Sponsor(s): City Manager
Introduction Date: 4/20/21
Adoption Date: 4/20/21

CITY OF WHITTIER, ALASKA
RESOLUTION #13-2021

A RESOLUTION OF THE CITY OF WHITTIER, ALASKA APPROVING THE ASSIGNMENT OF THE LEASE BETWEEN THE CITY OF WHITTIER AND JEFF TAYLOR D/B/A WHITTIER FUDGE–SOUND IDEAS GALLERY AND GIFTS SUBJECT TO AND CONDITIONAL UPON AMENDMENTS TO THE LEASE, APPROVING THE ESSENTIAL TERMS OF THE ASSIGNMENT AND AMENDMENT OF THE LEASE, AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE PARTIES INCORPORATING THE ESSENTIAL TERMS APPROVED IN THIS RESOLUTION

WHEREAS, the City of Whittier ("City") and Jeff Taylor entered into a lease for Lot 1 within "Area B" according to the Whittier Small Boat Harbor and Vicinity Lease Map, filed as Plat 88-64, located in the Anchorage Recording District (the "Current Property") on or about March 4, 2021 (the "Current Lease"); and

WHEREAS, the Current Lease validated and clarified existing lease terms between the parties as well as leasehold requirements placed upon the parties under the terms of the Ground Lease and Management Agreement between the Alaska Railroad Corporation and the City dated November 13, 1998 (the "Master Lease"); and

WHEREAS, Lazy Otter Charters, Inc. ("Lazy Otter") has expressed interest in the assignment of the Current Lease to it and has provided the City with information demonstrating that Lazy Otter is in good standing and intends to continue to use the premises in the same manner as Mr. Taylor; but

WHEREAS, the City Administration has determined and City Council agrees, that in light of potential and existing uses of the Current Property, and in order to effectuate the City's harbor development and comprehensive plans, it is in the City's and the public's best interest for 385 square feet of the Current Property to be excluded from the leased premises and that the excluded property is needed to provide and promote public access to City waterfront and City waterfront services and facilities; and

WHEREAS, the City Manager has determined, and City Council agrees that as a result of the reduction in the Current Property from 1750 square feet to 1365 square feet, a reduction in the amount of rent owed is also needed; and

WHEREAS, City Council acknowledges and approves a reduction in the annual rental rate from $2,859 to $2,230 to compensate Lazy Otter for the reduction in property; and

WHEREAS, in an effort to support the business needs expressed by Lazy Otter, the City Manager does not object to an amendment to the Current Lease prohibiting the City from placing waste collection devices and/or portable toilets adjacent to or abutting the leased premises; and

WHEREAS, the City Manager acknowledges that the parties intend to incorporate the terms of an assignment and amendment between the City, Mr. Taylor, and Lazy Otter into an agreement between Mr. Taylor, Lazy Otter, the City, and former leaseholders on the Current Property; and

WHEREAS, in order to support the desire of past, present, and future leaseholders to address all the land interests in a single agreement, the City Manager is seeking approval of the essential terms of an assignment and amendment between the parties so that those terms may be incorporated into an agreement addressing the remaining interests between the other parties.

NOW, THEREFORE, the Whittier City Council resolves;

Section 1. Whittier City Council hereby approves the assignment of the Current Lease to Lazy Otter Charter, Inc. subject to and conditional upon the following essential terms:

Term A: The Current Lease and all of its terms and provisions remain in effect and are assigned to Lazy Otter except as amended by the terms contained in this Resolution, namely Term B, Term C, and Term D in this Section 1.

Term B. The Property is reduced from 1,750 square feet to 1,365 square feet and the property description is amended to read as follows:

> Lot 1 and Lot 1A within "Area B" according to the Whittier Small Boat Harbor and Vicinity Lease Map, filed as Plat 88-64, located in the Anchorage Recording District, State of Alaska and as more specifically depicted in the Lease Lot Exhibit attached as Exhibit A to this Resolution.

Term C. Rent is reduced from $2,859 per year to $2,230 per year. The reduction in rent is intended to reduce the rent directly proportionate to the reduction in square footage. It is not intended to waive or interfere with the application or effectiveness of rent adjustment and/or appraisal terms contained in the Current Lease.

Term D. The City is prohibited from maintaining or permitting the placement of waste collection facilities or portable toilets on City-owned or managed property abutting or adjoining the lease premises as depicted in Term B in this Resolution and in Exhibit A to this Resolution.

Section 2. City Council's approval of the assignment of the Current Lease is subject to and conditional upon the adoption of the essential terms in Section 1 of this Resolution. The City Manager has authority to execute an agreement with the parties so long as any such agreement

contains the essential terms in section 1 and the agreement does not impose any additional obligations, liabilities, debts or risks upon the City than those contained in the Current Lease terms or the amendments to the Current Lease approved in this Resolution.

Section 3. City Council acknowledges that the leased premises contain Lot 1A at 315 square feet and Lot 1 at 1050 square feet as depicted on the Lease Lot Exhibit prepared by CRW Engineers and attached to this Resolution as Exhibit A and that these lots constitute an undivided parcel of property.

Section 4. This resolution shall be effective immediately upon adoption.

PASSED AND APPROVED by a duly constituted quorum of the Whittier City Council on this 20th day of April, 2021.

Dave Dickason
MAYOR

ATTEST:

Naelene Matsumiya
CITY CLERK

Ayes: 6
Nays: 1
Absent: Ø
Abstain: Ø

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