

CITY OF DILLINGHAM, ALASKA

ORDINANCE NO. 2015-13 (SUB 1)

AN ORDINANCE OF THE DILLINGHAM CITY COUNCIL AUTHORIZING THE DISPOSAL OF MUNICIPAL PROPERTY TO BEN MCDOWELL DBA MOTIVE POWER MARINE AND EPC LLC BY LEASE

WHEREAS, the City is the lessor and Motive Power Marine, LLC lessee of real property legally described as Lot 3A, Harbor Lease Lots Subdivision, a resubdivision of US Survey 2874, according to a lease agreement dated September 25, 2014 ("Motive Marine Lease"); and

WHEREAS, the Motive Marine Lease is a ground lease with an initial term of three years with the option to extend for up to twenty-five additional years; and

WHEREAS, Motive Power Marine, LLC seeks to assign its interest in the Motive Marine Lease to EPC, LLC; and

WHEREAS, EPC, LLC seeks assignment of the Motive Marine Lease for the purpose of building a marine shop with access to the harbor; and

WHEREAS, EPC, LLC desires to extend the term of the Motive Marine Lease as a condition of the assignment; and

WHEREAS, the City's interests are best served by assignment and amendment of the Motive Marine Lease;

BE IT ENACTED BY THE DILLINGHAM CITY COUNCIL:

Section 1. Classification. This is a non-Code ordinance.

Section 2. Authority. This ordinance is adopted pursuant to authority granted by DMC 5.30.100, Leases, easements and rights-of-way.

Section 3. Method of Disposal. The lease assignment and amendment is made as negotiated disposal of an interest in real property.

Section 4. Findings. The City Council hereby finds that 1) EPC, LLC is uniquely situated to receive as assignee Motive Power Marine, LLC's interest in the lease as a result of the two entities' relationship and their respective arrangements regarding the lease, and 2) the public interest will be served by the construction of a marine shop on the leased premises.

Based on the current assessment of the Property, the City finds that the fair market value of

(Items highlighted in gray shading are being introduced as SUB-1; new language is underlined and **emboldened** and deleted language displayed as ~~strikethrough~~.)

the leasehold, upon the terms and conditions set forth in the lease agreement as amended, is \$.22 a square foot per year, or .22 X 56,628 (\$12,458.16) per year, or \$1,038.18 per month. This amount shall be subject to adjustment based ~~change in~~ upon an appropriate Consumer Price Index and subject to adjustment based on appraisal for any renewal term.

Section 5. Authorization of Lease Assignment and Amendment. The City Council hereby authorizes assignment of the Motive Marine Lease to EPC, LLC and amendment of the Motive Marine Lease term from the current term to a new twenty-five year term with an option to renew for one additional 25 year term, with the rent provisions to reflect the City Council's findings in Section 4 of this Ordinance. Other amendments affecting non material terms may be made at the discretion of the City Manager.

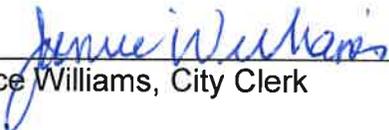
Section 6. Effective Date. This ordinance is effective upon passage.

PASSED and ADOPTED by a duly constituted quorum of the Dillingham City Council on 9/10/15.


Alice Ruby, Mayor

ATTEST:

[SEAL]


Janice Williams, City Clerk

(Items highlighted in gray shading are being introduced as SUB-1; new language is underlined and **emboldened** and deleted language displayed as ~~strikethrough~~.)

City of Dillingham Information Memorandum

Agenda of: September 10, 2015

Attachment to:

Ordinance No. 2015-13 / Resolution No. _____

Subject:

AN ORDINANCE OF THE DILLINGHAM CITY COUNCIL AUTHORIZING THE DISPOSAL OF MUNICIPAL PROPERTY TO BEN MCDOWELL DBA MOTIVE POWER MARINE AND EPC LLC BY LEASE

City Manager: Recommend Approval

Signature: Rose Doera

Fiscal Note: Yes No

Funds Available: Yes No

Other Attachments:

- An advertisement for a Public Hearing on Ordinance No. 2015-13 is scheduled to appear in the September 3 edition of the Bristol Bay Times as required to be advertised in a local newspaper five days in advance of the public hearing.

Summary Statement:

Ben McDowell dba Motive Power Marine (MPM) has been leasing Harbor lot 3 of USS 2874 from the City since 2012. In early 2014 he requested to expand his lot about 20,000 additional sf. The City put out a formal bid for disposal to the public and the only bidder was MPM.

He was required to survey the lot and remove the silty material at his own expense. He did what was required and we entered into a lease with him for the newly created Lot 3A of USS 2874.

He is now asking to amend the lease to add a partner, EPC LLC, as well as increase the term to two 25 year increments versus the 5 year increments up to 25 years. They will be building a structure on the property which is a requirement of the current lease.

The City has been working with its Attorneys on an amendment and since the City is changing some of the terms of the lease, our Attorneys advise following DMC 5.30.100 - Leases, Easement & Right-of-Way and have the Council adopt an ordinance to dispose of municipal property.

Attachment to: 2015-13 / Resolution No. _____
Ordinance No. _____

Summary Statement continued:

| Route to | Department Head | Date |
|----------|------------------|------|
| X | Finance Director | |
| | | |
| | | |
| X | City Clerk | |



NOTICE OF A PUBLIC HEARING Public Hearing on Ordinance Nos. 2015-13

The City Of Dillingham will hold a **Public Hearing** on Thursday, September 10, 2015, at 5:30 P.M. in the City Council Chambers for the purpose of taking comment from the public on the following ordinance:

- Adopt Ordinance No. 2015-13, An Ordinance of the Dillingham City Council Authorizing the Disposal of Municipal Property to Ben McDowell DBA Motive Power Marine and EPC LLC by Lease

If you have any questions, please contact the City Clerk's office at 842-5212 or email cityclerk@dillinghamak.us.