

MEETING DATE: July 7, 2010

ITEM # 6

SUBJECT:

**CONSIDERATION OF APPROVAL OF AMENDMENT NO. 1 TO THE CALIFORNIA
INDIAN HERITAGE CENTER MASTER AGREEMENT**

INITIATED OR REQUESTED BY:

Council Staff
 Other

REPORT COORDINATED OR PREPARED BY:

Jim Bermudez, Senior Program Manager

Tina Gontarski for ...
Tina Gontarski, Community Development Director

ATTACHMENT Yes No Information Direction Action

OBJECTIVE

The purpose of this report is to describe a proposed amendment to the California Indian Heritage Center (CIHC) Master Agreement with the State of California Department of Parks and Recreation (State Parks). This amendment would extend the completion dates for all project activities and milestones that were granted under the initial terms of the agreement.

RECOMMENDED ACTION

It is respectfully recommended that the City Council approve Amendment No. 1, extending the completion dates for all project activities and milestones that were initially outlined in the California Indian Heritage Center Master Agreement (Attachment 1).

BACKGROUND

On June 18, 2008, the Council approved a Master Agreement, Option Agreement and Lease Agreement with State Parks to plan, design and construct an Indian heritage center and state park on the Redevelopment Agency's 43 acres known as the East Riverfront Property.

The riverfront property was deeded to the Agency by the developers of the Lighthouse project in exchange for relief from certain obligations of the development agreement, including the commitment to build a marina at the site. In the decade since acquiring it, a number of development proposals have been explored (including commercial and residential development, a private high school, and the official residence for the Governor of California), but none have come to fruition.

The California Indian Heritage Center Task Force selected the site as the preferred location for a state park and museum in May of 2007. In 2008, the Redevelopment Agency and City negotiated a Master Agreement with State Parks for the potential use of the East Riverfront Property for an Indian heritage center and state park.

When the Master Agreement was executed in June 2008, a project schedule of performance milestones was established requiring State Parks to complete general planning, design, and construction of the project by a set date. Failure to meet these dates would cause State Parks to be in default of the Master Agreement. Under the current performance schedule contained in Amendment No. 1 as Exhibit A, State Parks would need to fulfill general planning and environmental tasks and activities by December 2010, and design and construction tasks by 2015 and June 2018.

State Parks began work on its general planning tasks in 2008, only to be delayed in December when, due to the State's financial crisis, the Pooled Money Investment Board suspended state bond sales for state projects. This action froze various bond funded projects, including the CIHC. The freeze was lifted in mid-2009, and this action allowed State Parks to award contracts to its financial and environmental consultants and proceed with work on their business plan and general plan tasks in Fall 2009. Because of these funding delays, the fixed dates contained in the schedule of performance have slipped and as a result State Parks is proposing the new default dates contained in Exhibit A of Amendment No. 1.

State Parks is currently in the middle of their general planning efforts that have included two public outreach meetings and individual meetings with the Rotary, Chamber of Commerce and city commissions. At these meetings, stakeholders were introduced to five proposed alternatives that would ultimately lead to a preferred alternative. General comments and concerns from groups have focused on parking and traffic, HOA dues if

private property contiguous to the site is purchased by State Parks and condos are not built, security and patrols, flood control and levee improvements, ingress and egress to the site, and visual and sound impacts. State Parks plans to release the preferred alternative to the public at its last scheduled community outreach meeting on July 28, 2010.

ANALYSIS

The pertinent documents include a Master Agreement between the city, the Redevelopment Agency, and State Parks, and an Option Agreement for purchase of the East Riverfront Property. The Master Agreement outlines the planning and design process, and describes the conditions the state must meet in order to exercise the option to acquire the property. State Parks seeks to extend the schedule of performance milestones by adding an additional year to the completion date of each general planning, design and construction task. The default provision will remain in effect and the proposed default dates are outlined in Exhibit A of Amendment No. 1.

The Master Agreement provides that Redevelopment Agency city would retain title to and control of the property until the project is ready for construction. It anticipates that once the general plan and environmental document are adopted there would be sufficient certainty about how the park will be improved, what the impacts will be, and how they will be mitigated to move forward on transferring ownership of the property to State Parks.

State Parks was unable to meet the original timetable due to the suspension of bond sales in 2008. This delay has passed, and the main source of funding is now the bonds that have been sold as part of Proposition 40. Staff believes there is adequate financing available at this time to complete the general plan tasks and environmental analysis.

State Parks has just been informed that they may apply for a Nature Education Facilities Grant. The grant limit has been established at \$7 million for an individual project and recipients will be notified sometime in early winter 2010/11. If State Parks is the recipient, the receipt of funds would match the revised design schedule of performance dates that State Parks is proposing with this extension.

Additional sources of financing may come from private donations. State Parks has not begun any private fundraising but expects the CIHC Foundation to match the remaining Proposition 40 funds, as well as any grant funds received.

The proposed state park and California Indian Heritage Center present an opportunity to use the East Riverfront Property in a way that fulfills the objectives of the Riverfront Master Plan and the Parks Master Plan at no cost to the city. Although State Parks seeks a time extension of one year for each task, it appears that funding is available to complete the general planning and environmental review. State Parks has made considerable progress and is nearing completion of a preferred alternative design and is ready to commence work on the environmental impact report.

Strategic Plan Integration

The proposed state park and California Indian Heritage Center contributes to the following Guiding Principles: Riverfront as a Regional Destination (by creating a state park and cultural center of statewide significance); Strong, Diverse Local Economy (by meeting the objectives stated in Comprehensive Economic Development Strategy and attracting visitors to West Sacramento); and Comfortable Living (by offering residents a variety of cultural and recreational opportunities).

Alternatives

The following alternatives are presented for consideration:

1. Accept staff's recommendation to approve Amendment No. 1 with the State of California Department of Parks and Recreation, amending the Master Agreement Project Schedule of Performance.
2. The Council may choose to modify or restructure Amendment No 1, or propose additional terms and conditions.
3. The Council may reject Amendment No. 1, likely triggering a default by State Parks.

Staff recommends approval of Amendment No. 1 and the revised schedule of performance. State Parks has invested considerable time and energy in the project and has current funding available to complete the general planning and environmental document. State Parks is only seeking a year extension of all tasks. All provisions from the Master Agreement will remain in effect.

If Council rejects Amendment No. 1, State Parks is likely to default on the Master Agreement, as it would not have sufficient time to complete the general planning and environmental review that it is currently able to fund.

Coordination and Review

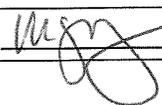
This proposed amendment to the Master Agreement was coordinated by the Redevelopment Agency and the City Manager's Office and reviewed by the City Attorney.

Budget/Cost Impact

There is no direct cost to the city or Redevelopment Agency for the recommended action. There will be staff time from various departments involved throughout the planning and design process for the park. After the property is acquired for use as a state park and the state assumes responsibility, there would be modest budget savings for the city by being relieved of maintenance costs. After development, there would be some revenues from taxable sales at the museum store.

ATTACHMENT(S)

1. Amendment No. 1 to Master Agreement

Finalled by 

**AMENDMENT NO. 1
to the
MASTER AGREEMENT
BY AND AMONG
THE REDEVELOPMENT AGENCY OF THE CITY OF WEST SACRAMENTO,
THE CITY OF WEST SACRAMENTO, AND
CALIFORNIA STATE PARKS, WITH THE CONCURRENCE OF THE
CIHC TASK FORCE,
FOR THE DEVELOPMENT OF
THE CALIFORNIA INDIAN HERITAGE CENTER AND STATE PARK
Dated July 7, 2010**

This Amendment No. 1 to the Master Agreement between the City of West Sacramento Redevelopment Agency ("AGENCY"), City of West Sacramento ("CITY") and the State of California Department of Parks and Recreation ("STATE PARKS"), dated June 18, 2008, is made and entered into this ___ day of July 2010.

RECITALS

WHEREAS, the CITY and AGENCY executed a Master Agreement with STATE PARKS for development of a California Indian Heritage Center ("CHIC") dated June 18, 2008; and

WHEREAS, the CITY and AGENCY and STATE PARKS agreed to a Schedule of Performance in the Master Agreement (Exhibit E); and

WHEREAS, STATE PARKS has experienced delays in meeting the project milestones and activities listed in the schedule of performance; and

WHEREAS, the CITY and AGENCY wish to grant STATE PARKS an extension of time consistent with Section 11 L of the Master Agreement so that STATE PARKS may continue to develop the CIHC; and

WHEREAS, STATE PARKS has provided a revised project schedule of performance (attached and included herein as Exhibit "A"), extending project milestones to adequately complete project milestones and activities.

NOW, THEREFORE, IT IS MUTUALLY AGREED by parties hereto to amend the Master Agreement as follows:

I. SCHEDULE OF PERFORMANCE:

The time of performance for project activities as set forth in the Master Agreement (Exhibit E) dated June 18, 2008, shall be revised to read as provided in Exhibit "A", of this Amendment No. 1.

II. REMAINING TERMS UNAFFECTED:

Except as expressly amended by this Amendment No. 1, all provisions of the original Master Agreement remain unchanged and in full force and effect.

IN WITNESS WHEREOF the parties hereto have executed this Amendment as the date herein set forth.

REDEVELOPMENT AGENCY OF THE CITY OF WEST SACRAMENTO

By: _____
Christopher Cabaldon, Chair

ATTEST:

Kryss Rankin, Agency Clerk

APPROVED AS TO FORM:

Robert E. Murphy, City Attorney/Agency Attorney

CITY OF WEST SACRAMENTO

By: _____
Christopher Cabaldon, Mayor

CALIFORNIA STATE PARKS

BY: _____
Ruth Coleman, Director

CONCUR

CALIFORNIA INDIAN HERITAGE CENTER FOUNDATION AND TASK FORCE

By: _____
Larry Myers, Chairman

EXHIBIT A
Revised CIHC Project Schedule of Performance

Activity	Original Target Dates Signed in the Master Agreement			Revised Target Dates Proposed for Master Agreement		
	Target Start Date	Target Completion Date	Default Completion Date	Target Start Date	Target Completion Date	Default Completion Date
Execute Master Agreement		Spring 2008	September 1, 2008		Spring 2008	September 1, 2008
I. General Planning / Program EIR						
General Plan Preparation – Scoping, Preparation of Preferred Alternatives	Summer 2008	Fall 2008		Summer 2009	Fall 2009	
Draft Environmental Impact Report (DEIR) with Public Hearing Process	Fall 2008	Fall 2009		Fall 2009	Fall 2010	
Certification of Final Program Level EIR	Fall 2009	Spring/Summer 2010		Fall 2010	Spring/Summer 2011	
Adoption of General Plan	Spring 2010	Spring/Summer 2010	December 31, 2010	Spring 2011	Spring/Summer 2011	December 31, 2011
II. Design / Project EIR						
Schematic Design	Summer 2010	Summer 2011		Summer 2011	Summer 2012	
Prepare Draft Project Level EIR	Summer 2010	Summer 2012		Summer 2011	Summer 2013	
Preliminary Plans (Phase One)	Summer 2011	Summer 2012		Summer 2012	Summer 2013	
Approval to Proceed with Working Drawings	Summer 2012	Summer 2013		Summer 2013	Summer 2014	
Prepare Construction Documents (Phase One)	Summer 2012	Summer 2014	June 30, 2015	Summer 2013	Summer 2015	June 30, 2016
III. Pre-Construction						
Environmental Permitting	Fall 2012	Winter 2014		Fall 2013	Winter 2015	
Phase One Funding in Place	Summer 2013	Summer 2014		Summer 2014	Summer 2015	
Approval to Proceed to Bid	Summer 2014	Summer 2015		Summer 2015	Summer 2016	
Exercise Option Agreement	Summer 2014	Summer 2015		Summer 2015	Summer 2016	
Finalize Land Transaction (180 day escrow)	Summer 2014	Summer 2015	December 31, 2015	Summer 2015	Summer 2016	December 31, 2016
IV. Construction						
Construction Start (Phase One)	Fall 2014	Summer 2016		Fall 2015	Summer 2017	
Projected Opening Date	Summer 2016	Summer 2018	June 30, 2018	Summer 2017	Summer 2019	June 30, 2019