



City of Grand Island

Tuesday, March 22, 2016

Council Session

Item I-3

**#2016-75 – Consideration of Approving Transfer of Central
Nebraska Veterans Home Land and Buildings to the City**

Staff Contact: Jerry Janulewicz

Council Agenda Memo

From: Jerry Janulewicz, City Attorney

Meeting: March 22, 2016

Subject: Transfer of Central Nebraska Veterans Home Land and Buildings to the City

Presenter(s): Jerry Janulewicz, City Attorney

Background

Following the City Council's previous discussions and actions, city legal staff engaged in negotiations with the State of Nebraska for transfer of the lands and buildings of the Central Nebraska Veterans Home to the City of Grand Island. The State has determined that the agricultural lands and the lands leased to the City for recreational uses are excess lands and available for transfer as Phase I. Following completion and activation of the Veterans Home facility in Kearney, the State proposes to transfer to the City, as Phase II, the remaining lands and buildings, including the Veterans Home Campus, Veterans Cemetery, and parking area leased to the United Veterans Club.

Discussion

The State has determined that the agricultural lands and the lands leased to the City used for recreational uses are excess lands and available for transfer as Phase I. Following completion and activation of the Veterans Home facility in Kearney, the State proposes to transfer to the City, as Phase II, the areas remaining, including the Veterans Home Campus, Veterans Cemetery, and parking area leased to the United Veterans Club. Transfer of the Phase II property will be contingent upon mutual consent of the City and State to the terms and conditions of transfer including, but not limited to, City's agreement accommodate the needs of the United Veterans Club to continue its leasehold interest in and to the 10.667 acres consisting of the parking lot for the United Veterans Club; provide continuing maintenance of the Veterans Cemetery and protect the same from commercial and residential encroachment through greenspace buffer or the addition of public cemetery areas; and assume the duties and obligations of the State Building Division of the Nebraska Department of Administrative Services and the State under the Programmatic Agreement among the US Department of Veterans Affairs, the Nebraska Department of Administrative Services, the Nebraska Department of Health and Human Services, the Nebraska State Historic Preservation Office and the Advisory Council on

Historic Preservation Regarding the Relocation of the Central Nebraska Veterans Home at 2300 West Capital Avenue, Grand Island, Nebraska.

Upon acquisition of the Phase I property, city staff propose that the agricultural property be leased for the 2016 crop season through the city's current farm lease manager and management program.

Alternatives

The Council has the following alternatives concerning the issue at hand. The Council may:

1. Approve the resolution as set forth.
2. Disapprove or /Deny the resolution.
3. Modify the resolution to meet the needs of the City Council.
4. Table the issue.

Recommendation

City Administration recommends that the Council approve the resolution authorizing and approving the Memorandum of Agreement by and between the State of Nebraska and the City of Grand Island regarding transfer of the Central Nebraska Veterans Home lands and buildings.

Sample Motion

Move to approve the resolution authorizing and approving the Memorandum of Agreement by and between the State of Nebraska and the City of Grand Island regarding transfer of the Central Nebraska Veterans Home lands and buildings.

**MEMORANDUM OF AGREEMENT
BY AND BETWEEN
THE STATE OF NEBRASKA AND THE CITY OF GRAND ISLAND
REGARDING TRANSFER OF
CENTRAL NEBRASKA VETERANS HOME LANDS AND BUILDINGS**

THIS MEMORANDUM OF AGREEMENT by and between THE STATE OF NEBRASKA, by and through its Department of Administrative Services, herein referred to as “STATE,” and THE CITY OF GRAND ISLAND, NEBRASKA, a municipal corporation and a political subdivision of the State of Nebraska, herein referred to as “CITY”.

WHEREAS, STATE owns and operates the Central Nebraska Veterans Home currently located in Grand Island, Nebraska, herein referred to as “GIVH”; and

WHEREAS, STATE is in the process of designing and contracting for the construction of a new Central Nebraska Veterans Home in Kearney, Nebraska, herein referred to as “KVH”; and

WHEREAS, upon completion of the KVH, the residents of GIVH will be relocated to KVH and GIVH will be vacated; and

WHEREAS, the real estate comprising the entirety of the original GIVH, being all of Section Five (5), in Township Eleven (11) North, Range Nine (9) West of the 6th P.M., Hall County, Nebraska, was conveyed to STATE in 1887 in two parcels, each for the sum of “one-dollar and the location at Grand Island of the Soldiers’ and Sailors’ Home”; and

WHEREAS, of the original 640 acres conveyed to STATE approximately 30 acres are actually used to house veterans and their spouses; and

WHEREAS, the real estate as described in “Exhibit A,” attached hereto and herein referred to as the “GIVH Phase I Real Estate,” is comprised of agricultural lands and lands leased to CITY for recreational uses; and

WHEREAS, the GIVH Phase I Real Estate is excess land as defined by Neb.Rev.Stat. Sec. 72-811(2); and

WHEREAS, STATE desires to dispose of GIVH Phase I Real Estate to CITY and CITY desires to acquire GIVH Phase I Real Estate from STATE; and

WHEREAS, upon completion of KVH and the vacating of GIVH, STATE intends to convey to CITY the remaining GIVH real estate consisting of the Veterans Home Campus, Veterans Cemetery, and parking area leased to the United Veterans Club, contingent upon the

parties' mutual consent to the terms and conditions of such transfer including, but not limited to, CITY's covenant to provide continuing maintenance of the Veterans Cemetery and to protect the same from commercial and residential encroachment through greenspace buffer or the addition of public cemetery areas.

NOW, THEREFORE, STATE and CITY agree as follows:

1. The recitals above are incorporated into and made a part of this Memorandum of Agreement.
2. STATE shall take such action as necessary to convey to CITY by Quitclaim Deed the GIVH Phase I Real Estate.
3. Following transfer of Central Nebraska Veterans Home residents and operational and administrative staff to KVH, and contingent upon the STATE's Vacant Building and Excess Land Committee making findings and determinations that the remaining GIVH property is vacant and excess and the making of appropriate recommendations as required by statute, STATE shall offer to convey to CITY the remaining real estate and improvements comprising GIVH located in a part of the South Half (S¹/₂) of Section Five (5), Township Eleven (11) North, Range Eleven (11) West of the 6th P.M., Hall County, Nebraska, and consisting of: Veterans Home Campus; Veterans Cemetery; paved parking area currently leased to the United Veterans Club; and any other land that has not been otherwise sold or permanently disposed of as part of GIVH, herein referred to as the "GIVH Phase II Real Estate."
4. Upon acceptance by the CITY of the GIVH Phase II Real Estate upon such reasonable terms and conditions as mutually agreed to by the parties, CITY shall:
 - a. Accommodate the needs of the United Veterans Club to continue its leasehold interest in and to the 10.667 acres consisting of the parking lot for the United Veterans Club;
 - b. Provide continuing maintenance of the Veterans Cemetery and protect the same from commercial and residential encroachment through greenspace buffer or the addition of public cemetery areas; and
 - c. Assume the duties and obligations of the State Building Division of the Nebraska Department of Administrative Services and the STATE under the Programmatic Agreement among the US Department of Veterans Affairs, the Nebraska

Department of Administrative Services, the Nebraska Department of Health and Human Services, the Nebraska State Historic Preservation Office and the Advisory Council on Historic Preservation Regarding the Relocation of the Central Nebraska Veterans Home at 2300 West Capital Avenue, Grand Island, Nebraska.

- 5. With respect to any Real Estate transferred by STATE and accepted by CITY, CITY shall defend and hold harmless STATE and the transferred lands from any and all claims, suits, or other alternative dispute resolution proceedings, of and by any other parties that may allege a superior ownership or possessory right to the land, or any portion thereof, including any suits for damages, claims, or equitable remedies.

STATE OF NEBRASKA

By _____ Date: _____, 2016.
Byron L. Diamond, Director
Department of Administrative Services

CITY OF GRAND ISLAND

By _____ Date: _____, 2016.
Jeremy Jensen, Mayor

Attest:

RaNae Edward, City Clerk

EXHIBIT A

[insert legal descriptions]

RESOLUTION 2016-75

WHEREAS, the City of Grand Island (“City”), acting by and through its Mayor and City Council, expressed a desire that the City acquire the lands and buildings of the Central Nebraska Veterans Home (“CNVH”) including, but not limited to, the buildings and structures, Veterans Cemetery, agricultural lands, and lands leased to the City of Grand Island, and

WHEREAS, the State of Nebraska (“State”) agrees to transfer CNVH to the City in two phases: Phase I being a transfer of the agricultural lands and lands leased to City for recreational purposes and, as Phase II, a transfer of the remaining real estate, and

WHEREAS, on behalf of their respective clients, legal counsel for City and State have negotiated a proposed Memorandum of Agreement (“Agreement”) for transfer of CNVH from State to City, and

WHEREAS, the Agreement provides for the immediate transfer of the Phase I lands to City, and

WHEREAS, State intends to convey to City as Phase II the remaining CNVH real estate consisting of the Veterans Home Campus, Veterans Cemetery, and parking area leased to the United Veterans Club, contingent upon the parties’ mutual consent to the terms and conditions of such transfer including, but not limited to, City’s covenant to provide continuing maintenance of the Veterans Cemetery and to protect the same from commercial and residential encroachment through greenspace buffer or the addition of public cemetery areas.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, as follows:

1. The proposed Memorandum of Agreement between City and State regarding transfer of CNVH is approved and the Mayor is authorized and directed to execute the same in the name of and on behalf of City;
2. Upon City’s receipt of a properly executed deed conveying the Phase I real estate, the Mayor and city staff are authorized to accept said deed on behalf of City and to present the same to the Hall County Register of Deeds for recording;
3. City staff is authorized to cause the Phase I agricultural lands to be leased for the 2016 crop season through City’s current farm lease manager and management program; and
4. The mayor and city staff are authorized and directed to engage in further negotiations with State for the Phase II transfer.

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Approved as to Form	☐ _____
March 18, 2016	☐ City Attorney

Adopted by the City Council of the City of Grand Island, Nebraska, March 22, 2016.

Jeremy L. Jensen, Mayor

Attest:

RaNae Edwards, City Clerk