



MEMORANDUM

Council Agenda
Item No. IX.L.
8/29/2017

The City of OKLAHOMA CITY

TO: Mayor and City Council

FROM: James D. Couch, City Manager

Memorandum of Understanding with the State of Oklahoma Office of Management and Enterprise Services, the American Indian Cultural Center Foundation, the AICCM Land Development, LLC, and the Native American Cultural and Educational Authority, regarding participation in reviewing construction plans and agreements for the completion of the American Indian Cultural Center and Museum.

Background

Through SB-746, enacted in 1994, the State of Oklahoma initiated the process to construct and operate a Native American Indian Cultural Center and Museum ("AICCM") in Oklahoma City. The State of Oklahoma also created the Native American Cultural and Educational Authority ("NACEA") in order to promote the history and culture of Native Americans for the mutual benefit of the State of Oklahoma and its citizens. NACEA began receiving state appropriations for construction and operations in 1996. Funding for NACEA ended on June 30, 2017.

In 2005 the City donated land along the Oklahoma River for construction of the AICCM with a reversionary provision in the deed that prohibited the property from ever having a gambling facility constructed on the property. Construction of the museum began in 2006. Since the inception of the AICCM, the State of Oklahoma has issued a total of \$63 million in bonds for the construction of the AICCM.

On March 27, 2012, the City Council adopted a resolution (Item No. VIII.L.) pledging a commitment to provide \$9 million to the State of Oklahoma toward completion of the AICCM contingent upon the State of Oklahoma providing an additional \$40 million toward completion of the AICCM. In July 2012 construction funds were exhausted and work on the AICCM was suspended pending additional funding.

On May 28, 2015, Governor Mary Fallin signed HB 2237 into law, which provided, in part, the requirements under which the State of Oklahoma would provide an additional \$25 million toward funding the completion of the AICCM. Those requirements included a provision that The City and Office of Management and Enterprise Services of the State of Oklahoma ("OMES") enter into an agreement with OMES by January 15, 2016, later extended to March 15, 2016.

In response to HB 2237, Mayor Cornett, upon City Council approval,

established the Council Committee on the AICCM, which consists of the Mayor, Councilwoman Margaret S. “Meg” Salyer, Councilman David Greenwell, and Councilman Mark K. Stonecipher.

On December 22, 2015, the Council Committee on the AICCM met to receive a presentation of the Construction Completion Report, the Operating Analysis Report, the Development Potential Report, and a proposal by the Chickasaw Nation. At that meeting the Chickasaw Nation presented a proposal to the Council Committee suggesting a method by which the Chickasaw Nation would provide additional financial support to address the projected shortfall in funding for completion of the AICCM, and to cover any AICCM operating deficits up to \$2 million per year for the first seven years of the museum’s operation. The Chickasaw Nation also expressed their desire to develop the commercial property surrounding the AICCM. Such development is anticipated to enhance and support visitation to the museum thereby increasing operational revenues.

On January 26, 2016, the City Council adopted a joint resolution (Item No. IX.I.) with the Chickasaw Nation, which provided that the City renewed its commitment to provide \$9 million toward completion of the AICCM and provided that the parties agreed in good faith to reach an agreement that fulfills the requirements of HB 2237. The resolution provided that the objective between the parties was to bring about the successful completion and operation of the AICCM. Since the Chickasaw Nation was committing to provide additional funding toward the completion of the AICCM, the resolution required participation of the Nation in review of construction plans by being involved in value engineering and in the review of construction agreements in an effort to accomplish completion of the AICCM within available funding.

As required by HB 2237, on March 15, 2016, the City entered into the Operations, Management and Maintenance Agreement with OMES (Item No. IX.B.) setting the requirements for the City to operate and manage the AICCM upon completion of construction. The City also entered into the Completion and Real Estate Purchase and Sale Agreement with OMES setting the process and terms under which the City would accept title to the AICCM and the undeveloped real property around the AICCM.

Since several parties are participating in providing funds for the completion of the AICCM, and in an effort to control construction costs, the parties jointly agree they should all have a voice in review of construction agreements and be involved in value engineering of the design of the AICCM. The Chickasaw Nation created the AICCM Land Development, LLC (“AICCM LD”) for the purpose of developing the undeveloped real property surrounding the AICCM.

The attached Memorandum of Understanding is a joint agreement between the interested parties, which include OMES, the City, NACEA, the AICCM Foundation, and the AICCM LD, which sets forth a process by which all interested parties may participate in the review of

construction documents and in the value engineering process necessary to bring the completion of the AICCM within available funds.

In addition, City staff and the Chickasaw Nation, by and through the AICCM Land Development, LLC, have diligently been working together to reach the agreement contemplated by the January 26, 2016 Joint Resolution (Item No. IX.I.) providing for the sale and purchase of the undeveloped real property surrounding the AICCM, and for operation of the AICCM after construction, which should be presented to Council for approval later this month.

Review

Finance Department

Recommendation: Memorandum of Understanding be approved.