

ITEM # *Addt'l. Item

DATE: 06-27-17

COUNCIL ACTION FORM

SUBJECT: AGREEMENT WITH CITY ATTORNEY

BACKGROUND:

The City Attorney is one of two positions that are hired by and report directly to the City Council. Judy Parks was appointed Interim City Attorney on December 11, 2012, and was appointed City Attorney on April 24, 2013. Her overall service to the City extends back 28½ years to December 30, 1988.

In response to the City Council's desire to enter into a voluntary separation agreement with Ms. Parks, an agreement has been reached with the assistance of outside counsel. Upon approval of this agreement, Ms. Parks will retire from her position. Ms. Parks signed the attached agreement on June 19th. Federal law provides that her approval could be rescinded within seven days, so this item was added to this City Council agenda and made available to the public on June 26th.

The proposed agreement provides for the conclusion of Ms. Parks' service on amicable terms, recognizing her long tenure with the City. These terms include a lump sum payment made up of several components, including a pay-out for unused vacation leave per standard City policy in the amount of \$19,210.58, a pay-out for unused sick leave per standard City retirement policy in the amount of \$17,069.93, and one year's salary of \$131,440.88. The lump sum payment totals \$167,721.39; and the City will also pay Social Security taxes of \$4,179.18 and Medicare taxes of \$2,431.96 on that amount.

The City will cover the cost of health insurance in the amount of \$1,930.42 per month, not to exceed twelve months. Those payments will end earlier if the City Attorney becomes eligible for health insurance through another employer. The City's maximum exposure for health insurance over the twelve months would be \$23,165.04, for a total potential cost to the City of \$197,497.57.

The agreement also states that the City will not contest any unemployment compensation claim that may be filed by Ms. Parks. If she applies and is determined eligible, the severance and vacation payouts may be deducted from any benefits. That decision will be made by Iowa Workforce Development (IWD). Because of various factors that affect eligibility for and amount of benefits, a precise cost to the City cannot be determined. Depending on IWD's determination and Ms. Parks' future employment, the City ultimately could have liability ranging from a minimum of zero dollars to a maximum of \$25,480 over a two-year period.

Funding for these expenses will come from available fund balances and will be charged to the City's Legal Services budget. Since that budget is spread among many different funds, approximately 61% of this expense will be paid from the general fund, with the balance from the electric, water, sanitary sewer, resource recovery and transit funds. The lump sum payment will be covered from the 2016/17 budget, while the health insurance expenses will be paid in 2017/18.

The agreement contains terms that were very carefully crafted and that provide insight into the parties' priorities in agreeing to this separation. At the advice of outside legal counsel and to protect the City from liability, City officials must limit their comments with the intention of letting the agreement speak for itself.

ALTERNATIVES:

1. Approve the attached agreement between the City and Judy Parks.
2. Do not approve the attached agreement.

CITY MANAGER'S RECOMMENDED ACTION:

The attached agreement confirms the separation of the City Attorney from City employment and provides both parties with carefully stated responsibilities and benefits. It was negotiated by outside legal counsel under direction given by the City Council in closed session as provided for by the Code of Iowa.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1 as stated above.

AGREEMENT

The City of Ames (the "City") and Judith Parks ("Ms. Parks") agree as follows:

1. In consideration of the benefits to be provided to her as set out in this Agreement, Ms. Parks agrees to sign and immediately submit to the City a letter of resignation which is effective immediately upon the execution of this Agreement by both parties. It is understood and agreed that from and after the date of the signing of this Agreement, Ms. Parks will be on administrative leave with pay and that she will perform no duties for the City. It is understood and agreed that Ms. Parks' resignation is voluntary and that she has elected to retire.

2. The City agrees that it will pay Ms. Parks: (a) an amount equal to her regular salary for a period of twelve months, (b) her accrued vacation time which is unused as of the effective date of her resignation, (c) twenty-five percent of her hourly rate of pay for all of her sick leave hours in excess of 720 which are accrued but unused as of the effective date of her resignation, and (d) if she elects under COBRA to continue participation in the City's group health insurance plan following her resignation, the cost of the premium for the City's group health insurance plan for the coverage elected by Ms. Parks as of the effective date of her resignation for a period of twelve months following the effective date of her resignation or until she accepts other employment and is eligible for health insurance coverage provided by this other employer, whichever comes first. The sums referred to in (a), (b), and (c) of this paragraph are subject to all applicable taxes and legally required deductions and will be paid to Ms. Parks not later than July 15, 2017.

3. The City agrees that, if Ms. Parks makes application for unemployment compensation benefits, it will not contest a claim made by Ms. Parks for such benefits.

4. Ms. Parks agrees that she will not apply for employment with the City at any time in the future, except in the following departments: Library and Parks and Recreation.

5. The City agrees that it will provide a letter of reference to Ms. Parks which is consistent with her most recent evaluation.

6. In the course of the performance of her duties, Ms. Parks has obtained or had access to confidential information. Ms. Parks agrees that she will not disclose or communicate any information which could reasonably be construed to be confidential in nature which she obtained or to which she had access solely as a result of the performance of her duties with the City.

7. With regard to any project which was assigned to her by the City, Ms. Parks agrees to cooperate with the City by providing to the City any information concerning such project which she possesses or can recall.

8. Ms. Parks acknowledges that she has had the opportunity to consult with an attorney prior to signing this Agreement.

9. Ms. Parks acknowledges that she received a copy of this Agreement on June 7, 2017, and that she was given twenty-one (21) days to consider this Agreement.

10. Following the date of the signing of this Agreement, Ms. Parks shall have seven (7) days to revoke the Agreement, and this Agreement shall not be effective until this seven (7) day period has expired.

11. Ms. Parks hereby releases and discharges the City of Ames, the Mayor of the City of Ames, the members of the City Council of the City of Ames, and any and all officers, employees, representatives or agents of the City of Ames from any and all liability whatsoever including all claims, demands, or causes of action which she has or may ever claim to have by reason of her employment with the City of Ames, the severance of her employment relationship with the City of Ames, or other conduct or statements of the parties released. Ms. Parks specifically waives any rights or claims which she may have or ever claim to have arising under the Age Discrimination in Employment Act of 1967 (29 U.S.C. Sec 621, et seq.). This release pertains only to claims arising from conduct or statements on or before the date of the execution of this Agreement.

12. In their public and private dealings with one another, the parties agree to treat each other with respect and professional courtesy and to refrain from making derogatory comments about one another.

13. This Agreement is executed as a compromise settlement of a disputed claim, liability for which is expressly denied by the parties released, and the execution of this Agreement does not constitute an admission of liability on the part of any person or entity.

14. Ms. Parks agrees that this Agreement is entered into freely and voluntarily and solely in reliance upon her own knowledge, belief and judgment and not upon representations made by the City or its representatives.

CAUTION: READ CAREFULLY!
THIS SEPARATION AGREEMENT AND GENERAL RELEASE
INCLUDES A RELEASE OF ALL CLAIMS!

City of Ames, Iowa

By: _____
Ann Campbell, Mayor



Judith Parks

Date: _____

Date: 6-19-17