



City of Grand Island

Tuesday, March 12, 2002

Council Session

Item G5

#2002-56 - Approving Reconfiguration of Detention Cell Including Acquisition of Real Estate and Approval of Exchange Agreement

The Robert M. Allen Family Limited Partnership, the owner of Eagle Run, has requested that Detention Cell B-6A previously dedicated to the City of Grand Island be reconfigured as shown on the attached drawing in order to accommodate future commercial development of Meadowlark West Fourth Subdivision. The public hearing required as part of this transaction was held during the last City Council meeting. The Public Works Department has reviewed and approved the reconfiguration. There are two actions before the Council in connection with this matter, including (a) an ordinance approving acquisition of the reconfigured cell as Outlot "A", and (b) approving an exchange agreement swapping the existing detention cell B-6A tract for Outlot "A". Other than the cost of preparation of documents for presentation to the City Council and the publication of a notice of public hearing, the City of Grand Island is incurring no other expenses in connection with the exchange transaction. We recommend that the ordinance and resolution be approved as drafted.

Staff Contact: Charlie Cuypers



AGREEMENT FOR EXCHANGE OF REAL ESTATE

THIS AGREEMENT is made and entered into on this _____ day of _____, 2002, by and between the CITY OF GRAND ISLAND, NEBRASKA, A Municipal Corporation, hereinafter referred to as “City” and ROBERT M. ALLEN FAMILY LIMITED PARTNERSHIP, hereinafter referred to “Developer”.

1. **STATEMENT OF PURPOSE.** The purpose of this Agreement for Exchange of Real Estate (Exchange Agreement) is to exchange the tracts of real estate known as Detention Cell B-6A now owned by the City, hereinafter more particularly described as Tract 1, for the tract of real estate to be utilized as a reconfigured detention cell shown as Outlot “A” on the drawing attached hereto as Exhibit 1 and made a part hereof by reference; Outlot “A” being more particularly described herein as Tract 2.

2. **REAL ESTATE TO BE CONVEYED.** For purposes of this transaction, Detention Cell B-6A (Tract 1) shall be considered as conveyed to the Developer in exchange for the Developer conveying to the City Outlot “A” (Tract 2) as an even exchange with no net consideration paid by either party to the other. The City and the Developer shall each bear their own expenses, including obtaining at their sole discretion current commitments for owners’ policies of title insurance for Tracts 1 or 2. In the event either party elects to obtain an owner’s policy of title insurance, the commitment shall be issued not more than ten (10) days following execution of this exchange agreement and a copy provided forthwith to the other party. The grantee shall have a period of not more than twenty (20) days thereafter to examine the commitment to ascertain whether there is any defect or condition affecting the title to the insured real estate. In the event there is such a objectionable defect or condition, the grantor shall have a reasonable period of time, not to exceed forty-five (45) days, within which to cure such defect or condition and provide notice of the same to the grantee or at the grantor’s option, to provide the grantee written notice of said party’s election to cancel this exchange agreement.

3. **CLOSING AND POSSESSION.** The closing of the conveyances of Tracts 1 and 2 shall occur at the earliest opportunity following compliance with the terms and conditions of this exchange agreement, the statutes of the State of Nebraska and the ordinances of the City of Grand Island, whereupon the respective parties may take possession of Tracts 1 and 2 as

grantees. The conveyances of Tracts 1 and 2 by the respective parties shall be by warranty deed, without reservation or exceptions except those of record.

4. WARRANTIES OF PARTIES. The City and Developers warrant the following to each other as grantors respectively for Tracts 1 and 2:

- a. Each grantor shall have and be able to convey to the grantee at closing marketable fee simple title to their respective tract, free and clear of all liens, claims and encumbrances.
- b. There shall be no pending legal proceedings or actions of any kind whatsoever, or judgments or claims of any nature whatsoever pending against the grantor of their respective tract.
- c. There shall be no uncured violations of any federal, state, local laws, ordinances or regulations on the respective tracts.
- d. The respective tracts shall be in substantially the same physical condition as each is on the date of execution of this exchange agreement.
- e. There shall be no unpaid bills, charges, costs or expenses of any kind which create or permit the filing of a statutory lien of any kind against the respective tracts.

5. TAXES. Detention B-6A is not subject to real estate taxes while owned by the City. The Developers shall pay all real estate taxes which accrue as to Outlot A as of the date closing.

6. NOTICES. All notices envisioned under the terms and conditions of this exchange agreement shall be sent to the other party by first class United States mail, postage prepaid and addressed as follows:

City of Grand Island
Attn: Mayor
P.O. Box 1968
Grand Island, NE 68802-1968

Robert M. Allen Family Limited Partnership
1115 West Second Street
P.O. Box 987
Hastings, NE 68902-0987

7. CHOICE OF LAW. This exchange agreement shall be construed in accordance with the laws of the State of Nebraska and the United States of America.

8. ENTIRE AGREEMENT. This exchange agreement shall constitute the entire agreement between the City and the Developers, notwithstanding any written or oral agreements to the contrary. This exchange agreement may be amended only in writing, duly reviewed, approved and executed by the respective parties.

9. BINDING EFFECT. The terms and conditions contained herein shall extend to and be obligatory on the successors, assigns, heirs and legal representatives of the parties hereto.

Attest: CITY OF GRAND ISLAND, NEBRASKA,
A Municipal Corporation,

RaNae Edwards, City Clerk

By: _____
Ken Gnadt, Mayor

ROBERT M. ALLEN FAMILY LIMITED
PARTNERSHIP,

By: _____
Robert M. Allen, General Partner

STATE OF NEBRASKA)
) ss:
COUNTY OF HALL)

The foregoing instrument was acknowledged before me this ____ day of _____, 2002, by Robert M. Allen, general partner, on behalf of the Robert M. Allen Family Limited Partnership.

Notary Public

Old Detention Cell Property Description

A tract of land known as Detention Cell B-6A located in the Southeast Quarter of the Northeast Quarter (SE1/4, NE1/4) of Section Thirteen (13), Township Eleven (11) North, Range Ten (10) West of the 6th P.M. in Hall County, Nebraska, more particularly described as follows is hereby authorized and directed:

To ascertain the actual point of beginning, commence at the southeast corner of said Southeast Quarter of the Northeast Quarter (SE1/4, NE1/4); thence running north on the east line of said Section Thirteen (13) for a distance of Seven Hundred (700.0) feet; thence deflecting left ninety degrees and no minutes (90°00') and running west on a line for a distance of Two Hundred Seventy (270.0) feet to the actual point of beginning; thence continuing west on said line for a distance of Two Hundred Thirty (230.0) feet; thence deflecting right ninety degrees and no minutes (90°00') and running north on a line for a distance of Two Hundred Seventy (270.0) feet; thence deflecting right ninety degrees and no minutes (90°00') and running east on a line for a distance of Two Hundred Thirty (230.0) feet; thence deflecting right ninety degrees and no minutes (90°00') and running south on a line for a distance of Two Hundred Seventy (270.0) feet to the actual point of beginning; said tract of land containing 62,100 square feet, or 1.4 acres, more or less, identified as Cell B-6A as shown on Exhibit "B" dated 2-6-74, attached hereto and incorporated herein by reference. The description herein is set out in a Warranty Deed dated July 23, 1974 and recorded on July 31, 1974 in Miscellaneous Records Book 175, Page 526 in the Office of the Register of Deeds, Hall County, Nebraska.

New Detention Cell Property Description

A tract of land located in the City of Grand Island Detention Cell B-6A and part of Lot Six (6), Meadowlark West Third Subdivision in the City of Grand Island, Hall County, Nebraska, all in the Southeast Quarter of the Northeast Quarter (SE1/4, NE1/4) of Section Thirteen (13), Township Eleven (11) North, Range Ten (10) West of the 6th P.M., Hall County, Nebraska, and more particularly described as follows:

Commencing at the southeast corner of Lot 7, Meadowlark West Third Subdivision; thence on an assumed bearing of S90°00'00"W along the south line of said Lot 7, a distance of 216.07 feet to a point being the southeast corner of said Detention Cell B-6A, said point also being the point of beginning; thence N89°52'44"W a distance of 336.73 feet; thence N00°07'16"E a distance of 190.13 feet; thence S89°51'18"E a distance of 336.73 feet; thence S00°07'16"W a distance of 189.99 feet to the point of beginning. Said tract contains 63999.42 square feet or 1.47 acres more or less, as shown on the drawing dated February 18, 2002, attached hereto as Exhibit "A" and incorporated herein by reference.

RESOLUTION 2002-56

WHEREAS, Robert M. Allen Family Limited Partnership has expressed an interest in reconfiguring the detention cell known as the City of Grand Island Detention Cell B-6A in order to accommodate future development in and around Meadowlark West Third Subdivision in the City of Grand Island, Hall County, Nebraska; and

WHEREAS, such property owner has recommended exchanging property with the City of Grand Island in order to reconfigure such detention cell; and

WHEREAS, a public hearing was held on February 26, 2006 for the purpose of discussing the proposed acquisition of property located in the City of Grand Island Detention Cell B-6A and part of Lot Six (6), Meadowlark West Third Subdivision in the City of Grand Island, Hall County, Nebraska, all in the Southeast Quarter of the Northeast Quarter (SE1/4, NE1/4) of Section Thirteen (13), Township Eleven (11) North, Range Ten (10) West of the 6th P.M., Hall County, Nebraska, and more particularly described as follows:

Commencing at the southeast corner of Lot 7, Meadowlark West Third Subdivision; thence on an assumed bearing of S90°00'00"W along the south line of said Lot 7, a distance of 216.07 feet to a point being the southeast corner of said Detention Cell B-6A, said point also being the point of beginning; thence N89°52'44"W a distance of 336.73 feet; thence N00°07'16"E a distance of 190.13 feet; thence S89°51'18"E a distance of 336.73 feet; thence S00°07'16"W a distance of 189.99 feet to the point of beginning. Said tract contains 63999.42 square feet or 1.47 acres more or less, as shown on the drawing dated February 18, 2002, attached hereto as Exhibit "A" and incorporated herein by reference; and

WHEREAS, an Exchange Agreement has been prepared by the City Attorney's office for such property exchange.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City of Grand Island is hereby authorized to acquire approximately 1.47 acres of property from Robert M. Allen Family Limited Partnership, for use in reconfiguring the existing detention cell adjacent to Lot Six (6) Meadowlark West Third Subdivision as set out in the Exchange Agreement.

BE IT FURTHER RESOLVED, that the Exchange Agreement for such conveyance of property is hereby approved; and the Mayor is hereby authorized and directed to execute such agreement on behalf of the City of Grand Island.

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Adopted by the City Council of the City of Grand Island, Nebraska on March 12, 2002.

Approved as to Form ? _____
March 7, 2002 ? City Attorney

RaNae Edwards, City Clerk

Approved as to Form ? _____
March 7, 2002 ? City Attorney