

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: October 24, 2011
	Agenda Item No. 38 Roll Call No. <u>11-1798</u> Communication No. <u>11-663</u> Submitted by: Donald M. Tripp, Director of Park and Recreation

AGENDA HEADING:

Approve the Second Renewal Agreement and Amendment to the Concession Agreement for the Management, Operation and Maintenance of the Brenton Skating Plaza between the City and the Des Moines Riverfront Development Authority.

SYNOPSIS:

Recommend approval of the Second Renewal Agreement and Amendment to the Concession Agreement for the Management, Operation and Maintenance of the Brenton Skating Plaza between the City and the Des Moines Riverfront Development Authority (RDA).

FISCAL IMPACT:

Amount: Cost to the City 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: 2012 Operating Budget, GE001 PKS101800, page 201.

Although it is not expected to be the case, in the event that the skating facility revenues are sufficient to pay all operating costs, there will not be a City expense. The RDA shall pay all other operating subsidies; however they will be seeking the same level of funding (not to exceed \$25,000) from the Downtown Community Alliance (DCA).

ADDITIONAL INFORMATION:

On July 12, 2010, by Roll Call No. 10-1139, City Council approved renewal of the agreement for the management, operation and maintenance of the Brenton Skating Plaza by the RDA through the services of a professional third-party ice rink operator, Rink Management Services (RMS). The agreement also fixes the annual City contribution to this operation at a level not to exceed \$25,000. The RDA is also to provide up to \$25,000 in operating expense funding and is to seek the same amount from the DCA. If the subsidy required for operations and management exceeds the funded total of \$75,000 total, the responsibility for any additional funding shall be with the RDA. Further, the RDA will pay costs for rink operations equipment (skates, skate sharpeners, etc.) Following are some of the more important components of this agreement:

- 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 applying. The schedule of operation shall be submitted to the Park and Recreation Director for approval. The Park and Recreation Board and City Council will be asked to approve the hours of operation.
- The City shall have the right to hold City-sponsored events (five per year, three per skating season) at the facility 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, upon recommendation from the RDA and the Park and Recreation Board. The RDA will honor reduced skating admissions issued by the Park and Recreation Department.
- The ice skating season is set at a minimum of 18 weeks.
- The City shall have the responsibility for infrastructure repair and replacement.
- During the off-skating season at the Skating Plaza, the City retains the right to operate if the RDA declines to provide such service.
- If the RDA declines to provide such service, the City shall have the right to operate the service and retain any revenues.
- The City of Des Moines releases RDA and RMS, its agents and employees, from and against any and all liability or responsibility to the City during the specific off-skating season.

This action amends the previous agreement with the following:

- The agreement shall be for a term extending retroactively from May 1, 2011 through midnight April 30, 2012.
- In the event the City enters into an agreement for the operation of downtown parks, which agreement would include the Brenton Skating Plaza, this agreement would terminate on the tenth day following the effective date of the new agreement. Such agreement shall provide for the entity assuming such obligations to take assignment of any subcontract entered by the RDA provided such subcontract shall expire by its terms no later than midnight on April 30, 2012. The obligation to take assignment of the RDA subcontract shall survive the early termination of this Agreement.

PREVIOUS COUNCIL ACTION(S):

Date: July 12, 2010

Roll Call Number: 10-1139

Action: [Renewal](#) and Amendment to Concession Agreement for Brenton Skating Plaza through April 30, 2011. ([Council Communication No. 10-442](#)) Moved by Moore to refer to the City Manager to submit a letter to the Riverfront Development Authority, encouraging them to consider a shade tarp at the Brenton Skating Plaza. Motion Carried 7-0.

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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