



.....  
Date January 9, 2017

SETTING DATE OF HEARING ON AMENDMENT OF CONCESSION AGREEMENT FOR  
THE BIRDLAND MARINA CONCESSION WITH LESS THAN TRINITY, LLC, D/B/A  
CAPTAIN ROY'S

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; and

WHEREAS, on November 7, 2016, by Roll Call No. 16-1939, the City Council accepted the proposal of Less Than Trinity, LLC d/b/a Captain Roy's (Captain Roy's) and approved an agreement for the operation of concessions at Birdland Marina for the sale of beverages, food, fuel and other items helpful and ancillary to use of the Neal Smith Multi-Use Recreational Trail (Agreement); and

WHEREAS, in such Agreement, Captain Roy's agreed to construct improvements at its cost, including sanitary and water service lines at a total estimated cost of \$180,465 for all improvements; and

WHEREAS, it has now been determined that a fire hydrant must be relocated, which requires a larger water line at an additional cost from that provided in Captain Roy's proposal and under the Agreement and it has also been determined that a grease interceptor will be required plus a sanitary sewer line servicing that interceptor, at a significant cost exceeding \$180,465 for all improvements provided for under the Agreement; and

WHEREAS, City staff and Captain Roy's have negotiated an Amendment to the Agreement to provide that the City will be responsible for the construction of the sanitary sewer and water lines, fire hydrant, and grease interceptor and to extend the Agreement for 1 year during its initial term and to amend the Agreement regarding sewer construction by the Des Moines Metropolitan Wastewater Reclamation Authority during 2017-2018 in the vicinity of the Birdland Marina.

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

1. The City Council of the City of Des Moines shall consider an Amendment to Concession Agreement for Food, Beverage, and Fuel Concession at Birdland Marina between the City of Des Moines, Iowa, and Less Than Trinity, LLC, d/b/a Captain Roy's, 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 to be extended for one year from November 7, 2016 until November 1, 2027. The consideration payments of 6% of revenue on all annual gross revenues for sales of food, beverages and alcoholic beverages, excluding catering for

Date January 9, 2017

third parties, will be extended for one year during the initial term until November 1, 2026. In addition, the City will construct a sanitary sewer and water service line, fire hydrant, and grease interceptor to the Birdland Marina concession building.

2. A public hearing shall be held on January 23, 2017 at 5:00 pm in the City Council Chamber, Richard A. Clark Municipal Service Center, 1551 E. Martin Luther King, Jr. Parkway, Des Moines, Iowa.
3. The City Clerk is authorized and directed to publish notice of the proposal and hearing in the form hereto attached not less than four or more than twenty days from the date of the hearing.

(Council Communication 17- *021* )

Moved by \_\_\_\_\_ to adopt.

APPROVED AS TO FORM:

*Ann DiDonato*  
Ann DiDonato  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GATTO				
GRAY				
HENSLEY				
MOORE				
WESTERGAARD				
TOTAL				

MOTION CARRIED

APPROVED

\_\_\_\_\_  
Mayor

**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.

\_\_\_\_\_  
City Clerk