



STAFF REPORT	
SUBJECT: Discussion and Consideration of a Memorandum of Agreement with the Elem Indian Colony Regarding Development of a Travel Center in the City of Clearlake	MEETING DATE: December 7, 2023
SUBMITTED BY: Alan D. Flora, City Manager	
PURPOSE OF REPORT: <input type="checkbox"/> Information only <input checked="" type="checkbox"/> Discussion <input checked="" type="checkbox"/> Action Item	

WHAT IS BEING ASKED OF THE CITY COUNCIL:

The City Council is being asked to consider an agreement with the Elem Indian Colony regarding the development of a travel center in Clearlake.

BACKGROUND/DISCUSSION:

In March of 2021, the Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria (Elem) reached out to City officials to discuss a proposed development project in the City of Clearlake. In 2019 Elem had purchased property at 14825 & 14855 Lakeshore Drive, Clearlake. This site, near Redbud Park, was the former site of Mario’s Restaurant and Silks. After many years of neglect and blight the City initiated steps to place the property into receivership, the building was demolished in 2018, and purchased by Elem from the court-appointed receiver in 2019.

On October 21, 2021 Elem officially submitted an application to the Bureau of Indian Affairs (BIA) regarding the project and requesting the property be place into federal trust. On January 25, 2022 the City received a copy of the Environmental Assessment and draft Finding of no Significant Impact (FONSI) from the BIA, and on behalf of the Elem project. After review the City identified a number of concerns with the environmental assessment and impacts of the project. On February 1, 2022 those concerns were shared with BIA and Elem. Ultimately the BIA and Elem revised the environmental assessment and final FONSI was sent to the City in May of 2023. Unfortunately, the BIA did not provide a revised draft to the City or other agencies before finalizing the documents. However, City officials met separately with Elem leadership and discussed the project, which ultimately resulted in the agreement under consideration here. The final Notice of Decision was executed by the BIA on July 26, 2023, which places the property into trust and authorizes the project to begin.

The “fee to trust” process is provided to transfer real property to a federally recognized tribe. The property is officially owned by the federal government, but it is considered sovereign land outside of local and state jurisdiction. Often this is used for tribal housing or gaming facilities such as casinos, but can be used for other purposes of interest to tribes upon approval by the BIA.

The current project on the two aforementioned parcels, totaling approximately 1 acre, will result in the construction of an approximately 8,000 sq. ft. building housing a 6,000 sq. ft. convenience store and 2,000 sq. ft. office space. Additionally the site will accommodate fueling and electric vehicle charging stations.

The proposed MOA does not approve the project, as the City has no jurisdiction over the land upon the trust determination. However, the Elem Tribal Council has shown a great interest and effort in working in partnership with the City in a community spirit and agreement has been reached on numerous things surrounding the project.

A brief summary of the key points are:

- Tax revenue – transactions on tribal lands are not subject to federal, state, or local taxes. Elem has agreed to pay the city an equal amount of the tax receipts for the local Measure P and Measure V and 60% of the normal 1% city sales tax rate, increasing by 10% per year until it reaches 100%. State sales taxes would not be collected.
- Consistency with City Ordinances/Plans – Elem agrees to develop the project consistent with City standards and ordinances, in spite of no obligation to do so on tribal lands.
- Review of plans/permits – Projects on tribal lands are not subject to review and approval for building permits, grading permits etc. In spite of that Elem has agreed to submit the plans to the City for review and comment.
- Law Enforcement services – the Clearlake Police Department will provide law enforcement services to the property unless such time when the tribe desires to develop a tribal police department.
- Flavored tobacco – The tribe agrees not to sell flavored tobacco products consistent with Proposition 31.
- Public Benefit Fund – The tribe will establish a public benefit fund, with an initial grant of \$100,000 to assist with projects that benefit the community at large. The Board will include two City representatives and two Tribal representatives in determining supported projects.
- Tribal/City Advisory Committee – A committee will be established with two representatives from each government, that will discuss common issues that should be considered by each entity. Meetings will be open to the public and held quarterly.

Staff deeply appreciate the sincerely, collaboration and mutual interest in community benefit shown by Elem leadership throughout this process. These types of negotiations often are conducted much differently, but the City's concerns were taken seriously and addressed in a meaningful way by Elem. We look forward to a long and collaborative relationship with Elem that will benefit the Clearlake community and support Tribal sovereignty and economic development.

OPTIONS:

1. Approve the MOA and Authorize the City Manager to sign. Additionally Authorize the City Manager to provide Letters of Support as Requested in the Agreement.
2. Provide alternative direction to staff.

FISCAL IMPACT:

None \$ Budgeted Item? Yes No

Budget Adjustment Needed? Yes No If yes, amount of appropriation increase: \$

Affected fund(s): General Fund Measure P Fund Measure V Fund Other:

Comments: The agreement would provide revenue to the City.

STRATEGIC PLAN IMPACT:

Goal #1: Make Clearlake a Visibly Cleaner City

Goal #2: Make Clearlake a Statistically Safer City

Goal #3: Improve the Quality of Life in Clearlake with Improved Public Facilities

Goal #4: Improve the Image of Clearlake

- Goal #5: Ensure Fiscal Sustainability of City
- Goal #6: Update Policies and Procedures to Current Government Standards
- Goal #7: Support Economic Development

SUGGESTED MOTIONS:

Attachments:

1. Proposed MOA
2. BIA Notice of Decision
3. Travel Center Final EA
4. City Letter regarding draft EA