

LEASE AGREEMENT (VALDEZ ALASKA TERMINALS, INC.)

THIS LEASE is made and entered into under the authority of the City Council of the City of Valdez, by and between the City of Valdez, Alaska, a municipal corporation, organized and existing under the laws of the State of Alaska, hereinafter called the "Lessor" or the "City," and Valdez Alaska Terminals, Inc., an Alaskan corporation, hereinafter called the "Lessee."

WITNESSETH:

The parties to this lease hereby agree as follows:

The City of Valdez, in consideration of the agreements herein contained, leases to Lessee the following two described parcels of real property owned by the City of Valdez:

Parcel No. 1, which is a corrected description of A.T.S. No. 865, as follows:

Beginning at Corner No. 4 of Lot 8 of U.S. Survey No. 3682, which is the true point of beginning of this description; thence along surveyed meanders of Lot 8, Lot 7 and Lot 6 of U.S. Survey No. 3682: S. 61°-03'-00" W. 284.92 feet to Corner No. 2, S. 18°-34'-00" E. 254.69 feet to Corner No. 3, S. 24°-17'-00" E. 77.09 feet to Corner No. 4, S. 24°-20'-00" E. 330.99 feet to Corner No. 5 which is common to Corner No. 2 of Lot 6 of U.S. Survey No. 3682; thence S. 61°-30'-00" W. 600.00 feet to Corner No. 6; thence N. 28°-30'-00" W. 660.11 feet to Corner No. 7; thence N. 61°-30'-00" E. 958.57 feet along the southern boundary of A.T.S. No. 613 to Corner No. 1 of this survey, the true point of beginning of this description, containing 9.54 acres more or less.

Parcel No. 2, as follows:

Beginning at Corner No. 5 of A.T.S. No. 865, which is common with Corner No. 2 of Lot 6 of U.S. Survey No. 3682; thence S. 61°-30'-00" W. 600.00 feet along the southern boundary of A.T.S. No. 865 to Corner No. 6 of A.T.S. No. 865, which is the true point of beginning of this description; thence continuing S. 61°-30'-00" W. 600.00 feet to Corner No. 2; thence N. 28°-30'-00" W. 660.11 feet to Corner No. 3; thence No. 61°-30'-00" E. 600.00 feet along the southern boundary of A.T.S. No. 613 and the westerly extension of said boundary to Corner No. 4, which is common with Corner No. 7 of A.T.S. No. 865; thence S. 28°-30'-00" E. 660.11 feet to Corner No. 1 of this survey, the true point of beginning of this description, containing 9.09 acres, more or less.

1. This lease shall be for the twenty-one (21) year term beginning on the 1st day of June, 1976, and ending on the 30th day of May, 1997. The lessee has an option to renew this lease for six additional five (5) year terms and to exercise an option the Lessee must notify the City in writing of an intent to do so not later than one (1) year prior to the expiration of the lease or the lease as extended. In no case shall this lease be extended beyond the 30th day of May, 2027.
2. The Lessee agrees to pay rent of Four Thousand Two Hundred Forty Dollars (\$4,240.00) per year. 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. 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 higher of Four Thousand Two Hundred Forty Dollars (\$4,240.00) per year or that percentage of the appraised value which is being charged by the State of Alaska for leases of comparable property being negotiated at that time. 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.
3. The Lessee agrees to pay the annual rental and fees specified and not to assign this lease or any part, nor let, nor sublet, either by grant or implication, the whole or any part of the premises without written consent of the Lessor, except to subsidiary or parent companies of the Lessee.
4. The Lessee agrees to keep the premises clean and in good order at his own expense, suffering no strip or waste thereof nor removing any material therefrom without written permission of the Lessor; except that removal of materials which is specified in the development plan and necessary to the development is permitted. At the expiration of the term fixed, or any sooner termination of the lease, the Lessee will be peaceably and quietly quit and surrender the premises to the Lessor.
5. Building construction shall be neat and presentable and compatible with its use and surroundings. Prior to placing of fill material and/or construction of any building or facility on a leased area, the Lessee must submit detailed drawings of proposed development of the property and, if a building is contemplated, comprehensive architectural drawings showing the location of all proposed utility lines, front, side and plan elevation views of the proposed structure, materials to be used, dimensions, elevations, and all data required by the Lessor, who shall review and approve, if satisfactory, in writing all major permanent improvements.
6. Should default be made in payment of any portion of the rent or fees when due, and for thirty (30) days thereafter, or in any of the covenants or conditions contained in this lease, the Lessor, agent or attorney, may re-enter and take possession of the premises, remove all persons therefrom, and upon written

notice, terminate this lease, if deficiency is not cured within the thirty (30) days. It is agreed that until the Lessor elects to terminate this lease, interest at eight percent (8%) per annum accrues and is payable on all rents and fees due and unpaid beginning thirty (30) days following the date on which the rents or fees are due.

7. All written notices required by this lease or permit shall be sent by registered or certified mail or delivered personally to the last address on record in the files of the Lessor.

8. The interests transferred or conveyed by this lease are subject to any and all of the covenants, terms or conditions contained in the instruments conveying title, leasehold interest, or other interests to the Lessor. The Lessee agrees not to breach, or allow a breach by third parties, of the covenants, terms, and conditions of the instruments conveying title to the Lessor.

9. Lessee covenants to save the Lessor harmless from all actions, suits, liabilities or damages resulting from or arising out of any acts of commission or omission by the Lessee, his agents, employees or customers, or arising from or out of the Lessee's occupation or use of the premises demised or privileges granted.

10. Lessor shall have the right at all reasonable times to enter the premises or any part thereof, for purposes of inspection.

11. Any or all rents, charges, fees or other consideration which are due and unpaid at the expiration or voluntary or involuntary termination or cancellation of this lease shall be a charge against the Lessee and his property, real or personal, and the City shall have such lien rights as are generally allowed by law, and enforcement by distraint may be made by the Lessor or its authorized agent.

12. The Lessee covenants and agrees that it will not, on the grounds of race, color, religion, national origin, ancestry, age, or sex, discriminate or permit discrimination against any prospective occupant, patron, employee, applicant for employment, or other person or group of persons in any manner prohibited by federal or state law or regulations promulgated thereunder. The Lessee recognizes the right of the City to take such action to enforce such covenant as it deems necessary or as it is directed pursuant to any federal or state law or regulation.

13. Lessor reserves the right to grant and control easements in, through or above the land leased, and may grant such easements to third parties at any time and for any purpose. No such grant or easement will be made that will unreasonably interfere with the Lessee's use of the land.

14. Lessee agrees that Lessor may modify this lease to meet revised requirements for state or federal grants, or to conform to the requirements of any revenue bond covenant to which the City is a party; provided that, in the case of modification to conform to the requirements or privileges granted or needed by any grants or covenants, such modification shall not be done without giving Lessee an opportunity for a hearing before the City Council, nor shall cause the Lessee financial loss without compensation.

15. Unless otherwise provided in a valid lease agreement, improvements owned by a Lessee shall, within sixty (60) days after the expiration, termination or cancellation of the lease, be removed by him; provided that, in the opinion of the City, such removal will not cause injury or damage to the lands; and further provided, that the City may extend the time for removing such improvements in cases where hardship is shown to its satisfaction, provided application for extension has been made in writing and received within said sixty (60) day period. The retiring Lessee may, with the consent of the City, sell his improvements to a succeeding Lessee, if any.

16. If any improvements and/or chattels having an appraised value in excess of \$10,000.00, as determined by the City, are not removed within the time allowed by paragraph 18 of this Lease Agreement, such improvements and/or chattels shall, upon due notice to the Lessee, be sold at public auction under the direction of the City. The proceeds of sale shall inure to the Lessee who owns such improvements and/or chattels after deducting and paying to the City all rents or fees due and owing and expenses incurred in making such sale. In case there are no other bidders at such auction, the City is authorized to bid on such improvements and/or chattels an amount equal to the amount owed to the City by the Lessee or \$1.00, whichever amount is greater. The City of Valdez shall acquire all right, both legal and equitable, that any other purchaser would acquire by reason of such purchase.

17. If any improvements and/or chattels having an appraised value of \$10,000.00 or less, as determined by the City of Valdez, are not removed within the time allowed by paragraph 18 of this Lease Agreement, such improvements and/or chattels shall revert to and absolute title shall vest in the City of Valdez.

18. This lease is issued subject to all provisions and requirements of the laws and regulations of the City of Valdez and the State of Alaska relating to leasing of lands and granting of privileges the same as though they were set forth in full over the signatures of the contracting parties.

19. If any term, provision, condition or part of this lease is declared to be invalid or unconstitutional by a court of competent jurisdiction of the State of Alaska, the remaining terms, provisions, conditions or parts shall continue in full force and effect as though such declaration was not made.

20. Lessee shall, within thirty (30) days after completion of any improvements placed upon or in the land described herein subsequent to the date of this lease, deliver to the Lessor at least two copies of as-built drawings showing the location and construction specifications of said improvements; furthermore, if Lessee's improvement is underground, Lessee shall appropriately mark the surface of the land with a stake or otherwise identify the type of underground installation and its location.

21. The Lessee shall at his own expense, maintain and keep in force during the term of this lease, adequate insurance to protect the Lessor and the Lessee against comprehensive public liability, products liability (where applicable) and property damage, in no less than the following amounts:

- (a) Property damage arising from one accident or other cause in a sum of not less than \$50,000.00.
- (b) Personal injury or death; liability insurance not less than \$100,000.00 per person and \$300,000.00 per accident.

The Lessee shall deposit with the Lessor a copy or copies of such insurance policy or policies or a certificate of such insurance coverage together with appropriate evidence that the premiums thereupon have been paid. All such insured of the Lessee shall name the Lessor as an additional insured, contain a waiver of subrogation endorsement, and provide that the Lessor shall be notified at least thirty (30) days prior to any termination, cancellation or material change in such insurance coverage. Such requirement for insurance coverage shall not relieve Lessee of any other obligations under this Agreement.

22. The Lessee shall at his own costs and expense, conduct all business authorized herein in compliance with all federal, state and local laws, ordinances, rules and regulations now or hereafter in force which may be applicable to the operation of the business authorized herein or to the use, care, operation, and maintenance of the terminal, including but not limited to, matters of health, safety, sanitation and pollution. The Lessee shall obtain and pay for all licenses and permits necessary for the operation of such business and shall pay all taxes which may be lawfully imposed upon the premises or operation(s) of the Lessee within or upon the premises; and shall pay such other fees and charges as may be assessed under applicable public statutes or ordinances.

23. The failure of the Lessor to insist in any one or more instances upon a strict performance by the Lessee of any of the provisions, terms, covenants, reservations, conditions or stipulations contained herein may not be considered as a waiver or relinquishment thereof for the future, but the same shall continue and remain in full force and effect. No waiver by the Lessor of any provision, term, covenant, reservation, condition or stipulation herein may be deemed to have been made in any instance unless expressed in writing by the Lessor.

24. Notwithstanding any other provision of this lease, if, at the time this is done, there shall be no enforceable default on the part of the Lessee in the performance of any of the terms of this lease, the Lessee may grant a security interest in this leasehold, or any portion thereof, for the purpose of interim or permanent financing of the construction of improvements upon the premises and for no other purpose, and may encumber this leasehold by mortgage, deed of trust, or other appropriate instrument, provided such encumbrances pertain only to Lessee's

interest in the property. This may be done without the written consent of the Lessor. If Lessee shall encumber this leasehold, or any part thereof, in accordance with this paragraph, the Lessor agrees that so long as such encumbrances shall remain unsatisfied of record, and written notice of such encumbrances is given to Lessor, then Lessor shall, upon serving upon Lessee any notice of default, simultaneously serve a copy of such notice upon the holder of such encumbrance. The holder of the encumbrance shall thereupon have thirty (30) days more time than is given to Lessee to remedy or cause to be remedies, the defaults complained of, and the Lessor shall accept such performance by or at the instigation of the holder of the encumbrances as if the same had been done by Lessee. If, at the expiration of this additional thirty (30) day period, the holder of the encumbrance causes all payments then in default to be paid to the Lessor, and has complied or substantially engaged in the complying with all of the other requirements of this Agreement which are then in default, then Lessor shall not be entitled to terminate the agreement or re-enter the property.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the dates indicated.

LESSOR:

CITY OF VALDEZ, ALASKA

By   
Herbert W. Lehfeldt  
City Manager

Date: Aug 25, 1976

LESSEE:

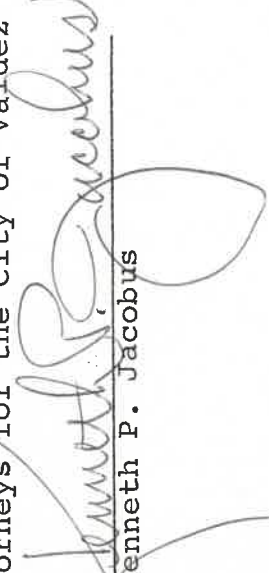
VALDEZ ALASKA TERMINALS, INC.

By   
President

Date: 7-28-76

APPROVED AS TO FORM:

Hughes, Thorsness, Gantz, Powell & Brundin  
Attorneys for the City of Valdez

By   
Kenneth P. Jacobus

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

BEFORE ME, the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, this day personally appeared HERBERT W. LEHFELDT, known to me and known to me to be the City Manager of the City of Valdez, Alaska, and he acknowledged to me that he had the authority to and did sign this document voluntarily for the purposes stated therein.


WITNESS my hand and notarial seal this 25 day of August, 1976.

  
Notary Public in and for Alaska  
My Commission Expires: 0-4-78

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

BEFORE ME, the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, this day personally appeared NEL BEGET, known to me and known to me to be the PRESIDENT of VALDEZ ALASKA TERMINALS, INC., and he acknowledged to me that he had the authority to and did sign this document voluntarily for the purposes stated therein.


WITNESS my hand and notarial seal this 28~~th~~ day of JULY, 1976.

  
Notary Public in and for Alaska  
My Commission Expires: 12/6/76

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

BEFORE ME, the undersigned Notary Public in and for the State of Alaska, duly commissioned and sworn as such, this day personally appeared KENNETH P. JACOBUS, known to me and known to me to be the City Attorney for the City of Valdez, Alaska, and he acknowledged to me that he had the authority to and did sign this document voluntarily for the purposes stated therein.

WITNESS my hand and notarial seal this 26 day of August, 1976.

  
Notary Public in and for Alaska  
My Commission Expires: 10-4-78