



City of Grand Island

Tuesday, October 8, 2013

Council Session

Item I-4

**#2013-338 - Consideration of Approving an Agreement with the
Grand Island Area Chamber of Commerce**

Staff Contact: Mayor Jay Vavricek

Council Agenda Memo

From: Jay Vavricek, Mayor

Meeting: October 8, 2013

Subject: Consideration of Approving an Agreement with the Grand Island Area Chamber of Commerce

Item #s: I-4

Presenter(s): Jay Vavricek, Mayor

Background

The City of Grand Island, Hall County, Grand Island Area Economic Development Corporation and the Grand Island Area Chamber of Commerce all agreed to contribute funds for the hiring of Rembolt Ludtke, LLP, a law firm from Lincoln, Nebraska to evaluate all legal options available with the intent of retaining the Grand Island Veterans Home. The City's portion of the legal fees was \$5,000 and Council approval was obtained through the passage of Resolution 2013-292. The Resolution included the statement that timely communication of research will be extended to the council through the Mayor.

Discussion

In order to retain the confidentiality required as the potential for litigation is continued to be researched, it has been recommended by Don Dunn from the Rembolt Ludtke firm that an agreement between the Chamber and the City be completed. This document must be approved prior to the direct sharing of any written documents or reports as prepared by Rembolt Ludtke with the Mayor and the Mayor being able to share that information with the Council pursuant to the terms of Resolution 2013-292.

Alternatives

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

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

Recommendation

City Administration recommends the approval of the agreement between the Grand Island Area Chamber of Commerce and the City of Grand Island.

Sample Motion

Move to approve the resolution approving the agreement between the Grand Island Area Chamber of Commerce and the City of Grand Island.

RESOLUTION 2013-292

WHEREAS, veterans today and generations before have served honorably with bravery, courage and dedication to support the freedom of this land and community; and

WHEREAS, this community made possible 640 acres of land as the home of the Grand Island Veterans Home, which, in the estimation of many in our community, became "hallowed ground" with approval of state statute LB247 on March 4, 1887; and

WHEREAS, efforts to move the Grand Island Veterans Home to Kearney cast aside with little or no regard the pioneer spirit, generosity, initiative and 126 years of service from our community; and

WHEREAS, a recent state wide request for community offerings supporting a new Central Nebraska Veterans Home used a proposal process that remains in doubt, a process that did not take into account proximity of adjacent and available resources such as the Veterans Hospital, camaraderie of the membership of veterans' organizations, land readily available for member access and residency, nor did it solicit suitable involvement from members or employees of the Grand Island Veterans Home, or conduct a public hearing to ascertain facts; and

WHEREAS, based on the unprecedented show of support at the August 20th city council meeting and public comments made at that time; and

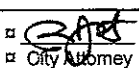
WHEREAS, the City of Grand Island, Hall County, Grand Island Area Economic Development Corporation and the Grand Island Area Chamber of Commerce have representatives serving as members of the Home for Our Heroes Committee; and

WHEREAS, the City, County, Economic Development Corporation and Chamber of Commerce along with the entire Grand Island area community have an interest in retaining the Grand Island Veterans Home and will be affected by the loss of that Home; and

WHEREAS, the Chamber of Commerce plans to engage Donald L. Dunn of the law firm of Rembolt Ludtke, LLP to analyze the legal situation regarding the decision to move the Home, to analyze the legal options available to retain the Home in Grand Island, and to offer advice to the Home for Our Heroes Committee regarding the legal situation and available options regarding the State's decision to relocate the Home; and

WHEREAS, the total fee for Mr. Dunn's and Rembolt Ludtke's services is \$15,000.00 with Hall County contributing \$5,000, Economic Development Corporation contributing \$2,500 and Chamber of Commerce contributing \$2,500; and

WHEREAS, at the request of The Home For Our Heroes Committee, the City of Grand Island is contributing \$5,000.00 to assist it in paying Mr. Dunn and Rembolt Ludtke only to research, analyze and evaluate matters concerning the Veterans Home relocation recommendation; and

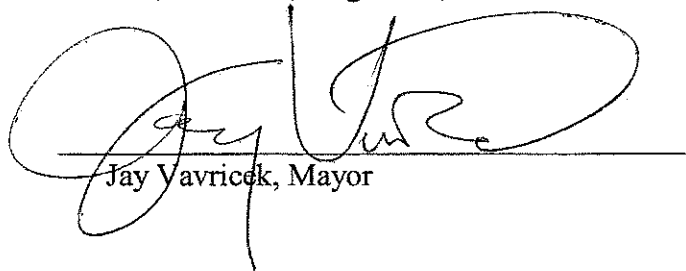
Approved as to Form	<input checked="" type="checkbox"/>	
August 26, 2013	<input checked="" type="checkbox"/>	City Attorney

WHEREAS, the following council acknowledgements are also made: since federal funding of the project would benefit veterans regardless of the Home's location, federal funding is essential and will be supported; a reasonable and respectful dialogue is expected; other actions, including the possibility of state-wide legislative action, may be warranted; timely communication of research will be extended to the council through the Mayor; and if future financial assistance is needed to address this community concern, any action is dependent upon council approval with the hope the same four community partners would participate in a similar manner as this initial effort.

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 disburse \$5,000.00 to the Grand Island Area Chamber of Commerce to assist it in retaining the professional services of Donald L. Dunn and Rembolt Ludtke, LLP and for paying the fee for those services.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, August 27, 2013.



Jay Vavricek, Mayor

Attest:



RaNae Edwards, City Clerk

PRIVILEGED AND CONFIDENTIAL
Attorney Work Product
Prepared in Anticipation of Litigation

1. The undersigned Parties ("Parties") have certain common interests in the State of Nebraska's announced plans to relocate the Grand Island Veterans' Home from the City of Grand Island to the City of Kearney (the "Home Relocation"). Further, the Parties have reason to believe that they may become parties in litigation involving the Home Relocation (the "Potential Litigation").

2. The Potential Litigation is expected to raise legal and factual issues and interests common to the Parties. The Parties therefore have a common interest in sharing information to prepare a joint case. These mutual interests warrant joint efforts in preparing for, and if necessary, conducting the Potential Litigation. The Parties desire to take all lawful, ethical and proper steps to assure that their respective counsel are free to share and exchange strategies, legal theories, confidences and other secrets, information, and documents (hereinafter "Information") in order to advance their preparation and positions in the Potential Litigation and protect the Parties' interests and rights. Based on these circumstances, the Parties and their respective counsel agree to exchange and share information, subject to Paragraph 5 below, for the purpose of advancing their common interests.

3. The joint litigation privilege or common interest doctrine enables counsel for clients facing a common litigation opponent to exchange privileged communications and attorney work product in order to adequately prepare a defense without waiving either privilege. The Parties enter into this Agreement to take advantage of those protections and for the purpose of allowing their legal counsel to share and exchange information in a common effort to prepare for and conduct the Potential Litigation and to enhance their

respective counsels' ability to represent them in the Potential Litigation, without thereby waiving any privilege or claim of confidentiality or attorney work product with respect to the information.

4. To further the mutual interests of the undersigned Parties, they agree:
 - a) to share and exchange among and between themselves, their counsel, their insurers, if any, and any of their respective agents, representatives, experts, consultants, legal assistants and employees, subject to the provisions herein, information for the limited and restricted purpose of assisting the Parties and their counsel in preparing for and conducting the Potential Litigation while protecting their respective interests and not otherwise authorizing or permitting any other publication or use of the information;
 - b) not to reveal the information to any third party without prior notice and written consent of the Party (or its counsel) who contributed or caused the same to be disclosed pursuant to this Agreement;
 - c) not to approve or authorize any waiver or modification of any provision of this Agreement except pursuant to an addendum or like memorandum signed by each Party hereto;
 - d) that this Agreement does not preclude or prohibit the Parties from disclosing and producing documents and materials that are the proper subject of discovery pursuant to the Federal Rules of Civil Procedure or the Nebraska Discovery Rules; and
 - e) that injunctive relief may be sought by any Party to prevent any Party to this Agreement from disclosing or using the information in violation of this Agreement.

5. Nothing in this Agreement obligates any Party to this Agreement to share documents, secrets or other information with the other Party, but the provisions of this Agreement shall apply to any such document, secret or other information which is so shared. Nothing in this Agreement alters the rights of any Parties to this Agreement to obtain documents, secrets or other information from the Party where they would otherwise have such rights absent this Agreement. Notwithstanding the provisions of Paragraph 4, in the event of any adversarial action, proceeding or litigation between the Parties, the Parties agree not to use any information, documents, or secret obtained by virtue of this Agreement

against the other unless also obtained through discovery or from independent third party sources, and nothing in this Agreement shall be construed to prevent such Parties from revealing, using or introducing in such action, proceeding or litigation any information, document, or secret that is otherwise obtained through discovery or from independent third party sources.

6. The parties may jointly hire certain experts or expert witnesses, and those joint experts or expert witnesses may be witnesses for each Party, regardless of which attorney or Party actually contacts such witness. In the event of a settlement or dismissal of one of the Parties to this agreement, any joint expert witnesses shall remain as expert witnesses for any Party remaining in the Potential Litigation, and the dismissed Party shall not, as condition of the dismissal, agree to restrict access to the experts. Any Party who is or will be settled or dismissed from the Potential Litigation shall provide to any remaining Party to this Agreement the entire file concerning any expert witness, including notes and work product materials, in order for any remaining Party to fully utilize the experts of the settling or dismissed Party. In addition, the settling/dismissed Party's attorney shall provide telephone introductions to all experts and encourage the experts to continue with assistance in the Potential Litigation. Moreover, all possible or proposed exhibits for such experts, and all questions anticipated for such experts, shall be provided to any non-settling/non-dismissed Party. The attorney for the settling/dismissed Party agrees to devote a reasonable amount of time to assist any non-settling/non-dismissed Party in understanding the details of the expert opinions. No settling/dismissed Party will enter into any agreement with any potential plaintiff that will compromise any of the above commitments.

7. Any Party wishing to withdraw from the Agreement will give prior written notice to the other Party. Withdrawal shall not constitute a waiver of the attorney-client or

work-product privilege, and the obligations of any Party that has received documents or other information pursuant to this Agreement shall survive and remain in effect following any such withdrawal or the termination of this Agreement.

8. The Parties agree that nothing contained in this Agreement, including the sharing of information, shall be the basis of a claim of conflict of interest or disqualification by any of the Parties to this Agreement against counsel for any other Party.

9. This Agreement shall be binding on all attorneys, agents, employees, consultants, experts, and other representatives of the Parties.

10. This Agreement shall be governed by, and shall be construed in accordance with, principles of Nebraska law.

DATED: October 2, 2013

Grand Island Area Chamber of Commerce

By: Cady K Johnson

Its: President

City of Grand Island, Nebraska

By: _____

Its: _____

RESOLUTION 2013-338

WHEREAS, the City of Grand Island, Hall County, Grand Island Area Economic Development Corporation and the Grand Island Area Chamber of Commerce all agreed to contribute funds for the hiring of Rembolt Ludtke, LLP, a law firm from Lincoln, Nebraska to evaluate all legal options available with the intent of retaining the Grand Island Veterans Home; and

WHEREAS, the City's portion of the legal fees was \$5,000 which was approved by the City Council through the passage of Resolution 2013-292; and

WHEREAS, in order to retain the confidentiality required as the potential for litigation is continued to be researched it has been recommended that an agreement between the Chamber and the City be signed; and

WHEREAS, the agreement must be in place prior to the direct sharing of any written documents or reports as prepared by Rembolt Ludtke with the Mayor and the Mayor being able to share that information with the Council pursuant to the terms of Resolution 2013-292.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the agreement between The Grand Island Area Chamber of Commerce and the City of Grand Island be approved.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, October 8, 2013.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
October 4, 2013	☐ City Attorney