



# MEMORANDUM

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

## The City of OKLAHOMA CITY

TO: Mayor and City Council

FROM: James D. Couch, City Manager

Real Estate Purchase and Sale and Post Closing Operations and Funding Agreement between The City of Oklahoma City and the AICCM Land Development, LLC, providing for the sale and purchase of the undeveloped real property surrounding the AICCM, and for the post-closing operations and funding of the AICCM.

### Purpose

The next step toward completion and operation of the American Indian Cultural Center and Museum is the approval of the attached “Real Estate Purchase and Sale and Post Closing Operations and Funding Agreement” between The City of Oklahoma City and the AICCM Land Development, LLC (AICCMLD), an Oklahoma limited liability company, created and owned by the Chickasaw Nation for the purpose of developing the commercial property surrounding the AICCM.

This agreement is the result of several months of negotiations between City staff and the Chickasaw Nation, who by diligently working together reached this agreement as 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 the post-construction operation of the AICCM. Highlights of this agreement include:

Agreement between the parties that the Completion cost of the AICCM is \$65 million.

The AICCMLD will underwrite unforeseen requirements for funding in excess of the Completion Cost to a maximum of \$15 million conditioned upon its right and ability to review, modify, value engineer, and approve final plans for the completion of the AICCM facility in accord with the Memorandum of Understanding that is a separate item before Council Today.

The AICCMLD will provide \$14 million for AICCM operations, including pre-opening expenses. The recently appointed Executive Director, James Pepper Henry, of the American Indian Cultural Center Foundation (Foundation) assumed his duties on June 19, 2017. Mr. Henry has an extensive background in museum

operations including the Smithsonian’s National Museum of the American Indian, the Anchorage Museum, and the Heard Museum in Phoenix and most recently as Executive Director of the Gilcrease Museum in Tulsa. Mr. Henry recently informed the parties to this agreement that after a review of proposed AICCM operations he believes that increased funding for pre-opening expenses will result in increased revenues after the AICCM opens to the public. These increased revenues will reduce the time required for the AICCM to achieve sustainable operations. During the course of recent negotiations the Chickasaws proposed that instead of funding the first seven years of post-opening operations, as was originally intended, the need had been identified to use a portion of the \$14 million to fund pre-opening expenses. Upon review of the Chickasaw’s proposal and the information recently provided by the Foundation, the requested change in operational funding was incorporated into the agreement allowing the use of up to \$8.5 million for pre-opening expenses.

The AICCMLD will receive title to the undeveloped property surrounding the AICCM to be used solely for the commercial development and operation of improvements complementary to the AICCM. In addition, the AICCM will have an option to develop a portion of the property located east of Eastern Avenue.

The City or a public trust, determined by the City whose sole beneficiary is the City, shall engage and contract with the American Indian Cultural Center Foundation to operate the AICCM.

## 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 Indian and non-Indian 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. The plan has been for the City's \$9 million contribution to come from an internal loan to be repaid with sales tax revenue generated by the AICCM and surrounding development.

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.

On March 15, 2016, as required by HB 2237, 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.

Review

Finance Department

Recommendation: Agreement be Approved

Attachment