

City of Brookings

SPECIAL MEETING AGENDA

CITY COUNCIL

Monday, January 30, 2023, 5:30PM

City Hall Council Chambers, 898 Elk Drive, Brookings, OR 97415

CITY COUNCIL

A. Call to Order

B. Pledge of Allegiance

C. Roll Call

D. Oral Requests and Communications from the audience

(*Public Comments on non-agenda items – five (5) minute limit per person, please submit Public Comment Form in advance)

E. Staff Reports/Hearings

1. City Manager Employment Agreement [Pg. 1]
 - a Employment Agreement [Pg. 2]
2. Termination of City Manager Pro Tem Agreement [Pg. 7]

F. Remarks from Mayor and Councilors

G. Adjournment

*Public Comment forms and the agenda packet are available on-line at www.brookings.or.us, at Brookings City Hall and at Chetco Community Public Library. Return completed Public Comment forms to the City Recorder before the start of the meeting or during regular business hours.

All public meetings are held in accessible locations. Auxiliary aids will be provided upon request with at least 72 hours advance notification. Please contact 469-1102 if you have any questions regarding this notice.

If you would like to view the City Council Meeting live, you can via:

-Television – Charter Channel 181

-Internet – Go to the City of Brookings website at <http://www.brookings.or.us>

Watch Meeting Live instructions: 1. Visit the City of Brookings website home page. 2. Click on Government (top page). 3. Click on City Council (right side). 4. Under Agenda & Meetings click Watch Meeting Live. 5. You will need to download the VLC Media Player. Follow directions and links for your device.

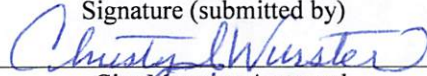
CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: January 30, 2023

Originating Dept: City Manager

Signature (submitted by)



City Manager Approval

Subject:

City Manager Employment Agreement

Recommended Motion:

Motion to authorize the Mayor to execute a new Employment Agreement with Janell Howard to provide services as City Manager beginning February 1, 2023.

Background/Discussion:

The City Council desires to continue the employment of Janell Howard as the City Manager. The parties have discussed the terms of a new Employment Agreement which would become effective on February 1, 2023.

Attachment:

- a. Employment Agreement

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT ("Agreement"), is made and entered into this ____ day of _____ 2023, by and between the **CITY OF BROOKINGS**, a municipal corporation, ("City"), and **JANELL K. HOWARD**, ("Employee"). The parties to this Agreement do hereby enter into the terms, conditions, covenants, duties and responsibilities as follows:

RECITALS

WHEREAS, City is a municipal corporation providing a wide range of public services to the community; and

WHEREAS, for City to ensure that its responsibilities to the health and safety of the public are met at all times, the City must attract and retain in its employment a City Manager who exhibits the knowledge, experience, technical ability, professionalism, and qualities of leadership necessary to meet the City's objectives; and

WHEREAS, it is the desire of the City Council to provide certain benefits, establish certain conditions of employment and set working conditions for the position of City Manager; and

WHEREAS, it is the desire of the City Council to: (1) retain the services of Employee and to provide inducement for Employee to remain in such employment; (2) establish a clear and mutually understood system of compensating Employee; (3) provide a just means for terminating the services of Employee at such time as she may be unable to discharge fully her duties due to disability or retirement or when the City Council may desire to otherwise terminate her employment; and

WHEREAS, in contemplation of and subject to the approval of the City Council, Employee agrees to continue providing services to the City as of February 1, 2023.

NOW THEREFORE, in consideration of the mutual covenants herein contained and as authorized by the Brookings City Charter and Municipal Code, applicable City Personnel Rules and Regulations, and in accordance with Oregon Revised Statutes, the parties hereto agree as follows:

Section 1 Term and Duties

- A. City hereby employs Employee as City Manager, and Employee hereby accepts this employment, commencing on the 1st day of February, 2023. The Initial Term of this Agreement shall begin February 1, 2023 and shall expire 2 years thereafter, unless sooner as provided in Section 3 or unless renewed as provided in Section 1.B. below.
- B. At 5:00 pm on the expiration date of the Initial Term, the Agreement shall automatically renew for unlimited additional two year renewal terms, unless one party notifies the other in writing of its desire not to renew the Agreement at least 90 days prior to the expiration of the then-current term. If the City unilaterally decides to end City Manager employment at the end of a contract period, the City Manager shall receive THREE (3) months lump sum of salary and ONE (1) month COBRA insurance coverage.

This provision does not restrict the rights of the parties to adjust the City Manager compensation and benefits on an annual basis, at the sole discretion of the Council.

- C. Employee will perform those duties and functions as specified in the Brookings City Charter and Municipal Code, and perform such other legally permissible duties as the City Council shall from time-to-time assign.

- D. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of City to terminate the services of City Manager at any time, subject only to the provisions set forth in Section 3 of this Agreement.
- E. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the City Manager to resign at any time from City Manager position with City, subject only to the provisions set forth in Section 3 of this Agreement.
- F. In addition to the duties outlined in paragraph C above, Employee will, as City Manager, direct the overall budgeting and finance functions of the City, oversee work relating to the maintenance of official City records and elections, and function as the Personnel Director for the City.
- G. In addition to the duties and responsibilities defined herein, during the term of this Agreement, and any extensions thereto, Employee shall also serve as Executive Director for the Urban Renewal Agency.
- H. The Employee and City Council shall mutually establish performance goals and objectives to be met by Employee for each year of this Agreement. Said objectives shall be established as part of an annual evaluation process.
- I. Employee shall not spend more than ten (10) hours per week in teaching, consulting, or other non-Employee connected business without the prior written approval of the City Council.

Section 2 Compensation and Review

- A. City will pay Employee an annual salary of One Hundred Fifty One Thousand Three Hundred and Twenty Dollars (\$151,320), commencing February 1, 2023, payable in installments at the same time as other City employees are paid.
- B. City shall conduct an annual performance evaluation of Employee using such criteria as City may establish with input from the Employee.
- C. The City Council shall review Employee's salary annually, make cost of living increases on the same basis as other city management employees, and make such adjustments as the City Council deems appropriate based upon Employee performance.

Section 3 Schedule and Severance

- A. The Employee's schedule of work each day and week shall vary in accordance with the work required to be performed. It is recognized that Employee must devote a great deal of her time outside of normal office hours to business of the City and, to that end, will be allowed to take a reasonable amount of compensatory time off during normal business hours. A typical work week is defined as not to exceed 60 hours. Employee must use accrued leave if absence from work extends to more than two consecutive days. If the Employee is placed on paid leave by the city council for more than 60 days, accrued leave will be used as employee compensation for the remainder of the leave.
- B. Employee will serve at the pleasure of the City Council and may be removed by the City Council at any time and without notice. In the event Employee is terminated by the City Council without cause, she shall be entitled to a lump sum payment equal to her total base salary for FIVE (5) months. Severance pay shall include the cost of continued group health insurance coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) for the same period of time. In the event Employee is terminated "for cause", City shall have no obligation to pay the aforementioned aggregate severance sum. A "for cause" termination is defined as: (i) the failure or refusal to comply with the lawful

ordinances, policies, rules, standards, and regulations of the city as established periodically; (ii) the City Council considered the evidence and concluded the city manager committed an act of fraud, dishonesty, misappropriation of funds, or deception of the City Council in connection with their duties; or (iii) the City Council considered the evidence and concluded that the city manager engaged in a crime involving dishonesty or theft; (iv) the City Council considered the evidence and concluded that the city manager more likely than not engaged in an act of poor ethics or moral turpitude which would negatively affect the public trust, applying Brookings Personnel Policy Handbook sections 13.1-13.3, adopted on September 11, 2017 (or equivalent sections of the Handbook, as amended) to the City Manager; (v) incompetency, inefficiency, or inattention to or dereliction/neglect of duty, including excessive absence; (vi) dishonesty to city staff or general public; (vii) intemperance, use of illegal drugs or illegal use of legal drugs or controlled substances; immoral or unethical conduct which affects City Manager job duties or City reputation; (viii) insubordination defined as refusal to follow legal direct order(s) of the City Council; (ix) continued discourteous treatment of the public or fellow employees; and (x) failure to adhere to standards listed in the Brookings Personnel Policy Handbook, Section VII Standards of Conduct/Discipline, 7.1 Employee Performance and Conduct including all standards and guidelines listed under "Performance Standards" and "Conduct Subject to Disciplinary Action" in Section VII, adopted on September 11, 2017 (or equivalent sections of the Handbook, as amended).

- C. In the event Employee voluntarily resigns their position with City, Employee shall give City 45 day's written notice in advance, unless the parties agree in writing otherwise. In the event Employee resigns, employee will not be entitled to any severance pay.

Section 4 Automobile

- A. As Employee will be required to use their personal automobile in the conduct of City business, City shall pay to Employee a monthly automobile stipend of \$350. In addition, Employee shall receive payment at the rate provided in IRS guidelines for all miles driven on official business outside of Curry and Del Norte counties.
- B. Employee shall not use a City-owned vehicle, except as a passenger or in the event of an emergency.
- C. Employee shall name City as an "additional named insured" on Employee's personal automobile liability insurance policy.

Section 5 Other Benefits

- A. Employee shall be entitled to observe holidays on the same basis as other City management employees. Employee shall earn vacation leave at a rate of 200 hours annually (increasing to 240 hours/year on the anniversary of 15 years of City employment), and shall be allowed to accrue unused vacation leave to a maximum of 1100 hours. Any unused vacation leave shall be paid to Employee upon termination, resignation, or retirement. Employee shall earn sick leave at a rate of 96 hours annually, shall be allowed to accrue unused sick leave to a maximum of 960 hours, and any such unused sick leave shall be paid at a 25% rate to employee upon termination, resignation, or retirement.
- B. City shall reimburse Employee for the cost of maintaining in force a policy of term life insurance for the benefit of Employee's survivors in the amount of \$250,000.
- C. City shall pay both the Employer and Employee contribution on behalf of Employee's membership in the Public Employees Retirement System.
- D. City will contribute \$3,000 annually to Employee's deferred compensation account, payable in

installments at the same time as other City employees are paid.

- E. City shall contribute monthly toward the premium for health, dental, and vision care insurance for Employee and their family at the same rate as other exempt employees.
- F. De minimis use of City telecommunications resources, such as occasional use of City telephone for personal use, shall be considered a part of Employee's compensation. Appropriate use of city telephones, email, and internet are defined in the Brookings Personnel Policy Handbook, adopted September 11, 2017 (BPPH), Section XVII Information and Communications Systems. Section 16.3 of the BPPH (or equivalent sections of the Handbook, as amended) will apply to the City Manager. Use of the internet and City-provided e-mail may be monitored at any time, with or without notice, with the approval of the City Council.

Section 6 Other Terms and Conditions

- A. City agrees to budget for and pay for professional dues and subscriptions of Employee necessary for her continuation and participation in national, regional, state, and local associations and organizations necessary and desirable for her continued professional participation, growth, and advancement, and the good of the City. Employee must maintain membership in good standing in professional associations as deemed appropriate by the City Council.
- B. City hereby agrees to budget for and to pay for attendance, travel, and reasonable subsistence expenses of Employee for official travel and professional development including, but not limited to, the ICMA Annual Conference, League of Oregon Cities Annual Conference, the Oregon City Management Association Conference, Oregon Society of Certified Public Accountants Governmental Conference, and Oregon Government Finance Officers Association Conferences.
- C. City recognizes that certain expenses of a non-personal and generally job-affiliated nature are incurred by Employee, and hereby agrees to reimburse or pay said general expenses, and the Finance Department is hereby authorized to disburse such money upon receipt of duly executed expenses receipts, statements or personal affidavits.

Section 7 Indemnification

City shall defend, save harmless, and indemnify Employee against any tort, professional liability claim, or demand or other legal action, whether groundless or otherwise, arising out of an alleged act of omission occurring in the performance of Employee's duties as defined the Agreement. City will compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered for Employee's activities performed within the course and scope of her employment.

Section 8 Bonding

City shall bear the full costs of any fidelity or other bonds required of the Employee under any law or ordinance.

Section 9 Modifications

Any modification to this Agreement must be in writing and signed by both parties executing this Agreement to be effective.

Section 10 Effect of Waiver

The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

Section 11 Entire Agreement

- A. Each of the Recitals stated above is incorporated by reference as is fully set forth herein.
- B. Each party agrees that this Agreement is valid and shall be binding upon said party. Each party to this Agreement acknowledges that no representation, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein and that no other agreement, statement, or promise not contained or referenced in the Agreement shall be valid or binding on either parties.
- C. This agreement supersedes any and all previous contracts between the Employee and the city.

IN WITNESS WHEREOF, the City of Brookings has approved and caused this Agreement to be signed and executed on its behalf by the Mayor and duly attested by the City Recorder, and the Employee has signed and executed three (3) copies of this Agreement.

Executed this ____ day of _____, 2023, at Brookings, Oregon.

CITY

Employee

By: _____
Mayor Ron Hedenskog

Janell K. Howard

APPROVED AS TO FORM:

Lori Cooper, City Attorney

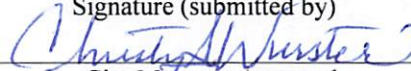
CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: January 30, 2023

Originating Dept: City Manager

Signature (submitted by)


City Manager Approval

Subject:

City Manager Pro Tem Employment Agreement

Recommended Motion:

Motion to terminate the Employment Agreement with Christy Wurster to provide services as City Manager Pro Tem effective at the close of business on January 31, 2023.

Background/Discussion:

The City of Brookings entered into an employment agreement with Christy Wurster to provide City Manager Pro Tem services beginning December 1, 2022 through May 31, 2023 or until such time as the City Manager can assume the duties and responsibilities of the City Manager. Council has entered into a new employment agreement with Janell Howard as the City Manager which would become effective on February 1, 2023 thereby eliminating the need for City Manager Pro Tem services beyond January 31, 2023.