

# City Council Committee of the Whole Agenda Cover Memorandum

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Meeting Date: October 25, 2010

Item Title: Public Information Coordinator agreement

Action Requested:

- Approval
- For discussion
- Feedback requested
- For your information

Staff Contact: Jim Hock, City Manager  
Phone Number: 847-318-5205  
Email Address: jhock@parkridge.us

Background:

Per the City's request, attached is a copy of the agreement with the former Public Information Coordinator and a copy of the independent Contractor Services Agreement for Spokesman services. The first agreement continued the employment of the Public Information Coordinator until the end of July 2010 in exchange for the release of all claims and to allow for a smooth transition. The second agreement was to fulfill the budgeted item of contracting out the Spokesman. This agreement was entered into with the former Public Information Officer. The agreement begins in August 2010 and is up for renewal in April 30, 2011, pending the budget. This agreement covers four issues of the Spokesman, including a special centennial issue. Both agreements were reviewed by the City Attorney's office.

Recommendation:

Discuss

Budget Implications:

Does Action Require an Expenditure of Funds:  Yes  No  
If Yes, Total Cost:  
If Yes, is this a Budgeted Item:  Yes  No

Attachments:

- Agreement to continue employment
- Contract for Spokesman

## **VOLUNTARY SEPARATION AGREEMENT AND RELEASE OF ALL CLAIMS**

This Voluntary Separation Agreement and Complete Release of All Claims ("Agreement") is made and entered into on the date set forth below by and between Agnes Stempniak, on behalf of herself, her agents, representatives, attorneys, assigns, heirs, executors and administrators (hereinafter collectively referred to as "Aggie") and the City of Park Ridge, including the City's affiliates, predecessors, successors, representatives, attorneys, officers, elected officials, agents and employees, individually and in their representative capacities (hereinafter collectively referred to as the "City").

In consideration of the monies and mutual promises herein contained and other good and valuable consideration, the sufficiency of which is acknowledged, the parties hereby agree as follows:

1. Aggie hereby voluntarily and irrevocably retires from the City effective at the close of business on July 31, 2010, and the City hereby accepts Aggie's resignation. The City and Aggie hereby terminate any and all prior employment agreements between them, without further recourse.
2. The City agrees to make a one-time payment of a two week severance payment as provided in the Employee Manual in the gross amount of (i) Twenty five hundred twenty dollars (\$2,520.00), less applicable deductions for federal, state and local taxes. It is hereby acknowledged by Aggie that the City's agreement to the payments described herein is in recognition that she will not be laid-off May 1, 2010, and that such payment constitute consideration for Aggie's acceptance of this Agreement. In consideration for this payment Aggie agrees not to file for unemployment benefits through the State of Illinois that would require the City of Park Ridge to reimburse the State for this expense.
3. Aggie will also be paid for all unused vacation time and any other eligible accumulated time banks. Aggie agrees that she has: (i) been paid for all hours worked; (ii) been paid for any accumulated time for which he/she was entitled to payment upon separation; and (iii) not suffered any on-the-job injury for which he/she has not already filed a claim.
4. By signing this Agreement and receiving the valuable consideration described above, Aggie hereby fully releases and forever discharges the City from any and all claims or liability of any kind arising out of or relating in any way to Aggie's employment with and separation of employment from the City, as well as any other occurrence up to and including the date of this Agreement including, but not limited to, any claim arising under the Illinois Public Labor Relations Act, 115 ILCS 5, et seq.; the Illinois Human Rights Act, 75 ILCS 5; the Wage Payment and Collection Act, 820 ILCS 115; Title VII of the Civil

Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq.; the Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq.; the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.; all claims under 42 U.S.C. §§ 1981, 1983, 1985, 1988; all tort claims; all claims for wrongful discharge; all claims based on actual or implied contract, including, but not limited to, any employment agreement between the City and Aggie; all claims for retaliatory discharge; all civil rights claims and all amendments to the foregoing statutes, federal common law, state common law; and claims under any other federal, state or local statute, law, ordinance, regulation or order. It is the intention of Aggie and the City that in executing this Agreement, Aggie is providing a general release and that it shall be an effective bar to each and every claim, grievance, demand, and cause of action, either known or unknown, for all acts or omissions of the City and its agents, jointly and separately, individually and in their respective capacities, for any injuries suffered by Aggie occurring on or prior to the date this Agreement and Release is executed. Excluded from this Agreement are any claims that cannot be waived by law. Aggie specifically waives any right to any monetary recovery should any federal, state or local administrative agency pursue any claims on her behalf arising out of or related to her employment or the termination of her employment.

5. The parties agree and acknowledge that this Agreement and the consideration described herein does not constitute and shall not be interpreted as an admission of liability on the part of the City or Aggie. This Agreement resulted from the parties' mutual desire to expeditiously resolve any and all matters and controversies between them, and to amicably effectuate Aggie's employment separation from the City.
6. This Agreement constitutes the complete Agreement between Aggie and the City. No other promises or agreements, either express or implied, shall be binding upon such parties unless hereinafter reduced to writing and signed by Aggie and the City.
7. To the extent that any portion of this Agreement may be held to be invalid or legally unenforceable by a court of competent jurisdiction, Aggie and the City agree that the remaining portions of this Agreement shall not be affected and shall be given full force and effect.

P3

8. Aggie acknowledges that she has knowingly and voluntarily signed and entered into this Agreement, and that:
- a) This Agreement is written in a manner calculated to be understood by him/her, and he/she understands all of the terms of this Agreement;
  - b) In exchange for the waiver and release contained herein, Aggie is receiving consideration in addition to anything of value to which she already is entitled.

**AGREED:**

**Name**

\_\_\_\_\_

Agnes Stempniak

Date

Witnessed by: \_\_\_\_\_

**CITY OF PARK RIDGE**

By: \_\_\_\_\_

James D. Hock

Date

**INDEPENDENT CONTRACTOR SERVICES AGREEMENT  
FOR SPOKESMAN SERVICES TO  
THE CITY OF PARK RIDGE**

This Independent Contractor Services Agreement (“Agreement”) is made between the City of Park Ridge, County of Cook, Illinois (“the City”), and Aggie Stempniak (“the Contractor”), an individual, concerning the performance of Spokesman services for the City (the City and the Contractor are sometimes referred to herein individually as a “Party” and collectively as the “Parties.”).

1. **Services.** Contractor agrees to serve as the writer of the Spokesman and perform all of the services set forth in this Agreement for the City, as directed by the City Council or the City Manager, or their designees. Contractor understands and agrees that he/she serves as an independent contractor of the City and not as an employee of the City, as described in more detail below in Section 6. In that capacity, Contractor shall perform all of the duties necessary for the production of the Spokesman as set forth in the description attached hereto as Exhibit “A” and made a part hereof. The performance of the work described in this Agreement shall not be construed as creating any employment relationship or employment contract or City relationship or partnership or joint venture relationship between Contractor and the City.
2. **Term.** This Agreement shall be effective beginning August 1, 2010 and shall terminate on April 30, 2011. This Agreement shall be terminable at any time by either Party, upon ninety (90) days prior written notice to the other Party.
3. **Compensation.** The City shall pay Contractor for performing Spokesman services for the City as follows:

October 2010 Issue of the Spokesman (including special history insert)	\$5,000.00
December 2010 Issue of the Spokesman	\$4,000.00
February 2011 Issue of the Spokesman	\$4,000.00
April 2011 Issue of the Spokesman	\$4,000.00

No deductions of any kind whatsoever shall be made to any compensation paid to Contractor for any and all applicable federal, state, local and other taxes and deductions, which shall remain the sole and exclusive obligation of Contractor as an independent contractor. Contractor shall not be entitled to receive or to participate in any employee benefits, benefit programs available to full-time or part-time City employees. Contractor will submit an invoice for payment for each Issue. Each invoice shall be submitted after the final draft of the Issue is sent to the printer. Payment by the City for such services shall be considered and approved after receipt of such invoice at the next available City Council meeting.

4. **Duties and Obligations.** Contractor shall faithfully adhere to the requirements of this Agreement and the professional ethical principles of the position and shall avoid all personal acts that might injure the reputation of the City or undermine the business transactions and other operations of the City.
5. **Equipment.** The City shall not be responsible for providing any equipment (e.g. computers) or office space to the Contractor. In order to assist with the performance of Spokesman services, the City agrees to allow Contractor to use City staff support in soliciting and compiling Calendar of Events for each issue.
6. **Independent Contractor.** Contractor is retained by the City only for the purposes and to the extent set forth in this Agreement, and Contractor's relation to the City shall, during the term of this Agreement and period of its services hereunder, be that of an independent contractor. Contractor shall be free to dispose of such portion of Contractor's entire time, energy and skill when Contractor is not obligated to devote time and services hereunder to the City, in such manner as Contractor sees fit and to such persons, firms, or corporations as Contractor deems advisable. It is acknowledged that at all times Contractor is separate and independent from the City and that Contractor will utilize a high level of skill necessary to perform the work assigned to her under this Agreement.
  - A. **Not an Employee.** Contractor shall not be considered as having an employee status, nor shall the City withhold any sums for the payment of income taxes or FICA taxes, nor shall Contractor be entitled to participate in any plans or benefits for the regular full-time or part-time employees of the City. As an independent contractor, it is the responsibility of Contractor to file all necessary tax returns (federal, state, county and local) and to pay all income tax, social security, and any and all other taxes due as an independent contractor in her profession. As an independent contractor, Contractor agrees that she is ineligible to file a claim for unemployment compensation benefits or for workers compensation benefits against the City and agrees not to file such any claims in the event this Agreement is terminated or if she becomes ill, injured or dies performing any of the Spokesman services under this Agreement. Contractor understands and agrees that, as an independent contractor, she is not an employee of the City for any purposes of any kind and all state, federal and county laws or regulations that apply to or provide benefits or protections to employees do not apply to her, including, but not limited to, the application of the Fair Labors Standards Act, the Social Security Act, the Federal Unemployment Tax Act and the Workers Compensation Act (820 ILCS 305/1, *et seq.*).

**B. Insurance.** Except for any benefits that Contractor is entitled to as a retired employee of the City, the City will not provide any form of insurance coverage provided to regular full-time and part-time employees of the City, including but not limited to health, workmen's compensation, professional liability insurance or other employee benefits for or on behalf of Contractor.

7. **Indemnification.** To the fullest extent permitted by law, Contractor agrees to defend, indemnify and hold harmless the City, its appointed and elected officials, officers, past, current, and future officials and officers, agents, engineers, attorneys, employees and volunteers (collectively the "City's Affiliates") against all injuries, illness, death, loss, damages of any kind, claims, lawsuits, liabilities, judgments, costs and expenses which may be brought or are brought against the City and the City's Affiliates relating to or arising out of the entry into this Agreement or any matters covered by this Agreement, including but not limited to the termination of this Agreement by the City, except for non-payment for actual services rendered through the date of termination under this Agreement.

A. In the event that a claim, lawsuit or other legal action ("litigation") is filed against the City as well as Contractor, in her official capacity of providing Spokesman services, the City will tender the defense of the litigation to the City's insurer for purposes of coverage and defense counsel assignment. If the City's insurer declines to cover and defend Contractor in the litigation or to indemnify Contractor for any damages, liabilities of judgments, the City agrees to defend Contractor with the City's own attorneys and to pay all damages, claims, liabilities, judgments and costs, including litigation costs and reasonable attorneys' fees of the City incurred in defending any litigation, provided that Contractor's alleged acts or omissions giving rise to the litigation were performed within the scope of her duties under this Agreement and do not violate the terms of the Agreement or violate federal, state, or county laws or regulations. If the Contractor's alleged acts or omissions giving rise to the litigation were performed outside the scope of her duties under this Agreement or violate the terms of this Agreement or violate federal, state or county laws or regulations, the City has no duty or obligation to defend or indemnify Contractor in any manner discussed in the preceding sentence. If the City assumes the defense of Contractor, the City will control the litigation defense and Contractor agrees to cooperate in good faith with the City and its attorneys in the litigation defense efforts. If there is a conflict of interest between the City and Contractor regarding the litigation defenses or Contractor does not cooperate with the City's defense efforts, the City's obligation to defend and indemnify Contractor shall terminate.

**B. Waiver and Assumption of Liability.** Contractor assumes all risks and liability for personal injuries or illness of any kind or death that might

occur while performing any Spokesman services or acting under this Agreement. Contractor assumes all risks, liability and responsibility for her personal property while performing any Spokesman services under this Agreement. Contractor agrees to waive any claims or causes of action of any kind against the City and the City's Affiliates, except for non-payment for actual services rendered under this Agreement.

8. **Complete Agreement.** This Agreement contains the entire understanding between the Parties and supersedes any prior understanding or written or oral agreements between them with respect to the subject matter of this Agreement. Any modification, amendment or change is subject to the mutual agreement of the Parties and must be reduced to writing and executed by both Parties to be effective.
9. **Applicable Law.** The statutes and common law of the State of Illinois shall govern the interpretation, validity, enforcement and performance of the terms of this Agreement. The Parties agree that, for the purpose of any litigation of proceeding brought with respect to the Agreement and its enforcement, venue shall be in the Circuit Court of Cook County, Illinois, and the Parties agree to voluntarily submit to the jurisdiction of such court for the purpose of any such litigation or proceeding.
10. **Assignment.** This Agreement is a personal contract, and the rights and interest that this Agreement accords to Contractor may not be sold, transferred, assigned, pledged, encumbered or hypothecated. This Agreement shall be binding upon, and inure to the benefit of, Contractor, her heirs, executors, administrators, representatives, successors, transferees and assigns, and the City and its former, current and future elected and appointed officers, officials, trustees, agents, transferees, assigns and successors-in-interest.
11. **Notices.** All written notices of any kind to be given or delivered under this Agreement shall be deemed to have been properly given if (a) delivered by hand, (b) delivered by a nationally recognized overnight courier service, or (c) sent by registered or certified United States Mail, return receipt requested and first class postage prepaid. Such notices shall be sent to the Parties at their respective addresses as follows:

If to Contractor:  
Aggie Stempniak  
844 Wenonah Ave.  
Oak Park, Illinois 60304

If to the City:  
City Manager  
505 Butler Place  
Park Ridge, IL 60068

Either Party may change such address for delivery upon written notice to the other Party. Notice shall be deemed proper (a) on the date of delivery, if delivery is by hand, (b) three (3) days after the date of mailing if sent by

certified or registered mail, or (c) on the date of delivery by the overnight courier.

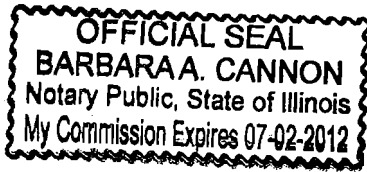
IN WITNESS WHEREOF, the Parties hereto have signed this Agreement as set forth below.

City of Park Ridge

By: James D. Hock  
Print Name: JAMES D. HOCK  
Title: CITY MANAGER  
Date: 7/28/10

Barbara A. Cannon  
Notary Public

Date: 7/28/10

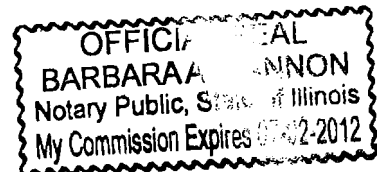


Contractor

By: Agnes M. Stempniak  
Print Name: Agnes M. Stempniak  
Title: Contractor  
Date: 7/28/10

Barbara A. Cannon  
Notary Public

Date: 7/28/10



## Exhibit "A"

### **Spokesman Scope of Services**

1. Develop Spokesman production calendar including:
  - Editor/Calendar deadlines
  - Layout
  - Proofreader
  - Deadline to Printer
  - Deadline to Post Office
  - Distribution
2. Propose Spokesman content; solicit input from staff and further ideas from department heads and other appropriate staff.
3. Write all stories
4. Prepare Layout
5. Send editor's rough to graphics person
6. Work with graphics designer to finalize content
7. Proof, revise and finalize issue
8. Send to proofreader to check
9. Coordinate with graphics designer and proofreader to assure corrections/changes are made.
10. Coordinate approval of final proof with City
11. Coordinate printing with Printer
12. Send high resolution version to printer and obtain website version
13. Review Printer's proof
14. Approve proof and set printing in motion
15. Confirm proper postage is covered and deliver (or be sure is sent) to Post Office.
16. Coordinate Distribution