

CITY OF VALDEZ, ALASKA

RESOLUTION # 25-15

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, AUTHORIZING A LEASE WITH CROWLEY FUELS, LLC FOR AN 8,400 SQUARE FOOT PORTION OF USS 495 TIDELANDS

WHEREAS, the City of Valdez entered into a lease for an 8,400 square foot portion of USS 495 Tidelands, with Max and Betty Wells in 2001 for seventeen (17) years, commencing on December 1, 2001 and ending the last day of November, 2018 with an additional six (6), five (5) year options to renew; and

WHEREAS, Valdez City Council approved an assignment of leasehold interest from the Estate of Betty J. Wells to Crowley Fuels, LLC; and

WHEREAS, the Lease expired November 30, 2018 and was renewed for an additional five (5) year term via Resolution #18-30, expiring November 30, 2023; and

WHEREAS, this Lease has been in holdover on a month-to-month tenancy since the expiration while staff has worked with Crowley on Lease negotiations; and

WHEREAS, Crowley Fuels, LLC applied to continue to lease this property for operation of a fuel dock for a term of 10 years with four (4), five (5)-year options to renew; and

WHEREAS, City staff and Crowley Fuels, LLC negotiated lease conditions relating to this property; and

WHEREAS, this Lease is subject to fair rental value pursuant to Valdez Municipal Code 14.04.020 which is determined to be 10% of appraised value annually; and

WHEREAS, Section XII of the Valdez Small Boat Harbor Schedule of Rates and Fees adopted by Resolution No. 24-51 provides "Unless expressly provided otherwise in a lease, permit or concession, a fee of four cents (\$0.04) per gallon shall be charged to any person who operates a commercial fueling service at the Valdez Harbors;" and

WHEREAS, in addition to fair rental value and in accord with Section XII of the Valdez Small Boat Harbor Schedule of Rates and Fees, staff proposes that Lessee pay a fuel surcharge of \$00.04 cents per gallon of fuel sold based on the annual fuel through put from 2024, to be adjusted every five (5) years according to the annual through put of the most recent year; and

WHEREAS, City staff proposes that the minimum operating hours be set forth for this Lease, and that between the two Crowley Fuels, LLC Lease locations, Crowley Fuels

agrees to maintain minimum operating hours as set forth below to ensure continuity of service for Small Boat Harbor users; and

WHEREAS, Silver Bay Seafoods-Valdez, LLC approached Community Development staff about potentially constructing a fish transfer pipe under the Lease property and the City Attorney recommended including a non-conflicting use clause in the Lease; and

WHEREAS, The Ports and Harbors Commission voted on a recommendation to approve this Lease on February 11, 2025; and

WHEREAS, The Planning and Zoning Commission voted on a recommendation to approve this Lease on February 12, 2025; and

NOW, THEREFORE, NOW 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 a Lease with Crowley Fuels, LLC for an 8,400 square foot portion of USS 495 Tidelands in the form set forth in Appendix A.

Section 2. Lease Term. The initial term of this Lease shall be ten (10) years with four (4), (5) five-year options to renew.

Section 3. Section 3.01 and 3.02 of the Lease shall read as follows:

“3.01.Rent. The LESSEE shall pay to LESSOR an annual base rent of ten percent (10%) of the fair market appraised value of the Property (“Base Rent”), which value, subject to the adjustment provisions set forth below, is determined to be one thousand and five hundred dollars (\$1,500). In addition, LESSEE shall pay an annual sum equaling four cents (\$00.04) per gallon of fuel sold during the 2024 calendar year (“Fuel Dock Operations Fee”) in lieu of any fuel flowage fees owing under the Valdez Harbor Schedule of Rates and Fees. LESSEE shall provide LESSOR access to meters and other records necessary to determine the volume of fuel sold in calendar year 2024. An annual payment of Base Rent and the Fuel Dock Operations Fee shall be made in advance not later than the first day of January of each year of the Lease. Rent for any partial year shall be prorated at the rate of 1/12th of the annual rent per month or portion thereof. Payment of Base Rent and the Fuel Dock Operations Fee shall be made separately to facilitate LESSOR’s accounting practices. Base Rent shall be payable at the office of the City of Valdez, P.O. Box 307, Valdez, Alaska 99686, or at such other place as LESSOR may designate in writing. The Fuel Dock Operations Fee shall be paid to the City of Valdez, Harbor Master at PO Box 275 Valdez, AK 99686. Delinquent

Base Rent or Fuel Dock Operations Fees shall bear interest at the maximum rate of interest allowed per annum.

3.02. Adjustment of Rent. The Property will be reappraised and the annual Base Rent accordingly adjusted every five (5) years thereafter during the term of this Lease. Such appraisal will be based on the value of the Property and shall not include the value of buildings or improvements placed on the Property by LESSEE. The appraised value of the Property for the purposes of determining the annual rental amount shall be by an appraisal done by a State of Alaska license appraiser of LESSOR'S selection. In no event, however, shall the annual rent be less than the original annual rent set forth in paragraph 3.01. In addition, the Fuel Dock Operations Fee shall be adjusted every five (5) years during the term of this lease to reflect four cents (\$00.04) per gallon of fuel sold during the most recent full calendar year immediately preceding the adjustment. LESSEE shall provide LESSOR access to meters and other records necessary to determine the volume of fuel sold in such calendar 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. Within ninety (90) days of the effective date of any amendment to the Valdez Municipal Code altering the minimum required rent for lease of city property, LESSOR and LESSEE shall amend this Lease to comply with the Valdez Municipal Code. In the event LESSEE refuses to execute such an amendment, LESSEE shall be in default."

Section 4. Section 4.01. of the Lease shall read as follows:

"Use. LESSEE shall use the Property for fueling related purposes and for no other purposes. LESSEE shall not conduct any illegal activities on the Property or maintain any nuisances on the Property. LESSEE shall provide fueling services at the North Fuel Dock Premises or at the South Fuel Dock as depicted on Exhibit B so long as LESSOR is leasing the South Fuel Dock from LESSOR as follows:

- (a) November 1 – April 13 (by Appointment Only)
- (b) April 15 – Thursday before Memorial Day, 7 days a week from 9am-5pm
- (c) Friday of Memorial Day weekend – Labor Day

South Fuel Dock – 7 days a week from 6am-10pm

North Fuel Dock – 7 days a week from 10am-6pm

- (d) Day after Labor Day – October 15, Monday-Friday 9am-5pm"

Section 5. Section 4.03. of the Lease shall read as follows:

“Non-conflicting uses. LESSOR may use or allow the use of the Property, other than the fuel dock, in a manner that does not conflict with LESSEE’s use of the property. Such uses may include the installation of infrastructure under the existing gangway on the Property.”

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, this 4TH day of March, 2025.

CITY OF VALDEZ, ALASKA

Dennis Fleming, Mayor

ATTEST:

Sheri L. Pierce, MMC, City Clerk