



City of Grand Island

Tuesday, October 25, 2022

Council Session

Item G-9

**#2022-297 - Approving Extension of Option to Lease Agreement -
Grand Island Children's Museum**

Staff Contact: Jerry Janulewicz

Council Agenda Memo

From: Jerry Janulewicz, City Administrator

Meeting: October 25, 2022

Subject: Extension of Option to Lease Agreement-Grand Island Children's Museum

Presenter(s): Jerry Janulewicz, City Administrator

Background

At the February 22, 2022, the City Council approved a resolution to enter into an option to lease agreement (the "Agreement") with the Grand Island Children's Museum, Inc. (the "Museum"), which is seeking to establish a Children's Museum in Grand Island. After a search of properties in Grand Island, the Museum determined that the City-owned former Nebraska Guard Amory Building on Old Potash Highway would be an excellent location for such a facility. The Agreement contains the following elements:

1. The Museum was granted an option to lease the property at nominal rent per year. The option to lease will terminate on March 1, 2023 if not exercised by the Museum. The option to lease is contingent upon the Museum receiving funds and pledges totaling at least \$7,000,000.00 by January 1, 2023.
2. Upon exercise of the option to lease, the property would be leased to the Museum with an option to purchase the property during the lease term. The City would retain the easterly 40 feet of the property.
3. The property must be used for a children's museum open to all members of the public.
4. The Museum shall be solely responsible for the cost of all improvements and renovations to the Premises, which shall include, but not be limited to, updated HVAC, electric, and other building systems, and parking lot improvements.
5. The Museum shall keep the building and Premises in good condition and repair.
6. At any point during the lease, the Museum shall have the option to purchase the Premises from the City at a predetermined price subject to public remonstrance and election as provided by Nebraska Revised Statutes.

The City's Parks and Recreation Department currently uses the building for equipment storage. The 2022-23 budget did not include funds for acquisition of replacement storage facilities.

Discussion

The Museum has been unable to raise donations and pledges in the amounts previously anticipated and is requesting a one-year extension of the option to lease and the date by which it must demonstrate it has received at least \$7,000,000 in funds and pledges. If the resolution is approved by the City Council, the Agreement will be amended to provide for termination of the option to lease on March 1, 2024 if not exercised by the Museum and the option to lease will be contingent upon the Museum receiving funds and pledges totaling at least \$7,000,000.00 by January 1, 2024.

Alternatives

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

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the City Council approve the amendment of the option to lease agreement with the Grand Island Children's Museum.

Sample Motion

Move to approve the resolution.

**AMENDMENT TO ARTICLE I. Numbers 1, 2, and 4
OPTION TO LEASE**

BY AND BETWEEN

THE CITY OF GRAND ISLAND, NEBRASKA

AND

GRAND ISLAND CHILDREN'S MUSEUM

THIS AMENDMENT is made and entered into by and between the City of Grand Island, Nebraska, a body corporate and politic and a political subdivision of the State of Nebraska (Lessor), and the Grand Island Children's Museum, Inc., a Nebraska nonprofit corporation (Lessee), for the purpose of amending the terms of that certain Option to Lease dated February 23, 2022 (the Agreement) and relating to certain premises as further described in Schedule A to the Agreement.

WHEREAS, on February 22, 2022, the Mayor and City Council of the City of Grand Island approved Resolution 2022-51, authorizing the negotiation and execution of the Agreement; and

WHEREAS, the Lessor and Lessee now each desire to amend the Agreement to grant Lessee an extension of the deadline for Lessee's exercise of its option rights under the Agreement, and;

WHEREAS, on October 25, 2022, the Mayor and City Council of the City of Grand Island approved Resolution 2022-___ authorizing the amendment of the Agreement and extension of the option term for a period of one year.

NOW THEREFORE, upon mutual execution of this amendment by the Lessor and Lessee, Article I, Sections 2 and 4, of the Agreement shall be amended as set forth below (deletions in ~~strikethrough~~, additions underlined):

Article I. Option to Lease.

1. For good and valuable consideration, receipt of which is hereby acknowledged, the undersigned Lessor gives an option to lease the premises described in Schedule A for such lease terms as set forth in Article II., below.
2. Exercise of the option to lease granted by this Article I shall be subject to and contingent upon Lessee's receipt of funds and pledges totaling not less than Seven Million Dollars (\$7,000,000.00) on or prior to ~~January 1, 2023~~, January 1, 2024 to be confirmed by the Lessor's City Administrator designee.
3. Lessor shall grant and permit Lessee's representatives and agents access to the premises to conduct inspections and studies to determine suitability of the premises for Lessee's intended development and use.
4. Subject to Article I., Sec. 2 above, this option is exercisable by written notice provided by the Lessee and received by the Lessor on or prior to ~~March 1, 2023~~, March 1, 2024.

All other terms and conditions of the Agreement shall remain in full force and effect, except as amended herein. This amendment shall be effective upon mutual execution by the Lessor and Lessee.

LESSOR:

CITY OF GRAND ISLAND

By: _____
Roger G. Steele, Mayor

ATTEST:

By: _____
RaNae Edwards, City Clerk

LESSEE:

GRAND ISLAND CHILDREN'S MUSEUM

By: _____
President

By: _____
Secretary:

RESOLUTION 2022-297

WHEREAS, on February 22, 2022, the Mayor and City Council of the City of Grand Island, Nebraska previously approved Resolution 2022-51, authorizing the execution of an Option to Lease Agreement (the Agreement) by and between the City of Grand Island as Lessor and Grand Island Children's Museum as Lessee; and

WHEREAS, the Agreement grants Lessee an option to lease certain real property described in Schedule A to the Agreement and requires Lessee to obtain certain funds and pledges for a Children's Museum on or prior to January 1, 2023 in order to exercise its option; and

WHEREAS, the Agreement further requires Lessee to provide the City with written notice of its intent to exercise its option on or prior to March 1, 2023; and

WHEREAS, Lessee has requested a one year extension to the deadlines set forth in the Agreement, and staff have recommended the granting of such extension; and

WHEREAS, the Mayor and City Council desire to grant Lessee the requested extension in order to provide Lessee with additional time to raise the required funds for the proposed Children's Museum.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the form of an amendment to the Agreement, attached hereto and incorporated herein as Exhibit A, and providing for a one year extension to the deadlines set forth in Article I, sections 2 and 4 of the Agreement, is hereby approved.

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Adopted by the City Council of the City of Grand Island, Nebraska, October 25, 2022.

Roger G. Steele, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☒ _____
October 20, 2022	☒ City Attorney