

TENTATIVE AGENDA
OTTUMWA CITY COUNCIL

SPECIAL MEETING NO. 21
Council Chambers, City Hall

June 30, 2020
5:30 O'Clock P.M.

In order to protect the health and safety of our citizens and staff and mitigate the spread of COVID-19, we are following the Proclamation of a State Public Health Disaster Emergency issued at 12:00 P.M. on Tuesday, March 17, 2020, which has been extended through July 25, 2020. Effective 8:00 a.m. on June 12, 2020, and continuing until 11:59 p.m. on July 25, 2020: mass gatherings or events of more than 10 people in attendance may be held but only if the gathering complies with all other relevant provisions in the Proclamation with the following requirements: social distancing: the gathering organizer must ensure at least six feet of physical distance between each group or individual attending alone and implement reasonable measures under the circumstances of each gathering to ensure social distancing of gathering participants, increased hygiene practices, and other public health measures to reduce the risk of transmission of COVID-19 consistent with guidance issued by the IDPH.

ROLL CALL: Council Member Dalbey, Roe, Stevens, Meyers, Berg and Mayor Lazio.

APPROVAL OF AGENDA

IDENTIFICATION OF CITIZENS DESIRING TO COMMENT ON AGENDA ITEMS:

(When called upon by the Mayor, step to the microphone; state their name, address and agenda item to be addressed. The Mayor will invite you to address the Council when that topic is being discussed. Remarks will be limited to **three minutes or less**. The City Clerk shall keep the time and notify the Mayor when the allotted time limit has been reached. Comments are to be directly germane to the agenda item being discussed; if not directly germane as determined by the Mayor will be ruled out of order.)

All items on this agenda are subject to discussion and/or action.

1. Resolution No. 154-2020, approving payment to Drish Construction in the amount of \$20,463.75 for the completion of an emergency sewer repair completed on May 21, 2020 at the intersection of Albany and N. Fifth Street.

RECOMMENDATION: Pass and adopt Resolution No. 154-2020.

2. Resolution No. 155-2020, approving the Separation and General Release Agreement between the City of Ottumwa and Joni Keith.

RECOMMENDATION: Pass and adopt Resolution No. 155-2020.

3. Cigarette Permit Applications for: MAD Ave. Quik Shop (405 S. Madison Ave.), Murphy USA #6945 (1939 Venture Drive), Stop & Go Drive-Thru (516 S. Madison Ave.).
4. Beer and/or liquor applications for: Hy-Vee Ottumwa Area Chamber of Commerce, temporary outdoor service area at Jimmy Jones Shelter 7/3-7/4/20.

PUBLIC FORUM:

The Mayor will request comments from the public on topics of city business or operations other than those listed on this agenda. Comments shall not be personalized and limited to three minutes or less. Comments not directly applicable to operations, inappropriate, or an improper utilization of meeting time, as determined by the Mayor, will be ruled out of order. When called upon by the Mayor, step to the microphone; give your name, address and topic on which to address the Council. The Council is not likely to take any action on your comments due to requirements of the Open Meetings Law. Pertinent questions, comments or suggestions may be referred to the appropriate department, city administrator or legal counsel for response, if relevant.

ADJOURN

*** It is the goal of the City of Ottumwa that all City Council public meetings are accessible to people with disabilities. If you need assistance in participating in City Council meetings due to a disability as defined under the ADA, please call the City Clerk's Office at (641) 683-0621 at least one (1) business day prior to the scheduled meeting to request an accommodation. ***



[CITY OF]
O T T U M W A

FAX COVER SHEET

City of Ottumwa

DATE: 6/25/2020 TIME: 4:00 PM NO. OF PAGES 23
(Including Cover Sheet)

TO: News Media CO: _____

FAX NO: _____

FROM: Christina Reinhard

FAX NO: 641-683-0613 PHONE NO: 641-683-0620

MEMO: Tentative Agenda for the Special City Council Meeting #21 to be held on
6/30/2020

*** FAX MULTI TX REPORT ***

JOB NO. 2117
DEPT. ID 4717
PGS. 3
TX INCOMPLETE -----
TRANSACTION OK 96847834
916606271885
ERROR 916416828482

Ottumwa Courier
KTVO
Tom FM



CITY OF
OTTUMWA

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*** TX REPORT ***

JOB NO.	2117	
DEPT. ID	4717	
ST. TIME	06/25 16:05	
SHEETS	3	
FILE NAME		
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TRANSACTION OK	96847834	Ottumwa Courier
	916606271885	KTVO
ERROR	916416828482	Tom FM



FAX COVER SHEET

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MEMO: Tentative Agenda for the Special City Council Meeting #21 to be held on 6/30/2020

FILED CITY OF OTTUMWA

2020 JUN 25 AM 9:40 Staff Summary

CITY CLERK OTTUMWA, IA ** ACTION ITEM **

Council Meeting of: June 30, 2020

Engineering Department

Alicia Bankson Prepared By *Darry Seals* Department Head

D. Ritt City Administrator Approval

AGENDA TITLE: Resolution #154-2020. Approve payment to Drish Construction for the completion of an Emergency Sewer Repair.

**Public hearing required if this box is checked. **

The Proof of Publication for each Public Hearing must be attached to this Staff Summary. If the Proof of Publication is not attached, the item will not be placed on the agenda.

RECOMMENDATION: Pass and adopt Resolution #154-2020. Approve payment to Drish Construction for the completion of an emergency sewer repair.

DISCUSSION: A collapsed sewer was discovered on a cross country sewer line near the intersection of Albany and N. Fifth Street. It was determined that an immediate repair of the sewer was necessary. Due to the depth of the sewer, quotes were taken for the work. Drish Construction and DC Construction submitted hourly rates for labor and equipment. Drish provided the more competitive rates.

Work began on May 14th and was completed on May 21st. In all, 86 L.F. of 12” sewer was replaced.

The final cost of the emergency repair was \$20,463.75.

RESOLUTION 154-2020
A RESOLUTION APPROVING PAYMENT TO DRISH CONSTRUCTION FOR THE
COMPLETION OF AN EMERGENCY SEWER REPAIR

WHEREAS, A collapsed sewer needing immediate repair was discovered near the intersection Albany Street and North 5th Street; and

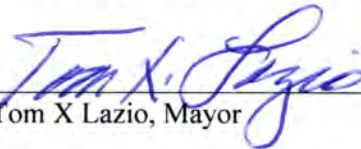
WHEREAS, Due to the depth of the repair, the worked needed to be contracted. Competitive Hourly Rates for Labor and Equipment time were taken from Drish Construction and DC Construction. Drish Construction provided the lowest competitive rates; and

WHEREAS, Work was started on May 14th and completed on May 21st. The final cost of the repair was \$20,463.75.

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF OTTUMWA, IOWA THAT: The above-mentioned project has been completed and payment to Drish Construction in the amount of \$20,463.75 is hereby approved.

APPROVED, PASSED, AND ADOPTED, this 30th day of June, 2020.

CITY OF OTTUMWA, IOWA



Tom X Lazio, Mayor

ATTEST:



Christina Reinhard, City Clerk



DRISH CONSTRUCTION, INC.

1701 S. Main Street
Fairfield, IA 52556



Phone: 641-472-9506
Fax: 641-472-9417

Invoice

Bill To:

City of Ottumwa
105 E. Third
Ottumwa, IA 52501

Date: 6/8/2020

Invoice # 20C-1690

Terms	Project
Net 30	1690 Emergency Point Repair 5...

Description	Qty	U/M	Rate	Amount
Emergency Point Repair at 5th Street & Albany Work completed: 5/14/2020 - 5/21/2020				
Labor	138	HR	45.00	6,210.00
Skid Loader	9.5	HR	95.00	902.50
Dump Truck	5.25	HR	95.00	498.75
Hitachi 350Z Excavator	31	HR	185.00	5,735.00
CAT 323FL Excavator	32.5	HR	165.00	5,362.50
Truck/Trailer Relocation of Equipment	8	HR	130.00	1,040.00
Lowboy Relocation of Equipment	5.5	HR	130.00	715.00
Total				\$20,463.75
Payments/Credits				\$0.00
Balance Due				\$20,463.75

PAYMENT AUTHORIZATION

FUND	PROGRAM ACTIVITY	OBJECT	AMOUNT

APPROVED BY _____ DATE _____

Your business is greatly appreciated!

Finance charge of 1% will be applied to unpaid account balances over 30 days old, with an additional 1.5% after 60 days.

FILED

2020 JUN 30 AM 9:35

CITY OF OTTUMWA
Staff Summary

CITY OF OTTUMWA, IA

**** ACTION ITEM ****

Council Meeting of : Jun 30, 2020

Philip Rath

Prepared By

Department

Department Head

Philip Rath

City Administrator Approval

AGENDA TITLE: Adoption of Separation Agreement and General Release

Public hearing required if this box is checked.

RECOMMENDATION: Pass and adopt Resolution 155-2020.

DISCUSSION: Adopt the Separation and General Release Agreement for City Attorney / Human Resources Manager.

Source of Funds:

Budgeted Item: Budget Amendment Needed:

RESOLUTION NO. 155-2020

RESOLUTION ADOPTING THE SEPARATION AND GENERAL RELEASE AGREEMENT BETWEEN THE CITY OF OTTUMWA AND JONI KEITH

WHEREAS, the City of Ottumwa is looking to contract out for its attorney services effective July 1, 2020; and

WHEREAS, current City Attorney, Joni Keith has opted to retire from the City of Ottumwa; and

WHEREAS, the Separation Agreement and General Release agreement between the City of Ottumwa and Joni Keith has been drafted to define the separation, transition, and general release between the City of Ottumwa and Joni Keith.

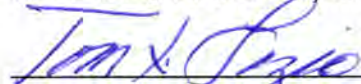
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OTTUMWA, IOWA:

That the City of Ottumwa adopt the Separation Agreement and General Release.

That the Mayor and City Clerk are hereby authorized and directed to execute said resolution.

APPROVED, PASSED AND ADOPTED, this 30th day of June, 2020.

CITY OF OTTUMWA, IOWA



Tom X. Lazio, Mayor

ATTEST:



Christina Reinhard, City Clerk



Separation Agreement and General Release

The City of Ottumwa ("Employer" or "Ottumwa") and Joni Keith ("Keith"), his/her heirs, executors, administrators, successors, and assigns (collectively, "Employee") enter into the following Separation Agreement and General Release ("Agreement"). This Agreement shall not be effective unless it is approved by the Ottumwa City Council.

1. **Retirement.** Employee hereby retires from employment with The City of Ottumwa as City Attorney / Human Resources Manager effective July 05, 2020. Employee shall not be eligible for any benefits applicable to other employees as of July 5, 2020, unless specifically set forth herein. Employee will remove all personal property from her office at City Hall on or before July 5, 2020.
2. **Consideration.** In consideration for signing this Agreement, and complying with its terms, Employer agrees to the following:
 - A. **Health Insurance Benefits:**
 - 1) The City shall pay forty percent (40%) of the Employee's retiree health insurance premium including free dental coverage for fifteen (15) months beginning July 5, 2020. Employee shall be responsible for the remaining amount of the monthly health insurance premium cost.
 - 2) Employee's spouse shall be eligible for the Medicare Supplement policy with Part D prescription coverage at Employee's expense.
 - 3) Upon the Employee reaching the age of 65, she will be eligible for the Medicare Supplement policy with Part D prescription coverage as well as dental coverage at her own expense.
 - 4) All insurance benefits provided herein shall be at the same cost and same benefit levels as all other retirees of the City hired prior to 1993.
 - 5) Retiree Life Insurance Benefits in the amount of \$4,000 on the life of the Employee.
 - B. On or about July 10, 2020 or after the expiration of the revocation period set forth herein, whichever is later, Employee will be paid a lump sum amount of \$30,000, less all applicable taxes and withholdings.
 - C. On or about July 10, 2020 or after the expiration of the revocation period set forth herein, whichever is later, Employee will receive a check for accrued but unused vacation and incentive leave. Such payment will be based on Employee's current annual base salary as of the separation date and will be paid in a lump sum, less applicable taxes and withholdings. As of Employee's separation date of July 5, 2020, no further vacation and/or incentive pay will accrue.
 - D. **Unemployment Compensation.** This Agreement and the Release incorporated herein does not in any way constitute a waiver of Employee's right to file for and obtain unemployment compensation through Iowa Workforce Development. Employer will provide this Agreement if a claim for unemployment is filed by Employee.
3. **No Other Benefits.** Employee acknowledges that she is not entitled to any other benefits, payments or wages, except as set forth in Paragraph 2 of this Agreement or as required by law. This Agreement supersedes any and all previous agreements and plans, whether written or oral, between Employee and Employer.

4. No Consideration Absent Execution of this Agreement. Employee understands and agrees that Employee would not receive the Separation Payment or other benefits specified in Paragraph 1 above, except for Employee's execution of this Agreement, the expiration of Employee's right to revoke their signature on this Agreement (if any), and the fulfillment of the promises contained herein. Employee acknowledges that the terms of this Agreement provide consideration beyond that what the Employee would be entitled to under Ottumwa personnel policies.

5. General Release, Claims Not Released and Related Provisions.

A. General Release of All Claims. Employee knowingly and voluntarily releases and forever discharges the City of Ottumwa, the City of Ottumwa City Council, and any related entities, their, predecessors, insurers, successors and assigns, and their current and former employees, attorneys, officers, commissioners, and agents thereof, both individually and in their official capacities, and their employee benefit plans and programs and their administrators and fiduciaries (collectively referred to throughout the remainder of this Agreement as "Releasees"; along with Employer, the "Released Parties"), of and from any and all claims, known and unknown, asserted or unasserted, which the Employee has or may have against the Released Parties as of the date of execution of this Agreement, including, but not limited to, any alleged violation of:

- Title VII of the Civil Rights Act of 1964;
- Sections 1981 through 1988 of Title 42 of the United States Code;
- The Employee Retirement Income Security Act of 1974 ("ERISA") (as modified below);
- The Immigration Reform and Control Act;
- The Americans with Disabilities Act of 1990 ("ADA");
- The Age Discrimination in Employment Act of 1967 ("ADEA")
- The Worker Adjustment and Retraining Notification Act;
- The Fair Credit Reporting Act;
- The Family and Medical Leave Act;
- The Equal Pay Act;
- The Genetic Information Nondiscrimination Act of 2008;
- any other federal, state or local law, rule, regulation, or ordinance
- any public policy, contract, tort, or common law; or
- any basis for recovering costs, fees, or other expenses including attorneys' fees incurred in these matters.

B. Claims Not Released. Employee is not waiving any rights s/he may have to: (a) benefits and/or the right to seek benefits under applicable workers' compensation and/or unemployment compensation statutes; (b) pursue claims which by law cannot be waived by signing this Agreement; (c) enforce this Agreement; and/or (d) challenge the validity of this Agreement.

C. Agreement Not to Sue. To the fullest extent permitted by law, Employee agrees not to represent, initiate, or cause to be initiated any arbitration or any federal, state or local lawsuit or claim against the Released Parties, or any individual or group of them, based on any transaction, matter, event, cause or thing whatsoever occurring prior to or on her date of acceptance of this Agreement. Nothing in this Agreement shall prohibit Employee from filing a suit challenging the validity of this Agreement.

D. *Governmental Agencies.* Nothing in this Agreement prohibits or prevents Employee from filing a charge with or participating, testifying, or assisting in any investigation, hearing, or other proceeding before the U.S. Equal Employment Opportunity Commission, or a similar agency enforcing federal, state or local anti-discrimination laws to the extent such right is not subject to waiver. However, to the maximum extent permitted by law, Employee agrees that if such an administrative claim is made to such an anti-discrimination agency, Employee shall not be entitled to recover any individual monetary relief or other individual remedies. In addition, nothing in this Agreement, prohibits Employee from: (1) reporting possible violations of federal law or regulations, including any possible securities laws violations, to any governmental agency or entity, including but not limited to the U.S. Department of Justice, the U.S. Securities and Exchange Commission, the U.S. Congress, or any agency Inspector General; (2) making any other disclosures that are protected under the whistleblower provisions of federal law or regulations; or (3) otherwise fully participating in any federal whistleblower programs, including but not limited to any such programs managed by the U.S. Securities and Exchange Commission and/or the Occupational Safety and Health Administration. Moreover, nothing in this Agreement prohibits or prevents Employee from receiving individual monetary awards or other individual relief by virtue of participating in such federal whistleblower programs.

E. *Collective/Class Action Waiver.* If any claim is not subject to release, to the extent permitted by law, Employee waives any right or ability to be a class or collective action representative or to otherwise participate in any putative or certified class, collective or multi-party action or proceeding based on such a claim in which Employer or any other Releasee identified in this Agreement is a party.

- 6. No Future Relationship.** Employee acknowledges that she has no right to any future employment with Employer, its successors, or assigns or any of the Released Parties. Any applications for future employment submitted by Employee may be denied based solely on the terms of this Agreement and no other reason(s) shall be attributed for such denial.
- 7. Successors.** This Agreement shall be binding upon, inure to the benefit of, and be enforceable by, Employee, Employer, and their respective heirs, beneficiaries, insurers, administrators, representatives, executors, successors and assignees.
- 8. Governing Law and Interpretation.** This Agreement shall be governed and conformed in accordance with the laws of the State of Iowa, without regard to its conflict of laws provision. In the event of a breach of any provision of this Agreement, either party may institute an action specifically to enforce any term or terms of this Agreement and/or to seek any damages for breach. Should any provision of this Agreement be declared illegal or unenforceable by any court of competent jurisdiction and cannot be modified to be enforceable, excluding the general release language, such provision shall immediately become null and void, leaving the remainder of this Agreement in full force and effect.

9. **Non-admission of Wrongdoing.** The Parties agree that neither this Agreement nor the furnishing of the consideration for this Agreement shall be deemed or construed at any time for any purpose as an admission by Released Parties, of wrongdoing or evidence of any liability or unlawful conduct of any kind.
10. **Cooperation.** Employee agrees to cooperate with Employer in connection with any legal matters, if so requested by the City, including agreeing to make herself available at the Employer's request to assist with matters requiring the provision of information and/or testimony, subject to the same limitations contained in the remainder of this paragraph. During the three (3) months following Employee's retirement, Employee shall be available to staff of the City at reasonable times by telephone or electronic mail for periodic consultations regarding legal matters. Staff of the City shall be directed to keep such consultations to the minimum possible consistent with achieving an orderly transition of responsibilities for no additional compensation. During this period, Employee is not to have third party contact or communication on behalf of the Employer. Employee will also provide an exit interview to the City Administrator or other designee(s) to review the status of open matters and to facilitate the orderly transition of work.
11. **Non-Disparagement.** Keith agrees that she will not defame or disparage the City, its staff, or its current City Council members or current Mayor, and the City agrees that its current City Council members will not defame or disparage Employee. For purposes of this paragraph, "disparage" shall mean making any negative written or verbal statement that could reasonably be expected to negatively affect the personal or professional reputation of an individual or entity.
12. **Amendment.** This Agreement may not be modified, altered, or changed except in a writing that is hand-signed by both Parties wherein specific reference is made to this Agreement.
13. **Miscellaneous.** This Agreement may be executed in counterparts, which may be exchanged by mail, courier, facsimile, email, or other electronic form of transmission. When each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Agreement.
14. **Entire Agreement.** This Agreement sets forth the entire agreement between the Parties hereto, and fully supersedes any prior agreements or understandings between the Parties, including the Employment Agreement between the parties. Employee acknowledges that Employee has not relied on any representations, promises, or agreements of any kind made to Employee in connection with Employee's decision to accept this Agreement, except for those set forth in this Agreement.
15. **Headings Descriptive Only.** Descriptive headings are for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement.

EMPLOYEE ACKNOWLEDGES THAT SHE RECEIVED A COPY OF THIS AGREEMENT ON JUNE 26, 2020 AND IS ADVISED THAT EMPLOYEE HAS UP TO TWENTY-ONE (21) CALENDAR DAYS TO CONSIDER THIS AGREEMENT. EMPLOYEE ALSO IS ADVISED TO CONSULT WITH AN ATTORNEY PRIOR TO EMPLOYEE'S SIGNING OF THIS AGREEMENT.


EMPLOYEE MAY REVOKE THIS AGREEMENT FOR A PERIOD OF SEVEN (7) CALENDAR DAYS FOLLOWING THE DAY EMPLOYEE SIGNS THIS AGREEMENT. ANY REVOCATION WITHIN THIS PERIOD MUST BE SUBMITTED, IN WRITING, TO OTTUMWA CITY ADMINISTRATOR, PHIP RATH AND STATE, "I HEREBY REVOKE MY ACCEPTANCE OF OUR AGREEMENT." THE REVOCATION MUST BE PERSONALLY DELIVERED TO ADMINISTRATOR RATH OR MAILED TO THE CITY OF OTTUMWA, IOWA AND POSTMARKED WITHIN SEVEN (7) CALENDAR DAYS AFTER EMPLOYEE SIGNS THIS AGREEMENT.

EMPLOYEE AGREES THAT ANY MODIFICATIONS, MATERIAL OR OTHERWISE, MADE TO THIS AGREEMENT, DO NOT RESTART OR AFFECT IN ANY MANNER THE ORIGINAL UP TO TWENTY-ONE (21) CALENDAR DAY CONSIDERATION PERIOD.

EMPLOYEE FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTERS INTO THIS AGREEMENT INTENDING TO WAIVE, SETTLE AND RELEASE ALL CLAIMS EMPLOYEE HAS OR MIGHT HAVE AGAINST RELEASEES. EMPLOYEE AGREES THAT IN ENTERING INTO THIS AGREEMENT EMPLOYEE HAS NOT RELIED UPON ANY STATEMENTS OR EXPLANATIONS MADE BY CITY OR ITS REPRESENTATIVES.

The Parties knowingly and voluntarily sign this Agreement as of the date(s) set forth below:

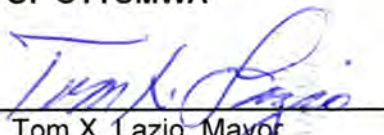
Executed this 26th day of June, 2020:



Joni Keith

CITY OF OTTUMWA

Executed this 30 day of June, 2020:

By: 

Tom X. Lazio, Mayor

Attest: 

Christina Reinhard, City Clerk