



City of Emeryville

CALIFORNIA

MEMORANDUM

DATE: March 20, 2018
TO: Carolyn Lehr, City Manager
FROM: Andrew Clough, Acting Public Works Director
SUBJECT: Sport Fishing Agreement

Resolution Of The City Council Of The City Of Emeryville Approving The Amended And Restated Sport Fishing Concessions Agreement Between The City Of Emeryville And Andrew Guilano And Authorizing The City Manager To Execute The Agreement

Resolution Of The City Council Of The City Of Emeryville Approving The Second Amendment To The Second Amended And Restated Agreement Of Ground Lease By And Between The City Of Emeryville And Safe Harbor Marinas Emeryville, LLC And Authorizing The City Manager To Execute The Agreement

RECOMMENDATION

Staff recommends the City Council adopt the proposed resolutions (Attachments 1 and 2) approving the Amended and Restated Sport Fishing Concessions Agreement with Andrew Guiliano and the Second Amendment to the Second Amended and Restated Agreement of Ground Lease by and Between the City of Emeryville and Safe Harbor Marinas Emeryville, LLC and authorizing the City Manager to execute the agreements in a form attached to the proposed resolutions.

BACKGROUND

The City Marina is operated by Safe Harbor Marinas Emeryville, LLC according to the terms and conditions of a ground lease by and between the City of Emeryville and Safe Harbor Marinas Emeryville, LLC, dated November 14, 2008. Since the date of the Lease, through the present, the Tenant has allowed a sport fishing concession at the Marina.

On April 1, 1988, the City entered into a concession agreement with Hank Schramm for sport fishing concession operations. On December 18, 2001, the City Council entered into a Sport Fishing Concession Agreement ("Agreement") between the City and Craig Stone, which continued the initial agreement with Mr. Schramm. The Agreement was for a period of ten years, commencing January 1, 2002, and ending on December 31, 2011. On December 21, 2011, prior to expiration of the Agreement, the parties executed a Month-to-Month Extension of the Agreement. On September 6, 2016, the City Council approved the assignment of the sport fishing concession (Resolution No. 16-123) to Andrew Guilano.

The Agreement provides Mr. Guilano the exclusive right to book passengers for the sport fishing boat operators berthed at “J” dock. He also sells fishing licenses, rents and sells fishing equipment, rents and sells fishing tackle and supplies, and sells food and beverages to sport fishing passengers. The concession is a desirable use which generates significant fishing activity at the Emeryville Marina and brings patrons to the City.

As compensation for booking passengers on the fishing boats, Mr. Guilano is entitled to a Percentage Fee of 7.5% of gross revenues from sales of tickets to the boats. In lieu of the Business License Tax normally due from the boat operators, Mr. Guilano collects and remits to the City a City Tax of 2.5% of the gross revenues generated from the sales of tickets. The 2.5% City Tax is in addition to the 7.5% Percentage Fee paid to Mr. Guilano. These are the same terms and conditions as the former Agreement with Mr. Stone.

DISCUSSION

Since the assignment of the sport fishing concession agreement to Mr. Guilano, he has operated the concession in a professional manner and in accordance with all requirements of the current month to month agreement. The City and Mr. Guilano desire to amend and restate their existing agreement with an Initial Term to begin on the date the City executes this Agreement and continue to December 31, 2023. If the Concessionaire complies with all of the terms and conditions of this Agreement, and if the City desires to extend the term of this Agreement, the City Manager is authorized to extend the term of this Agreement for an additional five years (Attachment 1).

The City and Safe Harbors desire to amend their rights and obligations as set forth in the Lease and First Amendment to accommodate a sport fishing concession at the Marina consistent with the Parties’ practice (Attachment 2).

FISCAL IMPACT

The revenue currently received through the Agreement is approximately \$40,000 per year, in contrast to the projected annual tax revenue that would be received through Business License Tax from the individual boat operators of approximately \$1,600 per year.

STAFF COMMUNICATION WITH THE PUBLIC

On September 21, 2017, the Public Works Committee recommend approving these Agreements and that the City Council schedule these Agreements for Public Hearing.

CONCLUSION

Staff recommends the following:

1. Allow staff presentation, if requested by Council.
2. Open public hearing to take any testimony.
3. Close public hearing and adopt the recommended Resolutions.

PREPARED BY: Andrew Clough, Acting Public Works Director

**APPROVED AND FORWARDED TO THE
CITY COUNCIL OF THE CITY OF EMERYVILLE:**



Carolyn Lehr, City Manager

ATTACHMENTS

1. Resolution to Amend and Restate the Sport Fishing Concession
 - a. Attachment A to the Resolution: Amended and Restated Sport Fishing Concessions Agreement
2. Resolution to Amend and Restate the Ground Lease
 - a. Attachment A to the Resolution: Second Amendment to the Second Amended and Restated Agreement of Ground Lease by and Between the City of Emeryville and Safe Harbor Marinas Emeryville, LLC