

**PETERSBURG BOROUGH  
RESOLUTION #2026-02**

**A RESOLUTION AUTHORIZING A SPECIAL USE PERMIT FOR A  
PORTION OF THE DOLPHIN STREET RIGHT-OF-WAY**

**WHEREAS**, Silver Bay Seafoods-Southeast, LLC ("Silver Bay") is the owner of parcels located directly adjacent to the Dolphin Street right-of-way ("the ROW"); and

**WHEREAS**, in 1989, the predecessor-in-interest to Silver Bay acquired a special use permit to use a portion of the ROW to load and unload container vans; and

**WHEREAS**, that special use permit is non-transferable and Silver Bay is required to apply for a new permit to continue use of the ROW; and

**WHEREAS**, on August 27, 2025, Silver Bay filed an application for a special use permit under Petersburg Municipal Code (PMC) 19.76, to nonexclusive use of an approximately 6,000 sq. ft. portion of the ROW for the loading and unloading of container vans; and

**WHEREAS**, on November 12, 2025, a duly noticed public hearing was held before the Petersburg Borough Planning Commission on the application; and

**WHEREAS**, the Planning Commission considered and reviewed applicant materials, staff comments, and public comments, and issued a Report and Findings of Fact, recommending that the Assembly approve the application with conditions, the conditions being to retain the prohibition against storage found in the original permit and to update permit language and general liability insurance coverage amounts to current requirements; and

**WHEREAS**, the Assembly has determined that the permit will not adversely impact any of the surrounding properties and is of community benefit by providing accountability for necessary maintenance and upkeep of the ROW, while ensuring accessibility by the general public.

**THEREFORE, BE IT RESOLVED** by the Assembly of the Petersburg Borough, as follows:

**Section 1.** The Assembly hereby approves the issuance of a special use permit to Silver Bay Seafoods-Southeast, LLC to use a 6000± sq. ft. portion of the Dolphin Street right-of-way, more specifically described in Attachment A, for purposes of loading and unloading container vans.

**Section 2.** The special use permit shall be substantially in the form as Attachment A.

**Section 3.** The Borough Manager is hereby authorized to execute, on behalf of the Borough, the permit authorized under this Resolution.

**PASSED and APPROVED by the Assembly of the Petersburg Borough, Alaska this 2<sup>nd</sup> day of February 2026.**

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**Bob Lynn, Mayor**

**ATTEST:**

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**Rebecca Regula, Borough Clerk**

## **Attachment A to Resolution # 2026-02**

For Recording in the Petersburg Recording District

After recording, Return to:   Borough Clerk  
                                 Petersburg Borough  
                                 PO Box 329  
                                 Petersburg, Alaska 99833

### **SPECIAL USE PERMIT (PMC 19.76)**

This Special Use Permit (hereinafter "permit"), effective as of the date of the last signature below (hereinafter "the effective date"), is by and between the Petersburg Borough, PO Box 329, Petersburg, Alaska 99833 ("the Borough") and

Silver Bay Seafoods – Southeast LLC  
208 Lake Street, Suite 2E  
Sitka, AK 99835

hereinafter the "Permittee".

Under the terms and conditions set out herein, the Borough hereby grants to Permittee the revocable, nonexclusive use of the following described real property:

A 6000± sq. ft. unsubdivided portion of Alaska Tidelands Survey No. 9, being an extension of Dolphin Street, lying south of T-204A and more particularly described as follows:

Beginning at Corner No. 1, the True Point of Beginning, being the Northwest corner of Lot 2, Block E, common the N.E. Corner of Lot 2A, Block E of the Subdivision of Alaska Tidelands Survey No. 9, Petersburg, Alaska; monumented with a rebar and aluminum cap. From which a Brass Cap at the Southeast Corner of Lot 2, Block 6 of the Subdivision of U.S.S. 282, bears S. 70° 31' 07" E, a distance of 545.26 feet. Said Brass Cap and an iron pipe which bears S. 89° 42' 00" E, forms the Basis of Bearing for this legal description.

Thence S. 86° 43' 00" W, along the Northerly side of Lot 2A, a distance of 100.00 feet, to a point on the Northerly side of Lot 2A, Corner No. 2. Thence N 03° 23' 00" W, across un-subdivided tidelands, a distance of 60.00 feet, to a point on the

## Attachment A to Resolution # 2026-02

southerly property line of T-204A, Corner No. 3. Thence N 86° 43' 00" E, along the southerly property line of T-204A, a distance of 100.00 feet, to the southeast corner of T-204A, Corner No. 4, common to the Southwest corner of Lot 1, Block F, and common to the most westerly end of the Dolphin Street R.O.W. Thence S 03° 23' 00" E, along the westerly end of the Dolphin Street Right-of-Way, a distance of 60.00 feet, to Corner No. 1, the True Point of Beginning. The intent of this legal description is to describe a 60.00 foot by 100.00 foot parcel of tidelands, westerly of Dolphin Street, at its most westerly extension. A plat of said parcel is attached hereto and incorporated herein as Exhibit A.

hereinafter, the "permitted area". Permittee is granted the right to use of the permitted area for the following permitted use(s) only:

For intermittent access to T-204A and Lot 2A for the purpose of loading and unloading vans and incidental uses necessary for Permittee's loading and unloading operations. The Permittee shall not store any equipment, vehicles or materials of any kind upon the permitted area.

All uses other than permitted uses are expressly prohibited.

### **Terms and Conditions**

1. In its use of, and activities or operations on, the permitted area, Permittee shall, at Permittee's sole cost and expense, comply with all applicable federal, state, and local laws, ordinances and regulations, including without limitation environmental and safety requirements.
2. Permittee shall not use or deposit, or permit the use or deposit of, any hazardous material or waste on the permitted area. As used herein, the term "hazardous materials or waste" means any hazardous or toxic substances, material, or waste that is or hereafter becomes regulated by any municipal governmental authority, the State of Alaska, or the United States government.
3. Permittee shall properly locate Permittee's activities on and within the permitted area prior to commencement of use and throughout the term of this permit until termination.
4. Use of the permitted area by Permittee is "AS IS, WHERE IS". The Borough does not warrant or represent, and expressly disclaims, that the permitted area is safe or suitable for any purpose whatsoever. Permittee is wholly and solely responsible for, and in control of, Permittee's use of, and activities or operations on, the permitted area by Permittee or any person or entity acting through Permittee, and for any necessary maintenance, repair and upkeep of the permitted area. Permittee acknowledges that the Borough has no responsibility whatsoever for any maintenance, repair or upkeep of the permitted area without regard to the underlying cause of the necessary work, including negligence by the Borough.
5. This permit is granted on the express condition that the Borough is free from any and all liability by reason of injury or death to persons or damage to or destruction of property from whatever cause arising out of or in any way related to Permittee's use of, or activities or operations on, the permitted area or exercise of rights hereunder. Permittee hereby assumes any risk

## Attachment A to Resolution # 2026-02

involved in respect to the presence of Permittee, or Permittee's contractors, employees, officers, members, shareholders, agents, representatives, clients, invitees, and guests, or their personal property, equipment or other facilities, on the permitted area, and does hereby release and discharge the Borough from any and all liability for loss, damage, injury, or death incurred by Permittee, or Permittee's contractors, employees, officers, members, shareholders, agents, representatives, clients, invitees, and guests, arising out of their entry or presence on, or use of, the permitted area pursuant to this permit. Permittee shall proceed under this permit at Permittee's own and sole risk.

### 6. Indemnification.

Permittee shall indemnify, defend and hold harmless the Borough, and its employees, officials, agents, and representatives, from and against any and all obligations, liabilities, claims, demands, loss, damages, costs, penalties, expense, or causes of action whatsoever, including attorney fees, resulting from, arising out of, or in any way connected with or related to the occupation or use of, or activities or operations on, the permitted area by Permittee or Permittee's contractors, employees, officers, members, shareholders, agents, representatives, clients, invitees, and guests, or otherwise arising out of or in any way connected with or related to this permit or the permitted area.

### 7. Insurance.

Notwithstanding Permittee's obligation of indemnification set out above, Permittee shall maintain in full force and effect during the term of this permit, at Permittee's sole expense, the following policies of insurance for protection against the claims of employees and other persons, insuring both Permittee and the Borough, against any liability that may accrue against them or either of them in connection with Permittee's use of, or activities or operations on, the permitted area or exercise of rights under this permit:

- i. General Liability Insurance covering use of and activities or operations occurring on the permitted area, including environmental damage, written on an occurrence form and not a claims-made form, with a minimum coverage limit of no less than \$1,000,000 per person, \$2,000,000 in the aggregate;
- ii. Automobile Liability Insurance, with liability limits and coverages reasonably satisfactory to Borough;
- iii. Property Insurance, insuring Permittee's property and Improvements, in adequate amounts to insure their full value; and
- iv. Workers' Compensation and Employer's Liability coverage, as required by state law.

The insurance shall be placed with insurance carriers satisfactory to the Borough and shall not be subject to cancellation or any material change except after thirty (30) days written actual notice to the Borough. The Borough and its officials and employees shall be specifically named as an additional insured on policies hereunder, where permissible, and all insurers shall agree to waive all rights of subrogation against the Borough.

## **Attachment A to Resolution # 2026-02**

All general liability and other casualty policies shall be written as primary policies; they shall not be contributing with, or in excess of, any insurance coverage that the Borough may otherwise carry. In order to maintain the same level of coverage that will exist at the commencement of this permit, the amounts and types of coverage called for herein shall be subject to review from time to time and, at the Borough's sole discretion, may be increased or extended to require the amounts and types of coverage deemed necessary by the Borough.

A Certificate of Insurance evidencing such coverage shall be provided to the Borough upon the effective date and thereafter upon renewal of such policies. If Permittee fails to comply with these insurance requirements, the Borough may suspend Permittee's activities on the permitted area until Permittee fully complies with these requirements and may terminate this permit in accordance with paragraph 14 hereof.

**8.** Permittee shall be responsible for any damage or disturbance to the Borough's real or personal property, or that of third parties, resulting from Permittee's exercise of rights herein granted. The Permittee shall promptly repair and restore to its original condition the permitted area or any of the Borough's personal or real property, including any improvements, that may be damaged or disturbed in connection with the use of, or activities or operations on, the permitted area by Permittee or any person or entity acting through Permittee.

**9.** Permittee shall keep the permitted area free and clear of any and all liens, charges, and encumbrances for labor performed or materials or services furnished to or at the permitted area at the instance or request of Permittee or any person or entity acting through Permittee. Permittee shall indemnify the Borough against any such lien, charge, or encumbrance that may be established against the permitted area as a consequence, direct or indirect, of any act or omission of Permittee, or any person or entity acting through Permittee, under this permit.

**10.** Permittee shall be solely responsible for, and shall promptly pay and discharge, any and all taxes, charges or other fees levied, assessed or charged against the Permittee or the permitted area as a result of this permit or Permittee's use of, or activities or operations on, the permitted area.

**11.** The Borough shall not be liable to Permittee if, for any reason whatsoever, Permittee's occupation or use of the permitted area shall be hindered, delayed, denied, or otherwise disturbed.

**12.** This permit is subject to all covenants, conditions, restrictions, reservations, and rights of way pertaining to the permitted area, whether or not of record.

**13.** Environmental and Water Quality Protection.

**a.** If the Borough has cause to believe that environmental or water quality damage has occurred or is threatened on the permitted area as a result of the use of, or activities or operations on, the permitted area by Permittee or any person or entity acting through Permittee, the Borough may give Permittee twenty-four (24) hours notice of such damage or threatened damage, after which time, unless the Borough and Permittee mutually agree otherwise, the Borough shall have the right to require the Permittee to immediately cease use of or activities or operations on the permitted area and to take immediate action to correct or eliminate said damage or threat thereof. Failure of Permittee to comply with such requests will be treated as a material

## **Attachment A to Resolution # 2026-02**

breach of this permit, entitling the Borough to terminate this permit. The Borough's rights under this provision shall not be construed as creating an obligation on the Borough's part to conduct or provide for any inspection as to environmental practices, it being agreed that compliance is the sole responsibility of Permittee.

b. Liability for any environmental or water quality damage that is caused by Permittee or its employees, agents and representatives, or otherwise results from or is related or connected to use of, or activities or operations on, the permitted area by Permittee or any person or entity acting through Permittee, shall be borne by and at the sole expense of Permittee. If Permittee fails or refuses to correct or repair said damage within a reasonable time, then after reasonable notice to Permittee, the Borough shall have the right, but not the obligation, to contract with any party to correct said condition and Permittee shall immediately reimburse the Borough upon demand for all actual costs of said correction or repair.

c. As part of the Borough's right to indemnification as stated herein, Permittee shall indemnify and hold the Borough harmless for any and all civil or criminal liabilities or penalties, including costs of defense, resulting from the acts or omissions of Permittee, or any person or entity acting through Permittee, that cause, threaten, or permit, or are alleged to cause, threaten, or permit, environmental or water quality damage, or sanctions to be incurred because of environmental or water quality damage.

**14.** This permit shall commence upon the effective date and end upon termination. This permit and any and all rights granted hereunder may be terminated (a) by mutual agreement of the parties; or (b) by the Borough, in its sole and absolute discretion, (i) if, at any time after one (1) year of the effective date, Permittee has not commenced use of the permitted area, unless the Assembly grants an extension under PMC 19.76.110, (ii) if Permittee is in breach or default of any provision of this permit upon expiration of a thirty (30) day notice period, provided that the Borough may immediately suspend Permittee's activities on the permitted area if the breach results in a health or safety hazard or any violation of federal, state or local law or if Permittee has failed to maintain required insurance, (iii) upon sixty (60) days written notice, if the Borough determines that the permitted area is needed for a municipal purpose, or (iv) upon six (6) months written notice. Notice of termination shall be given in writing and delivered by US Mail or hand-delivery to Permittee. If Permittee's use of the permitted area ceases for a continuous period of one (1) year, such disuse shall be considered an abandonment of the use and termination of this permit.

Additionally, the Borough may suspend or terminate this permit if the Assembly determines that the permit was issued in error, or on the basis of incorrect information provided, or in violation of any statute, ordinance, or regulation.

**15.** Upon expiration or earlier termination of this permit, Permittee shall remove all property located in or on the permitted area by Permittee or any person or entity acting through Permittee, and restore and peaceably surrender the permitted area to the Borough in as good a condition as such area was at the effective date of this permit. If Permittee fails to make such removal or restoration, the Borough shall have the right, but not the obligation, to make such removal or restoration at Permittee's expense, the amount of which Permittee shall immediately pay to the Borough on demand; if the Borough so elects, it shall also have the right to take possession of

## **Attachment A to Resolution # 2026-02**

and appropriate to itself without payment therefore any or all property of Permittee, or any person or entity acting through Permittee, remaining on the permitted area.

**16.** The use of the permitted area by Permittee, or any person or entity acting through Permittee, shall not interfere with the use of the area by others, including the Borough and members of the general public. Permittee understands that this is a non-exclusive permit, and that the Borough may grant other permit(s) for or interest(s) in the permitted area to other parties. If Permittee believes that other authorized users are improperly interfering with its use of the permitted area, it shall contact the Borough to report same and shall not attempt to directly exclude other authorized users from the permitted area.

**17.** This permit shall be governed by, and construed and enforced in accordance with, the laws of the State of Alaska. Venue for any dispute arising under this permit shall be in the Superior Court for the State of Alaska, in Petersburg, Alaska. If the Borough shall commence legal proceedings for any relief against the Permittee, declaratory or otherwise, arising out of this permit, the Borough, if deemed the prevailing party, shall be awarded, in addition to any other relief, a reasonable sum as attorney fees.

**18.** This document and any attachments hereto set forth the entire understanding and agreement of the Borough and Permittee with respect to the transaction contemplated hereunder, and supersedes any and all prior negotiations, discussions, agreements, and understandings between the Borough and Permittee. This permit may not be modified or amended except by written agreement executed by the Borough and Permittee.

**19.** Permittee's interest under this permit is as a permittee only and in no event shall this permit be construed as granting Permittee any interest in real property; Permittee shall claim no interest or estate of any kind or extent whatsoever in the permitted area by virtue of this permit or Permittee's occupancy or use of the permitted area.

**20.** This permit cannot be assigned or transferred, in whole or in part, or any interest therein conveyed, by Permittee, without the express written approval of the Borough.

**21.** The failure of the Borough to insist upon the performance of any of the terms and conditions of this permit, or the waiver of any breach of any of the terms and conditions of this permit, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

**22.** Any notice provided for or concerning this permit shall be in writing and be deemed sufficiently given when hand-delivered or sent by US mail to the respective address of a party as set forth at the beginning of this permit. A party may change its address by giving notice hereunder.

**23.** Permittee has had the full and complete opportunity to seek the advice and assistance of counsel in connection with the execution of this permit, and no rule favoring the interpretation of a written document urged by the non-drafting party shall apply in the event a dispute arises hereunder.

**24.** This permit may be executed and delivered in counterparts, and may be delivered by facsimile or in electronic format by email. Each such counterpart hereof shall be deemed an original instrument, but both such counterparts together shall constitute one document.

## Attachment A to Resolution # 2026-02

**25.** If any provision of this permit is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this permit shall nonetheless remain in full force and effect so long as the intent of the parties can be reasonably accomplished thereby.

**26.** Each party represents that the person signing this permit has the right, power and authority to sign on behalf of such party.

IN WITNESS WHEREOF, the parties hereto have hereunto set their respective hands, agreeing to keep, observe and perform all the terms, conditions and provisions herein set forth.

### Petersburg Borough

By: \_\_\_\_\_  
Stephen Giesbrecht, Borough Manager

Dated: \_\_\_\_\_

STATE OF ALASKA                      )  
  )  
  ss.  
FIRST JUDICIAL DISTRICT      )

THIS IS TO CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared Stephen Giesbrecht, to me known to be the Borough Manager of the Petersburg Borough, who executed the above and foregoing instrument, and acknowledged to me said instrument to be the free and voluntary act and deed of said party for the uses and purposes herein mentioned, and on oath stated that he is authorized to execute said instrument.

WITNESS My Hand and Official Seal the day and year in this certificate above written.

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Notary Public for the State of Alaska  
My commission expires: \_\_\_\_\_

*[Additional Signature and Notary Block on following page]*

## **Attachment A to Resolution # 2026-02**

The following Permittee hereby agrees to the terms and conditions of this special use permit issued by the Petersburg Borough. Permittee further confirms and avers that all information submitted or otherwise delivered to the Borough during the application process for this permit is true and correct.

**PERMITTEE: SILVER BAY SEAFOODS–SOUTHEAST LLC**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

THIS IS TO CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, before the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ of Silver Bay Seafoods-Southeast, LLC, who executed the above and foregoing instrument, and acknowledged to me said instrument to be the free and voluntary act and deed of said party for the uses and purposes herein mentioned, and on oath stated that he is authorized to execute said instrument.

WITNESS My Hand and Official Seal the day and year in this certificate above written.

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Notary Public for the State of Alaska  
My commission expires: \_\_\_\_\_