

ITEM #: 49  
DATE: 05-14-24  
DEPT: Administratiior

## **COUNCIL ACTION FORM**

**SUBJECT:**           **AGREEMENTS WITH IOWA STATE UNIVERSITY FOR CY-TOWN  
DEVELOPMENT AREA**

### **BACKGROUND:**

On March 12, 2024, the City Council received a [staff report regarding the CY-Town Development Area](#). In that report, staff described the challenges ISU has faced in raising sufficient funds to complete needed renovations to the original four buildings at the Iowa State Center (C.Y. Stephens Auditorium, Fisher Theater, Hilton Coliseum, and the Scheman Building). An estimated \$110 million in deferred maintenance and upgrade projects are awaiting a source of funding before they can be completed.

Despite their best efforts to fundraise for these needed improvements, ISU has found that there is not sufficient interest on the part of private donors to contribute funding of this magnitude towards these types of projects.

### **CYTOWN'S CONNECTION TO IOWA STATE CENTER:**

ISU began exploring the feasibility of a multi-use arts, culture, and community district in 2019, with the intent to develop the underutilized parking lots between Jack Trice Stadium and the Iowa State Center. This exploration resulted in the development concept called CYTown, which is planned to contain a medical facility, retail and office space, an outdoor plaza and amphitheater, and residential units. In preparation for the construction of these facilities, ISU began installing utilities and parking areas in February 2023.

Similar models for the CYTown concept include TitleTown in Green Bay, Wisconsin, and the Power and Light District in Kansas City, Missouri. These developments have demonstrated ways in which cultural attractions, entertainment, and retail uses can be successfully combined in a single complex in proximity to competition athletic facilities.

Although one objective of the CYTown development would be the creation of this new, vibrant community attraction, there is a more important goal for this development which sets it apart from other examples. CYTown provides an innovative strategy to finance the needed improvements for the original four buildings at the Iowa State Center. Through the leases with tenants, ISU will create a revenue stream that can be used to pay the debt needed to fund improvements at the Iowa State Center, thereby rejuvenating those original facilities and safeguarding an invaluable arts and cultural center for the Ames community.

### **WHY THE CITY SHOULD FACILITATE IOWA STATE CENTER IMPROVEMENTS:**

City staff has held numerous discussions with ISU staff over the past several years to explore how the development concept would work. There is agreement between the City staff and ISU administration regarding the wisdom of taking advantage of the CYTown development to generate revenue to address the capital improvement needs identified for the original four buildings at the Iowa State Center. It is City staff's belief that the Iowa State Center buildings are an asset to the entire Ames community,

towards which no City investment has been previously made. It supports the City Council's value for Ames to be a fun, vibrant, and healthy community that attracts and retains people.

However, although there is agreement about the merits of investing in these facilities, there is disagreement regarding the issues of 1) the University having to pay property taxes for the improvements constructed in CYTown and 2) the ability of this university development to compete with the private sector. The University staff focuses on a section of the Iowa Code that declares property owned by the state to be exempt from local property taxes. On the other hand, City staff relies on a different section of the Iowa Code that imposes restrictions on the University's ability to compete with the private sector.

### **COMPROMISE REACHED:**

Over the years, the relationship between the City of Ames and Iowa State University has served as a role model for town/gown relationships with countless partnerships that benefit both entities. A protracted dispute with respect to the issues of taxability and competition would be detrimental to the parties' relationship and could delay or altogether thwart the renovation and improvement of the Iowa State Center facilities.

In order to avoid such a dispute, the administrative staff from the City and Iowa State University have designed a creative agreement that calls for a Payment In Lieu Of Taxes (PILOT) related to the City's portion of the amount that would be normally collected from a private development. This approach allows the improvements to move ahead without delay, generates revenue to finance the needed capital improvements for the four original buildings, and sets aside any differences of opinion that may exist about the issues of competition and taxation. A separate agreement addresses infrastructure and services for the development.

**It should be noted that although City staff has reached an understanding with ISU regarding these issues as they relate to CYTown, the question of taxability is one that is determined by the City Assessor/Iowa Department of Revenue and not by this agreement.** It should be emphasized that both of those authorities are independent of the City of Ames. In addition, although the City would set aside its concerns regarding competition with private enterprises, these agreements do not prevent other entities from raising the same concern.

Further, this unique arrangement applies only to the CYTown development. It does not imply the City's approval or cooperation with any future land developments ISU might undertake at other locations.

### **AGREEMENTS:**

At the March 12 Council meeting, staff presented two agreements related to CYTown. The first agreement is a Memorandum of Understanding (MOU) that outlines the financial arrangements and the manner in which funds will be collected and re-invested into the Iowa State Center facilities. The second agreement describes the City's involvement in the construction of the improvements, the provision of utilities, traffic control, and the interaction of other City/ISU services in this new development (Infrastructure Agreement). **The March 12 report to Council provides a summary of the major components of each agreement.**

**At the March 12 meeting, the Council directed staff to negotiate two issues with the PILOT MOU Agreement.**

1) The first was to allow for a City Manager's designee in the CYTown Advisory Committee. The MOU has been revised to provide for any of the Advisory Committee members to appoint a designee to represent them. (Article VI, page 5)

2) The second issue raised by the Council relates to how PILOT funds would be used in the event that any of the original four buildings are removed. City staff and ISU representatives discussed this issue. It should be emphasized that ISU has not indicated any proposal or desire to demolish any of the existing Iowa State Center buildings. However, nothing in the proposed agreement prohibits ISU from demolishing one of the existing four buildings if it chooses to do so. If that was to occur, then the PILOT funds would be used for any of the other eligible expenses in the remaining Iowa State Center facilities.

City and ISU staff has agreed to incorporate language in the agreement that requires the CYTown Advisory Committee to come before City Council if ISU proposes demolishing any of the buildings at some point in the future. The intent of this requirement is to provide an open setting where the Council could ask questions as to how the decision was reached and whether any alternatives to demolition exist. Ultimately, though, the decision as to whether to proceed would rest with ISU. (Article VI, page 6)

An additional clarification to the MOU addresses how the City may choose to keep PILOT revenues rather than using these funds for capital improvements, in the event that ISU uses CYTown Remainder PILOT funds for a purpose outside CYTown that is not specifically authorized by the agreement. (Article VII, page 10)

#### **UTILITY EASEMENTS:**

City staff and ISU staff have agreed on acceptable language for the easements that will allow the placement of City water and sewer infrastructure in the CYTown area. Under the easement agreement, ISU is obligated to pay for relocation of the infrastructure and the easement area if ISU intends to place buildings or structures that will, in the reasonable judgement of the Municipal Engineer, materially adversely affect the operation of the infrastructure or access to it. (Article 7 of the Water & Sanitary Sewer Utility Easement Agreement)

Relocated or expanded water and sewer infrastructure is to be installed using the same process as the original infrastructure, as outlined in the Infrastructure Agreement. ISU would design the infrastructure to City standards, City staff would review and approve the design, ISU would install the infrastructure under the City's observation, and the infrastructure would be transferred to the City's ownership. The Infrastructure Agreement has been amended to note that future infrastructure installations follow this same process. (Articles V, VI, VII - pages 5, 7, 9)

#### **ADDITIONAL NOTES:**

Staff should note that some questions have surfaced since March 12 that warrant clarification:

##### Property Tax Exemption

**It should be emphasized that the CYTown Agreements being presented for Council approval do not grant an exemption to the University from paying property taxes.** The University's exemption from paying property taxes is outlined in state law, and interpreted independently by the City Assessor and ultimately, the Iowa Department of Revenue. The purpose of the CYTown agreements between the City and ISU is instead to emphasize the importance of the Iowa State Center as a community asset, to

provide a process for funds collected from the development in CYTown to be invested in the Iowa State Center, and to furnish City utility and infrastructure services to facilitate the development. **If the Iowa Department of Revenue determined in the future that some portion of CYTown is taxable, then the agreement indicates that taxes would be collected and the PILOT arrangement becomes void for that portion of CYTown.**

#### Sales and Hotel/Motel Taxes

The Council has received questions regarding whether sales tax and hotel/motel taxes would be collected in the CYTown Development Area. The sales tax question appears to be related to the fact that purchases at the ISU Bookstore on campus are currently tax-exempt.

According to state law, sales of goods and services are exempt from sales tax if the profit from the sales is used by a tax-exempt entity for an educational, religious, or charitable use. The location where the sale was made is inapplicable to the question of sales tax. **Businesses that locate at CYTown would not be granted exemptions from sales tax simply by being located on University property. However, if the ISU Bookstore or other entities that meet the tax exemption criteria locate within CYTown, their sales would be tax-exempt.**

Staff has consulted with the Department of Revenue regarding the question of hotel-motel taxes. **A hotel on ISU property would be obligated to collect hotel-motel taxes.** An example of this can be seen with the hotel in the Iowa Memorial Union at the University of Iowa, which collects the adopted Iowa City hotel-motel tax rates on stays in its facility.

#### Scheman Building Improvements Underway

In early 2023, the Board of Regents approved proceeding with a \$12 million renovation to the Scheman Building to improve reception spaces and convert the auditorium to a flexible event space. These renovations were approved prior to the CYTown agreement negotiations being completed, and therefore are being paid using Athletics funds rather than the PILOT funds collected as part of the agreement. It is expected that the improvements to Scheman will be available for events and programming that occur throughout the year and not as Athletics-exclusive spaces.

#### **ALTERNATIVES:**

1. Approve the following agreements with Iowa State University for CYTown:
  - a. Memorandum of Understanding Relating to the CYTown Development
  - b. CYTown Development Area Construction, Utilities, Traffic, and Related Services Memorandum of Understanding
  - c. CYTown Development Area Water and Sanitary Sewer Utility Easement Agreement
  - d. CYTown Development Area Electrical Easement Agreement
2. Refer this item back to staff for further information.
3. Do not approve the agreements.

#### **CITY MANAGER'S RECOMMENDED ACTION:**

The Iowa State Center has been a valuable asset over the past five decades, not only for Iowa State University, but also for the broader Ames community and its quality of life. The facilities need improvements in order to attract the caliber of entertainment and cultural events that were produced in the earlier years of the Iowa State Center's existence. ISU has been unable to secure sufficient funding

on its own to make significant progress towards these improvements. The creation of CYTown offers the opportunity for a revenue stream to be developed which can be borrowed against by the University to finance improvements at the Iowa State Center.

The attached agreements are necessary to 1) provide CYTown with access to utilities, 2) outline how traffic and other infrastructure improvements will be made, and 3) describe how revenues will be collected to finance both CYTown and the improvements to the Iowa State Center.

It is clear that these agreements are somewhat different than they would be if this arrangement was between the City and a private developer, rather than with a state entity. However, staff believes these agreements reflect the most effective approach to ensuring a stable revenue source for Iowa State Center improvements. The total amounts to be collected as PILOT (MOU PILOT and Remainder PILOT) from the tenants of CYTown will be equivalent to the amounts those tenants would pay in a similarly valued private development. Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative #1 a-d, as described above.

**ATTACHMENT(S):**

[Final CYTOWN CONSTRUCTION UTILITIES TRAFFIC ETC MOU](#)

[Final ISU-City MOU CYTOWN \(PILOT\)](#)

[CYTown Water and Sewer Easement](#)

[CYTown Electrical Easement](#)