


## COUNCIL COMMUNICATION

 CITY OF DES MOINES OFFICE OF THE CITY MANAGER	Number:	<b>22-483</b>	Meeting:	<b>October 24, 2022</b>
	Agenda Item:	<b>55</b>	Roll Call:	<b>22-1684</b>
	Submitted by:	<b>Benjamin R. Page, Park and Recreation Director</b>		

### AGENDA HEADING:

Holding hearing and approving Fourth Amendment to concession agreement for the Birdland Marina Concession with Less Than Trinity, LLC, D/B/A Captain Roy's, and approving exception to procurement ordinance competitive process for good cause.

### SYNOPSIS:

Approve amending the current concession agreement for the Birdland Marina Concession with Less Than Trinity, LLC, D/B/A Captain Roy's and approve exception to procurement ordinance competitive process for good cause. Construction projects close to or adjacent to Captain Roy's have impacted patron access currently and will impact access next year. The amendment will extend the initial term of the agreement by two (2) years, leave the two (2) 5-year renewals in place, freeze the percentage of revenue paid to the City at 4% for three (3) years, 2023-2025, and resume the rate increase in 2026, in recognition of the impacts to business due to construction.

### FISCAL IMPACT:

Amount: \$62,000 revenue over the life of the agreement (ending December 2034)

During July 2022 through December 2024, there will be an expected revenue loss of \$19,654. Beginning January 2025 through the end of the contract term, there is expected to be a revenue increase of \$81,791. Both assume a sales decline of 7.71% during construction and subsequent recovery of 1% growth per year when construction ends.

Funding Source: 2023 Operating Budget, Park and Recreation, Marina Operations, G001 PK201289, Page 172

### ADDITIONAL INFORMATION:

- On November 7, 2016, City Council approved a Concession Agreement between the City of Des Moines and Less Than Trinity, LLC d/b/a Captain Roy's (LTT/CR) with the initial term being 10 years, with two (2) 5-year renewal options dependent on mutual agreement. This included LTT/CR completing construction improvements to the concession building and adjacent area in the approximate amount of \$180,000.
- On January 23, 2017, City Council approved the first amendment to the concession agreement for the Birdland Marina concessions between LTT/CR and the City of Des Moines for the construction of the utility services to connect to the concession building in the concession area.

- On December 21, 2020, City 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.
- On June 14, 2021, City Council approved the third amendment to the current agreement for LTT/CR to offer expanded services such as outfitter services, tour and shuttle services, sales of water recreation supplies, repair services and sales of merchandise displaying the Birdland Marina logo.
- LTT/CR requested the fourth amendment to the current agreement due to construction projects close to or adjacent to Captain Roy's that have impacted access currently and will impact access in 2023 and 2024, having a negative impact on Captain Roy's business. Construction projects:
  - 2nd Avenue Bridge Improvements Project - shut down the Neal Smith Trail and closed Birdland Drive.
  - WRA Pump Station at Birdland Project - shut down the Neal Smith Trail and portions of Captain Roy's parking lot.
  - Pennsylvania Avenue Reconstruction Project - cuts off a direct route to Captain Roy's and will also shut down the Neal Smith Trail.
- During July 2022 through December 2024, there will be an expected revenue loss of \$19,645. Beginning January 2025 through the end of the contract term, there is expected to be a revenue increase of \$81,791. Both assume a sales decline of 7.71% during construction and subsequent recovery of 1% growth per year when construction ends.

**PREVIOUS COUNCIL ACTION(S):**

Date: October 3, 2022

Roll Call Number: [22-1520](#)

Action: [On](#) Fourth Amendment to Concession Agreement for the Birdland Marina Concession with Less Than Trinity, LLC d/b/a Captain Roy's (10-24-22). ([Council Communication No. 22- 440](#)) Moved by Gatto to adopt. Second by Boesen. Motion Carried 7-0.

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

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