

.....
Date April 15, 2024

**SETTING DATE OF HEARING ON FIFTH AMENDMENT TO 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, which agreement was amended on January 23, 2017, by Roll Call No. 17-0142, on December 21, 2020 by Roll Call No. 20-2112, on June 14, 2021 by Roll Call No. 21-0916, and on October 24, 2022 by Roll Call No. 22-1684 (“the Agreement”); and

WHEREAS, Captain Roy’s has requested to renegotiate the terms of the Agreement due to construction projects close to or adjacent to the concession premises that continue to impact access to the concession premises negatively; and

WHEREAS, to address Captain Roy’s concerns, the City’s Parks and Recreation Department staff and Captain Roy’s have negotiated a Fifth Amendment to the Agreement, in form on file in the office of the City Clerk, to revise the percentage of concession revenue and amount of fuel revenue and dumpster fees to be paid by Captain Roy’s to the City for the remainder of the Agreement and any renewal(s) thereof.

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

1. That the City Council of the City of Des Moines shall consider a Fifth Amendment to Concession Agreement for Food, Beverage, and Fuel Concession at Birdland Marina, 2100 Saylor Road, Des Moines, between the City of Des Moines, Iowa, and Less Than Trinity, LLC, d/b/a Captain Roy’s, revise the percentage of concession revenue and amount of fuel revenue and dumpster fees to be paid by Captain Roy’s to the City for the remainder of the Agreement and any renewal(s) thereof.
2. A public hearing shall be held on May 6, 2024, at 5:00 pm in the Council Chambers, City Hall, 400 Robert D. Ray Drive, 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.

 **Roll Call Number**

Agenda Item Number

27

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Date April 15, 2024

(Council Communication No. 24-157)

Moved by _____ to adopt.

Second by _____.

APPROVED AS TO FORM:

/s/ Glenna K. Frank
Glenna K. Frank
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN				
COLEMAN				
GATTO				
MANDELBAUM				
SIMONSON				
VOSS				
WESTERGAARD				
TOTAL				

CERTIFICATE

I, Laura Baumgartner, 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