE agrees to pay rent of Five Thousand Seven Hundred Dollars (\$5,700.00) per year until the termination of this Lease on May 31, 2022. This payment shall be made in equal advance annual installments, with the installment for any June-May period due not later than the 1st day of July for that period. This property will be reappraised for the purpose of determining the rental value every five years, and the rental value will be readjusted at that time. LESSEE agrees to pay for cost of appraisal for the purposes of determining fair rental value. If, at the end of this lease term on May 31, 2022, LESSEE wishes to extend the Lease for another five year term, the annual rental rate will be calculated as 7% of the appraised value. If the parties are unable to agree on a new rent figure, then each party shall appoint one appraiser, the two appraisers so appointed shall choose a third, and the decision of the three appraisers as to the rent figure shall be binding on the parties. In no event, however, shall any revised rent figure be less than the original lease

rate of Four Thousand Two Hundred Forty Dollars (\$4,240.00) per year. Nothing in this paragraph shall prevent the annual reassessment of the leased premises for tax purposes to determine its true value as provided by law.”

Section 3. Paragraph 1 of the lease dated June 1, 1976 between the City of Valdez and Valdez Ocean Dock, Inc. dba Big State Logistics for Parcel A, Alaska Tideland Survey 564 is amended as follows to reflect the changed lease area as follows:

Lot 3, Alaska Tideland Survey 564 (See Exhibit A)

Section 4. All other terms, covenants, and conditions of said Lease, and amendments, shall remain in full force and effect.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF THE CITY OF VALDEZ, ALASKA, this 18th day of December, 2018:

CITY OF VALDEZ, ALASKA

Jeremy O’Neil, Mayor

ATTEST:

Sheri L. Pierce, MMC, City Clerk