

COUNCIL COMMUNICATION

	Number: 21-245	Meeting: June 14, 2021
	Agenda Item: 68	Roll Call: [_____]
	Submitted by: Benjamin R. Page, Park and Recreation Director	

AGENDA HEADING:

Hold hearing on third amendment to Concession Agreement for the Birdland Marina Concession Agreement with Less Than Trinity, LLC d/b/a Captain Roy's and approving an exception to the procurement ordinance competitive process for good cause.

SYNOPSIS:

Hearing on third amendment to Birdland Marina Food, Beverage, and Fuel Concession Agreement between the City of Des Moines and Less Than Trinity, LLC, d/b/a Captain Roy's. The amendment includes additional concession rights for canoes, kayaks, stand up paddle boards and bicycle rentals, boat tours and shuttle services on the Des Moines River, sales of supplies to paddlers and powerboaters, service and repair for bicycles, and use the Birdland Marina logo on merchandise such as t-shirts, hats, flags, and stickers. In exchange for these rights, Captain Roy's will pay the City a percentage of gross revenue sales as detailed below.

FISCAL IMPACT:

Amount: Minimal, the 2-year agreement will establish a baseline of revenue for services that do not exist at this time.

Funding Source: 2021 Operating Budget, Park and Recreation, Marina Operations, G001 PK201289, page 178.

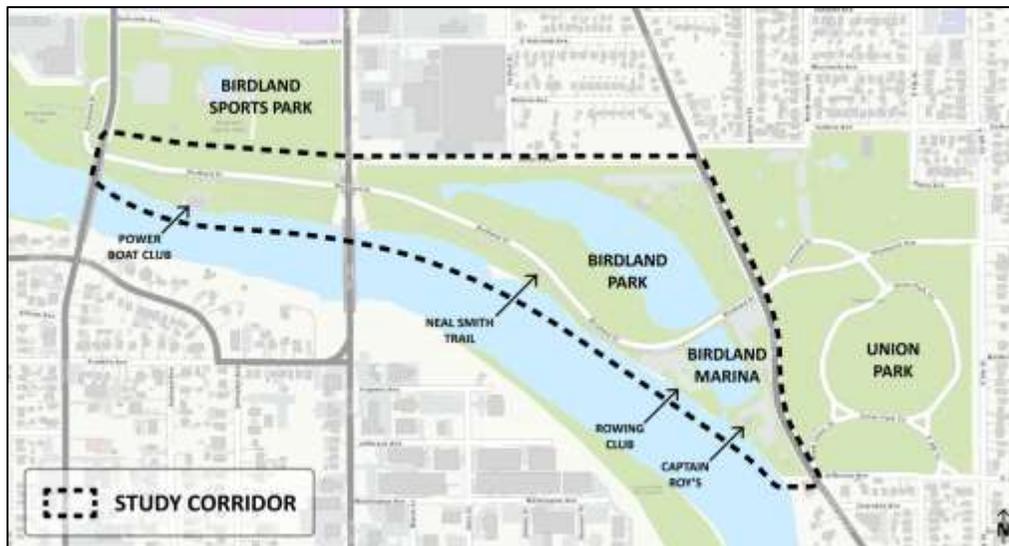
ADDITIONAL INFORMATION:

- On November 7, 2016, by Roll Call No. 16-1939, City Council approved a Concession Agreement between the City of Des Moines and Less Than Trinity, LLC d/b/a Captain Roy's with the initial term of 10 years, with two (2) 5-year renewal options upon mutual agreement. This included construction improvements to the concession building and adjacent area valued at approximately \$180,000.
- On January 23, 2017, by Roll Call No. 17-0142, City Council approved the first amendment of the concession agreement for the Birdland Marina concessions between Captain Roy's, for the construction of the utility services to connect to the concession building in the concession area.

- On December 21, 2020, by Roll Call No. 20-2112, Council approved the second amendment to the current agreement due to the implications of the COVID-19 pandemic, including required closures and limited operations and events in 2020.
- Captain Roy's has requested and negotiated a third amendment to the current agreement to provide that:
 - Captain Roy's shall pay to the City 1% of all annual gross revenues received by Captain Roy's or their third-party providers, on rentals, sales, and fees for services rendered on the following beginning May 25, 2021 through November 1, 2023:
 - Outfitting service which will rent watercraft and bicycles
 - Powerboat tours and shuttle service on the Des Moines River
 - Sales of water recreation supplies to paddlers and powerboaters
 - Service and repairs of watercraft and bicycles
 - Captain Roy's shall pay to the City a set percentage of all annual gross revenues received by Captain Roy's for sales of merchandise bearing the Birdland Marina logo at the following rates: For sales from May 25, 2021 - December 31, 2021 - 0%; from January 1, 2022 – December 31, 2023 - 4%; from January 1, 2024 – December 31, 2032 - 5%; from January 1, 2033 – December 31, 2037 (if the agreement is renewed for the first 5-year renewal term) - 6% from January 1, 2038 – December 31, 2042 (if the agreement is renewed for the second 5-year renewal term) - 7%.
- The City owns the logo:



- The City shall continue to receive a discount of 10% on food and beverage prices for all City sponsored events. The City retains the right to use the Concession Area for no use/rental fee for events.
- Except as modified above, all other terms of the Agreement shall remain in effect.
- Birdland Park is the area specified in black outline that contains both the marina and the concession area of Captain Roy's.

**PREVIOUS COUNCIL ACTION(S):**

Date: May 24, 2021

Roll Call Number: [21-0779](#)

Action: [On](#) third amendment to Birdland Marina Food, Beverage and Fuel Concession Agreement with Less Than Trinity, LLC d/b/a Captain Roy's (LTT/CR) for additional concession rights for canoes, kayaks, stand-up paddle boards and bicycle rentals, boat tours and shuttle services on the Des Moines River, sales of supplies to paddlers and powerboaters, service and repair for bicycles, and use of the Birdland Marina logo of merchandise. In exchange for these rights, LTT/CR will pay the City a percentage of gross revenue, (6-14-21). ([Council Communication No. 21-221](#)) Moved by Gatto to adopt. Motion Carried 7-0.

BOARD/COMMISSION ACTION(S): NONE**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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