

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: July 12, 2010
	Agenda Item No. 26 Roll Call No. <u>10-1139</u> Communication No. <u>10-442</u> Submitted by: Donald M, Tripp, Director of Park and Recreation

AGENDA HEADING:

Approve renewal agreement and amendment for the Management, Operation and Maintenance of the Brenton Skating Plaza.

SYNOPSIS:

Recommend approval of renewal agreement with the Des Moines Riverfront Development Authority (RDA) for the management, operation and maintenance of the Brenton Skating Plaza.

FISCAL IMPACT:

Amount: Not to exceed \$25,000 annually for the term of the agreement. The City also has an ongoing responsibility for capital repairs of the skating plaza and related equipment.

Funding Source: 2010-2011 Operating Budget, GE001 PKS101800, page 202.

Although not expected, if facility revenues are sufficient to pay all operating costs, there will not be a City expense. RDA shall pay all other operating subsidies. They will be seeking the same not to exceed \$25,000 contribution from the Downtown Community Alliance (DCA).

ADDITIONAL INFORMATION:

Per previous City Council direction, a renewal agreement is recommended which provides for the continued management, operation and maintenance of the Brenton Skating Plaza by the RDA through the services of a professional third party ice rink operator. Further, the agreement fixes the annual City contribution to this operation to be no more than \$25,000. The RDA will provide up to \$25,000 also and be seeking the same amount from the DCA. If the operating subsidy exceeds the \$75,000, herein, the responsibility for this shall be with the RDA. Further, the RDA will be paying all start up costs of equipment (Zamboni, skate sharpeners, skates etc.) The following are some of the more important components of this agreement.

- The agreement shall be for a three-season term, through April 30, 2011. The agreement can be renewed through mutual consent for a two-year term.
- The contract between the RDA and the third party operator is subject to City Council approval.
- The Plaza shall operate as a City Park with the same rules. The schedule shall be submitted to the Park and Recreation Director for approval. The City Park and Recreation Board and City Council will be asked to approve all hours of operation.

- The City shall have the right to hold City-sponsored events (five per year, three per skating season) and the RDA shall provide the City with 500 free skating passes to be used for promotional purposes.
- All fees and charges shall be established by the City Council, after a recommendation from the RDA. The RDA will honor reduced skating admissions if issued by the Park and Recreation Department.
- A contribution of \$500,000 was accepted and the facility is now named the Brenton Skating Plaza for 25 years. Under the terms in the naming agreement, the City commits to operating the Skating Plaza for 25 years.
- The ice skating season is set at a minimum of 18 weeks.
- The City shall have the responsibility for infrastructure repair and replacement. It is stated in the naming agreement that the facility is expected to have a usable life of 25 years related to major infrastructure. If major reconstruction is needed before the end of 25 years, more capital private fundraising may be necessary.

The following are changes in this agreement.

The following shall be added to section III.D.8:

In the event that the City desires to offer recreational services to the public during the off-skating season at the Skating Plaza, and the RDA declines to provide such service, the City retains the right to operate such service, including the right to procure the services of a third party. When requested in writing by the City, the RDA agrees to respond in writing that it will either begin such operations within the time frame requested or to decline to provide such service. The RDA written response shall be made within ten (10) days' receipt of the City's written request. If the RDA declines to provide such service, the City shall have the right to operate the service for the number of off skating seasons which it deems to be in the City's best interests. The parties agree that the City will retain for its own use any revenues generated from such off-skating season service.

Exhibit C is amended by adding the following to section 4:

To the extent that any insured loss is caused by the City while operating an off-skating season service at the Skating Plaza, the City agrees that, to the extent permitted by law, the City of Des Moines, Iowa releases RDA and RMSC, its agents and employees, from and against any and all liability or responsibility to the City or anyone claiming through or under the City by way of subrogation or otherwise, for any loss or damage to property caused by fire or any other casualty or loss including loss due to occupational injury arising out of a specific City off-skating season service. This provision shall be applicable and in full force and effect only with respect to loss or damage occurring during the time of this Agreement. The City's policies of insurance shall contain a clause or endorsement to the effect that such release shall not adversely affect or impair such policies or prejudice the right of the City to recover there under.

PREVIOUS COUNCIL ACTION(S):

Date: September 25, 2006

Roll Call Number: 06-1929

Action: Concession Agreement for the Skating Plaza. (Council Communication No. 06-606) Moved by Coleman to adopt. Motion Carried 6-0.

BOARD/COMMISSION ACTION(S): NONE

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE

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