



Date November 7, 2016

HOLD HEARING ON CONCESSION AGREEMENT FOR THE BIRDLAND MARINA
CONCESSION WITH LESS THAN TRINITY, LLC, D/B/A CAPTIAN ROYS

WHEREAS, the City is the owner of Birdland Marina, which includes a concession building, surrounding space, boat ramp, and adjacent parking lot all adjacent to the Neal Smith Multi-Use Recreational Trail at 2100 Saylor Road, Des Moines (Concession Area); and

WHEREAS, the City, for the convenience of the public patronizing Birdland Marina and the Neal Smith Multi-Use Recreational Trail, desires to contract for the operation of the concessions for the sale of beverages, food, and items helpful and ancillary to biking, such as bike tires, helmets, equipment and prepackaged snacks at the concession building, within the concession building and on the adjacent land, and boat fuel service to be offered near the north dock on the Des Moines River west of the concession building at the Birdland Marina; and WHEREAS, on May 18, 2016 a Request for Proposals V16-085 for Birdland Marina Concession Service was issued by the City of Des Moines; and

WHEREAS, Less Than Trinity, LLC, d/b/a Captain Roys (Less Than Trinity), submitted a proposal providing for the construction of improvements to the Concession Area, at Less Than Trinity's sole cost, including structural repairs to the concession building, adding restroom facilities, construction of an adjacent patio deck and seating dock, stage, and installation of additional electrical and plumbing, and, sanitary and water service lines at an estimated cost as described in Less Than Trinity's Proposal at an estimated cost of \$180,465 and the exclusive right to offer live entertainment events; and

WHEREAS, Park and Recreation Department staff have negotiated a Concession Agreement with an initial term from November 7, 2016 to November 1, 2026, with two 5 year renewal options upon mutual consent, for the consideration of 1% revenue on all annual gross revenues for sales of food, beverages and alcoholic beverages, excluding catering for third parties, and rental fees for use of the Concession Area with annual percentages increasing by 1% increments on November 1 of 2017, 2019, 2021, 2023, 2015 and capping at 7% in 2030, plus 25% of the use fees for rentals of the Concession Area, and \$.25 per gallon of fuel sold by Less Than Trinity.

WHEREAS, on October 24, 2016, by Roll Call 16-_____, it was duly resolved by the City Council that the proposed Concession Agreement, be set down for hearing on November 7, 2016 at 5:00 pm in the Council Chamber; and

WHEREAS, due notice of said proposal to approve a concession agreement for use of public real property interests was given as provided by law, setting forth the time and place for hearing on said proposal; and



Roll Call Number

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WHEREAS, in accordance with said notice, those interested in said proposed Concession Agreement, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that:

1. Upon due consideration of the facts and statements of interested persons, the objections to said proposed Concession Agreement for Food, Beverage, and Fuel at Birdland Marina between the City of Des Moines, Iowa, and Less Than Trinity, LLC, d/b/a Captain Roys, for the Birdland Marina Concession Area located at 2100 Saylor Road, Des Moines, are hereby overruled and the hearing is closed.

2. The Concession Agreement, to operate the concession for food, beverages, the sale of items helpful and ancillary to biking, live entertainment events, and boat fuel service at the Birdland Marina Concession Area, 2100 Saylor Road, Des Moines, for an initial term from November 7, 2016 until November 1, 2026, with two 5 year renewal options upon mutual consent of the parties, for the consideration of 1% revenue on all annual gross revenues for sales of food, beverages and alcoholic beverages, excluding catering for third parties, with annual percentages increasing by 1% increments on November 1 of 2017, 2019, 2021, 2023, 2025 and capping at 7% in 2030, plus 25% of the use fees for rentals of the Concession Area, and \$.25 per gallon of boat fuel sold at the fuel station. In addition, Less Than Trinity, LLC will construct improvements in and adjacent to the concession building at its sole cost.

3. That the Mayor is hereby authorized and directed to sign said Agreement on behalf of the City and the City Clerk is hereby directed to attest to his signature.

(Council Communication 16- 627) Moved by _____ to adopt.

APPROVED AS TO FORM:

Ann DiDonato
Ann DiDonato, Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, GATTO, GRAY, HENSLEY, MOORE, WESTERGAARD, and TOTAL.

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED

Mayor

City Clerk