

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b> November 7, 2016
	<b>Agenda Item No.</b> 48 <b>Roll Call No.</b> <u>16-1939</u> <b>Communication No.</b> <u>16-627</u> <b>Submitted by:</b> Benjamin R. Page, Park and Recreation Director

**AGENDA HEADING:**

Hold hearing on concession agreement for the Birdland Marina concession with Less than Trinity, LLC, d/b/a Captain Roy’s.

**SYNOPSIS:**

Staff recommends approval of a long-term agreement between the City and Less Than Trinity, LLC, d/b/a Captain Roy’s, for concession services consisting of food, beverages, including alcoholic beverages, sales of incidental items for trail/marina users, boat fuel sales, and the exclusive right to provide live entertainment at the Birdland Marina concession building and adjacent area. This will include food and beverage services for both dine in and walk up patrons. Less Than Trinity, LLC has requested an initial 10-year agreement in connection with their proposed capital improvements. The map showing that specific area of service is included below.

**FISCAL IMPACT:**

Amount: Proposed Capital Improvement to be funded completely by Less Than Trinity, LLC - \$180,000.

Projected revenue to the City - \$5,000-\$25,000 (revenue will increase during the life of the agreement from 1-5% on initial projected revenues by Less Than Trinity, LLC of approximately \$500,000 annually). Revenue will include all food and beverage sales, fuel, and rentals.

Funding Source: Parks and Recreation Budget – FY17 Operating Budget, Marina Operations, G001 PK201289 (Page 176)

**ADDITIONAL INFORMATION:**

During an assessment of areas where the Park and Recreation Department could continue to grow programs and provide services, Birdland Marina was identified as a place where concessions and other potential amenities could be added, not only marina tenants but for trail users as well. The Parks and Recreation Department management team developed a Request for Proposal (RFP) to solicit ideas for concession services, space or building modifications and any other recommended services from an experienced provider. The RFP was posted in late May of 2016 with only one (1) vendor submitting a proposal. On June 10, 2016 the City Procurement Office sent this single proposal, which met the criteria of the RFP, to the Park and Recreation Department for review and assessment. The RFP committee was pleased with the level of commitment proposed by Less Than Trinity, LLC to enhance the existing building on the property and immediate surrounding area.

The proposed concession agreement and actions will provide for the long-term use of the designated area of the Birdland Marina facility while bringing both capital improvements and additional revenue to the City. The City has made arrangements through the proposed agreement to ensure that all official policies and procedures are followed as part of any improvements and that the reporting of revenues be done in accordance with previous successful agreements to ensure stability and accuracy when conducting business with Less Than Trinity, LLC.

Significant components of the agreement includes the following:

- The initial term is 10 years, with two (2) 5-year renewal options at the mutual agreement of both the City and Less Than Trinity, LLC.
- Less Than Trinity, LLC will, at its sole cost, construct improvements to the concession building and adjacent area in the approximate amount of \$180,000 as described in their response to the RFP. Work on the concession building to be completed by November 30, 2020.
- The exclusive privilege and obligation to provide non-alcoholic beverages and food, including by a fully licensed mobile food vehicle (food truck), at the concession area and the exclusive right to sell boat fuel and related bike items and trail use items such as replacement tires, inner tubes, safety equipment and prepackaged snacks, subject to compliance with all applicable laws and regulations, including the City Zoning Ordinance.
- The right of first refusal for non-alcohol beverages and food catering services for third party rentals/events held at the concession area.
- The exclusive right to prepare, offer and serve alcoholic beverages at the concession area, including, subject to compliance with all necessary federal, state, city, and local laws and license requirements, the right to sell packaged beer and alcohol for consumption off premises and the requirement to provide for the sale and consumption of alcoholic beverages at all events requesting such services at the concession area.
- The exclusive right to sell boat fuel within the concession area during the period that Birdland Marina allows boats to be docked. The City will maintain all federal and state licenses to sell boat fuel, purchase the fuel, provide for its delivery to the fuel tank within the concession area by no later than April 15<sup>th</sup> of each year, and sell the fuel to Less Than Trinity, LLC at the City's actual cost plus \$.25 per gallon. Less Than Trinity, LLC may sell such boat fuel at no more than \$.50 over the price paid to the City for such fuel.
- Less Than Trinity, LLC shall have the exclusive right to use the concession area for live entertainment/concerts sponsored by Less Than Trinity, LLC at no charge for use of such space in consideration of the revenue provided to the City from such events
- The concession area is a public City facility open to the public, but Less Than Trinity, LLC would be allowed exclusive use of the concession area or a portion thereof pursuant to a Facility Use Permit issued by the City for up to five (5) weekend events per month for a maximum of six (6) hours per event and for up to eight (8) weekday events per month for a maximum of six (6) hours per event.
- Less Than Trinity, LLC shall maintain at its own expense, including repairs, within the concession area the concession building, all improvements made by the Less Than Trinity, LLC, all equipment, fixtures, furniture, temporary or mobile structures or equipment, displays or signs purchased or owned by Less Than Trinity, LLC for the operation of the concession. Less Than Trinity, LLC maintenance obligations include, without limitation, inside counters and displays, indoor and outdoor furnishings, indoor lighting, walks and stairways from the trail/sidewalk to the building (including snow removal), inside window washing, minor electrical and plumbing repairs), maintenance of food/beverage carts or other temporary service equipment.

- The City shall keep the area outside of lease boundaries in good and presentable condition, including the fuel service area, the Birdland Marina restrooms, the dock existing at the time of commencement of this Agreement, and the Birdland Marina pavement outside of the concession area. Less Than Trinity, LLC shall immediately report items that fall into disrepair.

In conclusion, the City will have provided a convenient and quality location for business and activity in this underserved part of the trail system. This project most reflects that of the Hub Spot which also serves a similar need to users of the Riverwalk and will conduct business in much the same way the concessionaire does in that location. In addition, Less Than Trinity, LLC has received support from both the Union Park Neighborhood Association and the Parks Area Foundation for this project. In the end, the City will have provided a significant opportunity to engage the community, especially at the Birdland Marina and in the surrounding neighborhoods.



**PREVIOUS COUNCIL ACTION(S):**

Date: October 24, 2016

Roll Call Number: [16-1821](#)

Action: [On](#) Concession Agreement for the Birdland Marina with Less Than Trinity, LLC d/b/a Captain Roy's, (11-7-16). ([Council Communication No. 16-599](#)) Moved by Coleman to adopt. Motion Carried 7-0.

**BOARD/COMMISSION ACTION(S): NONE**

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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