



City of Homer

www.cityofhomer-ak.gov

Port and Harbor

4311 Freight Dock Road
Homer, AK 99603

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Memorandum 20-176

TO: HOMER CITY COUNCIL AND MAYOR CASTNER

FROM: HOMER PORT AND HARBOR ADVISORY COMMISSION

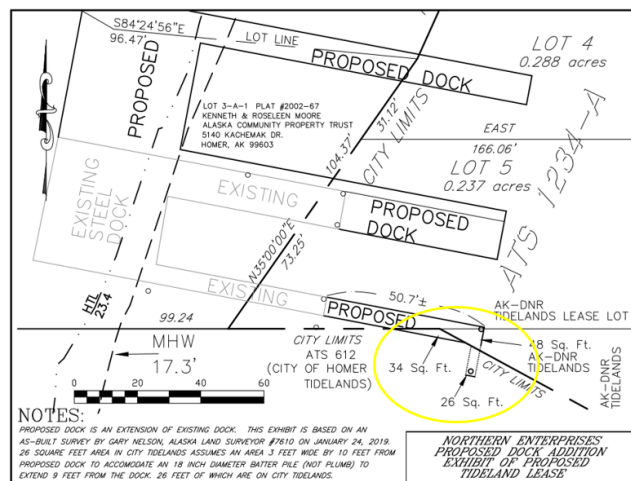
DATE: OCTOBER 21 2020

SUBJECT: NORTHERN ENTERPRISES BOAT YARD INC LEASE TERM EXTENTION REQUEST

Northern Enterprises Boat Yard Inc. ("Northern Enterprises") of Homer was granted a long-term lease for a portion (60 sq. ft.) of City tidelands in Mud Bay directly across from their private property on May 1 2019. Northern Enterprises Boat Yard, Inc., as a Homer based company specializing in vessel haul out, repair, and storage, are working on constructing a new dock capable of supporting a Marine Travel Lift Station to haul out larger, heavier vessels.

As progress has moved forward on this project Northern Enterprises has been advised by their financial lenders that, per Alaska Admin Code 3 AAC 99.230 Terms of real property loans, they are required to have a lease term that is at least 10 years more than the length of the loans for the project. They have submitted a request for an amendment to their current lease to extend the term to a timeline that would fulfill this requirement. They are asking for their current 20 year lease with option for 2 consecutive 5 year extensions to be amended to become a 40 year lease with 2 consecutive 5 year extensions. This gives the term for this property lease a total length of possibly up to 50 years, instead of the standard 30 years used most regularly in the City Lease contract.

The location of this property, as described above, consists of tidelands directly adjacent to an existing dock, and it's not anticipated at this time that there would be another competitive interest in this property. Please see location circled in yellow.



The Port and Harbor advisory commission met on October 20 2020 to review this request and made a unanimously approved motion of support. Below is the meeting minute excerpt of that Motion:

NEW BUSINESS

- A. Northern Enterprises Boat Yard Lease Amendment
 - i. Request for Amendment to Lease from Northern Enterprises
 - ii. DRAFT Resolution 20-xx Northern Enterprises Lease Term Extension
 - iii. DRAFT 1st Amendment to Lease Agreement

Chair Zimmerman introduced the item by reading the title and deferred to Port Director Hawkins to initiate discussion.

Port Director Hawkins provided background on the lease amendment, referencing the letter from Northern Enterprises Boat Yard. The lease is for 60 square feet of mud flats out into the bay and the bank required the longer lease term for them to move forward with funding.

ULMER/STOCKBURGER MOVED MOVE TO RECOMMEND THAT CITY COUNCIL APPROVE AN AMENDMENT OF THE NORTHERN ENTERPRISE'S BOAT YARD INC. LEASE TO EXTEND THE TERM TO 40 YEARS WITH OPTIONS FOR 2 CONSECUTIVE 5 YEAR RENEWALS.

Commissioner Ulmer commented that it's the right thing to do.

Commissioner Carroll inquired on the financials for the lease. Chair Zimmerman clarified that the amount is only \$3.74 annually, specified in the draft resolution.

VOTE: NON-OBJECTION: UNANIMOUS CONSENT

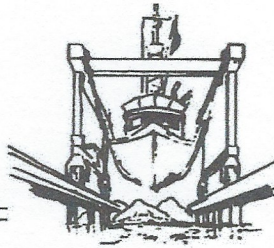
Motion carried.

Northern Enterprises dock and travel lift project fulfills a haul-out repair need that has been prioritized by the community in the CIP, helping to share the cost burden of building harbor-related infrastructure. The larger vessel sling lift will serve unmet haul-out needs in Homer's fleet and will double Homer's haul out infrastructure.

RECOMMENDATION

The Port and Harbor Advisory Commission recommend that City Council approve the amendment of the Northern Enterprise's Boat Yard Inc. Lease to extend the term to 40 years with options for 2 consecutive 5 year renewals for the 60 sq. ft. of City tidelands known as KPB Parcel #18107001, and authorize the City manager to execute the appropriate documents.

NORTHERN
ENTERPRISES BOAT YARD, INC.
AT MILLER'S LANDING



(907) 235-8234
FAX 235-7083
email: kshores@ptialaska.net

5140 Kachemak Bay Dr.
Homer, Alaska 99603-9426

October 15, 2020

To Whom it May Concern,

Northern Enterprises Boat Yard, Inc. currently has a standard lease for a tidelands portion with the City of Homer. Our present lease is for a 20-year term with options of 2 – 5-year renewals.

With our progress in moving forward with our dock expansion project we have been made aware by our financial lenders Alaska Industrial Development and Export Authority (AIDEA) and First National Bank of Alaska that we need to have a set timeframe lease that covers 10 years beyond the timeframe of the loans. When we requested something in writing we were forwarded the Alaska Admin Code 3 AAC 99.230, (<http://www.legis.state.ak.us/basis/aac.asp#3.99.230>) specifically, section “h” of “Terms of real property loans”.


Alaska Admin Code
3 AAC 99.230. Terms of real property loans

“(h) The terms and conditions of a land lease or, in the case of a qualified energy development, an easement that secures a real property loan for a project or qualified energy development are subject to approval by the authority. The term of the lease or easement must exceed the effective term of the loan by at least 10 years. However, the authority may approve a land lease or easement for a shorter term if there is an irrevocable option to renew the lease or easement that is acceptable in the sole discretion of the authority.”

We are respectfully requesting a modification to our lease to be a 40-year lease with options of renewals at the end of that timeframe.

We feel that this dock expansion will offer a large service to our business as well as other businesses in the area and be a beneficial asset to the entire community.

Sincerely,


Roseleen L. Moore
Vice President
Northern Enterprises Boat Yard, Inc.

1ST AMENDMENT TO LEASE AGREEMENT

This amendment is made and entered into effect as of _____, 2020 between the City of Homer, an Alaska municipal corporation ("Landlord") whose address is 491 East Pioneer Avenue, Homer, Alaska 99603, and Northern Enterprises Boat Yard Inc., an Alaskan corporation ("Tenant"), whose address is 5140 Kachemak Dr, Homer Alaska 99603 , and amends the Ground Lease Agreement ("Lease") entered into between Northern Enterprises Boat Yard Inc., and the City of Homer, dated April 1 2019 and recorded by the Kenai Peninsula Borough's recorder's office on April 23 2019, Number 2019-001083-0, Homer Recording District 309, Alaska.

Landlord and Tenant agree as follows:

3.01 Lease Term. The term of this Lease is 20 years, commencing on May 1, 2019, and ending on April 30, 2039 (the "Term"). In addition, prior to the Tenant's construction of the Tenant's proposed use, Tenant shall have the right to immediately terminate this Lease upon written notice to Landlord if Tenant deems the results of any of the studies, reports, financial backing, or Governmental Approvals to be unacceptable to the Tenant in its sole discretion.

Shall be amended to the following:

3.01 Lease Term. The term of this Lease is **40** years, commencing on May 1, 2019, and ending on April 30, **2059** (the "Term"). In addition, prior to the Tenant's construction of the Tenant's proposed use, Tenant shall have the right to immediately terminate this Lease upon written notice to Landlord if Tenant deems the results of any of the studies, reports, financial backing, or Governmental Approvals to be unacceptable to the Tenant in its sole discretion.

IN WITNESS WHEREOF, the parties have executed this Lease Amendment as of the date set forth above.

Landlord:
City of Homer

Tenant:
Northern Enterprises Boat Yard Inc.

By: _____

By: _____

Rob Dumouchel, City Manager

Roseleen Moore, Director

ACKNOWLEDGMENTS

STATE OF ALASKA)
) SS.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me on _____, 2020 by Rob Dumouchel, City Manager of the City of Homer, an Alaska municipal corporation, on behalf of the City of Homer.

Notary Public in and for Alaska
My Commission Expires: _____

STATE OF)
) SS.
)

The foregoing instrument was acknowledged before me on _____, 2020 by Roseleen Moore, as director of Northern Enterprises Boat Yard Inc.

Notary Public in and for the state of _____
My Commission Expires: _____

After recording return to:
Melissa Jacobsen, MMC, City Clerk
City of Homer
491 E. Pioneer Avenue
Homer, AK 99603