



City of Homer

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Memorandum 20-208

TO: HOMER CITY COUNCIL & MAYOR CASTNER
FROM: ROB DUMOUCHEL, CITY MANAGER
DATE: DECEMBER 10 2020
SUBJECT: LEASE ASSIGNMENT TO SALMON SISTERS HOLDINGS LLC

Intro

Salmon Sisters Holdings LLC is interested in assuming the lease at Lot 12C which is currently held by Alaska Growth Capital BIDCO Inc. (AGC). There are separate negotiations between Salmon Sisters and AGC regarding the purchase of the building. The City only leases the land and does not own, nor control, the existing building. At the November 9th 2020 meeting, a lease and resolution were presented to Council which conformed to Title 18 in Homer City Code. A member of Salmon Sisters gave public comment against this and asked Council to postpone consideration of their lease transfer application and consider a below market rate. Council honored the applicant's request to postpone consideration and moved it to their next agenda. At the November 23rd meeting, Council passed a resolution which served as notice to award the lease held by AGC to Salmon Sisters allowing lease negotiations to begin on a lease that was to be contingent on final approval by Council.

Site History

Lot 12C is frequently referred to as "the Auction Block Property." The main buildings for the Auction Block were constructed in 2008 and completed in 2009. Further improvements were completed for the property in 2011. The existing structure has been in place since 2011. Auction Block officially went into bankruptcy in September 2017. Alaska Growth Capital BIDCO Inc., the mortgagee for Auction Block/Harbor Leasing, assumed the 2008 lease from Harbor Leasing LLC as part of Auction Block's bankruptcy proceedings and began paying the base rent as of August 1, 2018. They filed a quit claim deed for the lease holding estate in November 2018 as part of the judgement.

Rent History

Below is a rent table going back to the beginning of the lease for the Auction Block. As outlined in Homer City Code (HCC) 18.08.075 (f) and 18.08.100(c), and implemented as policy before being codified, the City has incorporated five year appraisals and annual Consumer Price Index (CPI) increases to ensure that the City stays current with the market and as an established way to make sure that leases function within an equal pricing structure across the board for any applicant or existing tenant. The annual CPI increases provide protection/adjustment for inflation and often help with a more accurate economic representation and gradual change so that a tenant isn't faced with drastic increases in base rent at the turn of each five year appraisal cycle.

Year	Annual Rate	Monthly Rate	Rate/Sq. Ft.
2020*	\$29,785	\$2,482	\$0.87
2019	\$26,347	\$2,195	\$0.77
2018	\$25,805	\$2,150	\$0.75
2017	\$25,626	\$2,135	\$0.74
2016	\$25,626	\$2,135	\$0.74
2015*	\$23,350	\$2,112	\$0.74
2014	\$23,007	\$1,917	\$0.67
2013	\$22,391	\$1,865	\$0.65
2012	\$21,853	\$1,821	\$0.64
2011	\$21,260	\$1,771	\$0.62
2009	\$20,737	\$1,728	\$0.60
2008	\$19,824	\$1,652	\$0.58

* Appraisals were conducted in April 2020 and March 2015

Salmon Sisters Holdings, LLC Application History

A complete application was submitted on October 20, 2020. Staff brought a lease to Council on November 9, 2020. The rate was based on an appraisal completed in April 2020. A member of Salmon Sisters Holdings, LLC gave public comment against the lease assignment resolution. The resolution was continued to the November 23, 2020 meeting where it was amended into a “notice to award” which allowed the City Manager to discuss a below market rate with the applicant while reserving the ability to approve a deal for Council. The application also went to the Port Commission for consideration on November 18, 2020, the Commission recommended moving forward with a lease assignment.

Summary of Salmon Sisters Holdings, LLC’s Interests/Objections

The applicant, had a series of interests/objections to the leasing process. I have distilled them into three categories: Speed of Process, Price, and Subleasing Provisions

<i>Category</i>	<i>Interest/Objection</i>	<i>Proposed Solution</i>
<i>Speed of Process</i>	Applicant wants to complete lease process as soon as possible	None. City staff provided the fastest pathway available at the time of application. It was rejected and we were set on a new trajectory which has taken more time to complete. We will continue to move forward as quickly as we can with Council direction
<i>Price</i>	Applicant believe that the lease rate is too high and external factors such as COVID should be accounted for in the rate via a reduction. Additionally, applicant believes that enough of a public purpose exists for Council to determine that a	We do not currently have the ability to do a rapid re-appraisal of the figures which were provided in April 2020 (we learned in December that the City’s appraiser has decided to retire and we will need to release an RFP for a new appraiser in 2021). The applicant has suggested 2018 rates as a substitute (a difference of approximately \$3980/year). If Council believe sufficient public purpose exists to

	below market rate lease should be permissible under HCC 18.08.075(d)	accept this rate, we suggest offering up to one year at the 2018 rate. A new appraisal will be completed at the end of the first year and a new rate determined based on the rules in Title 18 regarding fair market value.
<i>Subleasing Provisions</i>	HCC 18.08.140 contains subleasing provisions which include a clause that requires 10% of the rent for subleased areas. The applicant objects to this part of the code.	Staff intends to prepare an ordinance for introduction at the January 11, 2021 Council meeting which would remove this provision. This modification would provide a benefit to all leasable properties.

Council Decision Point: Price & Public Purpose

HCC 18.08.140 (d) allows Council to approve a lease for less than fair market value only if the motion approving the lease contains a finding that the lease is for a valuable public purpose or use, and provides a statement identifying such public purpose or use. Accepting a below market rate lease hinges on this section of code, and I cannot make this determination on your behalf. There are no guidelines in HCC for determining a valuable public purpose. Council has great latitude to make the determination as to what their thresholds are for a valuable public purpose.

Primary Recommendation: If Council finds that this proposal provides enough value as a public purpose to approve a below market lease rate, the staff recommendation is to approve a lease which sets the rate during 2021 at \$25,805 and requires a new appraisal to be completed by the end of 2021 to set a new rate in 2022 that is in conformance with HCC Title 18.

Alternate Recommendation: If Council does not find that this proposal provides enough value as a public purpose to approve a below market lease rate, then the staff recommendation is to offer the original rate of \$29,785.32 and plan to have the property reappraised as soon as a new appraiser can be contracted. If the new rate is below the current rate, the City will credit the applicant the difference for the months that have already been paid.