



Roll Call Number

17-0142

Agenda Item Number

46

Date January 23, 2017

HOLD HEARING ON AMENDMENT TO 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, 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; and

WHEREAS, on January 9, 2017, by Roll Call 17-0038 it was duly resolved by the City Council that the proposed Concession Agreement, be set down for hearing on January 23, 2017 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

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.



Roll Call Number

17-0142

Agenda Item Number

46

Date January 23, 2017

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 Amendment to Concession Agreement for Food, Beverage, an 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 Amendment to 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 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 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.

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

(Council Communication 17- 029)

Moved by Westergaard to adopt, refer to the City Manager for review and recommendation regarding changes to the regulations regarding grease interceptors.

APPROVED AS TO FORM:

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.

Y. M. Franklin Council Mayor

Diane Rauh City Clerk