

RESOLUTION #24-18

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA AUTHORIZING ASSIGNMENT OF A LEASE AGREEMENT FOR TRACT C HARBOR SUBDIVISION WITH PETER PAN SEAFOODS COMPANY, LLC TO SILVER BAY SEAFOODS-VALDEZ, LLC AND AMENDMENT OF THE LEASE.

WHEREAS, the City of Valdez (as lessor) and Peter Pan Seafoods, Inc. (as lessee), entered into a lease for Tract C Harbor Subdivision dated June 4, 1990, a memorandum of which is recorded in the Valdez Recording District as Doc. No. 1990-000591-0 ("Lease"); and

WHEREAS, the Lease was assigned pursuant to the Assignment and Assumption of Leases executed between Peter Pan Seafoods, Inc. (as grantor) and Peter Pan Seafood Company, LLC (as grantee) dated December 31, 2020, recorded in the Valdez Recording District as Doc. No. 2020-000754-0; and

WHEREAS, the Lease was amended by that certain unrecorded Lease Amendment No. 1 dated January 30, 2021; and

WHEREAS, Silver Bay Seafoods-Valdez, LLC approached Planning Department staff with the request to assign and assume all of the lease agreements held by Peter Pan Seafoods Company, LLC; and

WHEREAS, Valdez Municipal Code 4.08.170 requires all applicants for assignment of lease to submit an application pursuant to section 4.08.050 which shall be submitted to the same application review as new applications for lease; and

WHEREAS, Valdez Municipal Code 4.08.030 states that "no city lands shall be leased for less than the fair rental value thereof" and Valdez Municipal Code 4.08.010 states that "fair rental value means ten percent of the fair market value annually;" 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"; and

WHEREAS, the Lease contains outdated language regarding rent and adjustments to rent; and

WHEREAS, the Ports and Harbor Commission voted to approve a recommendation to authorize the assignment; and

WHEREAS, the Planning and Zoning Commission voted to approve a recommendation to authorize the assignment.

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, consents to the assignment and assumption of the lease with Peter Pan Seafoods, LLC. for Tract C Harbor Subdivision to Silver Bay Seafood-Valdez, LLC subject to the condition that the lease be amended as set forth herein.

Section 2. Sections 3.01 and 3.02 of the Lease shall be repealed and replaced with the following:

3.01. Rent. The LESSEE shall pay to LESSOR an annual rent of ten percent (10%) of the fair market appraised value of the Property, which annual rent value, subject to the adjustment provisions set forth below, is determined to be \$19,300.00. An annual payment of rent shall be made in advance not later than the first day of June 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. 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. Delinquent rent 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 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 purpose of determining the annual rental amount shall be by an appraisal done by a State of Alaska licensed 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. 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. LESSEE is responsible for the cost of appraisal for the purpose of determining fair rental value.

Section 3. All other terms, covenants, and conditions of the Lease as previously amended shall remain in full force and effect.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA, this 19th day of April 2024.

CITY OF VALDEZ, ALASKA

ATTEST:

Sharon Scheidt, Mayor

Sheri L. Pierce, MMC, City Clerk