

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Approval of Employment Agreement Between the City of Shoreline and Bristol Ellington
DEPARTMENT:	City Council
PRESENTED BY:	Keith Scully, Shoreline Mayor Margaret King, City Attorney
ACTION:	<input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

The City Council recently concluded a nation-wide search for a new City Manager by voting September 19, 2022, to authorize the Mayor and Deputy Mayor to negotiate an employment contract with Bristol Ellington. The search process began in June and resulted in 43 applications for the position. The applicant pool was narrowed to a field of 10 semifinalists and then to three finalists who participated in an on-site selection process that occurred September 8 and 9, 2022. On September 19, the Council authorized the negotiations with Mr. Ellington.

The terms of the proposed employment agreement have been negotiated with Mr. Ellington using provisions of model contracts and past Shoreline City Manager contracts. The agreement is attached to this staff report as Attachment A. If approved by the City Council, Mr. Ellington's appointment to the position of City Manager will commence on November 28, 2022.

The contract provides for a starting salary, the provision to apply any cost-of-living adjustment (COLA) provided to other non-represented City employees, and a guarantee of a minimum 10% differential between the salary of Mr. Ellington and his highest paid subordinate, along with other provisions of compensation, relocation and other terms of employment.

As per Council Rules of Procedure 6.1.B, which states that for an Action Item that is before the City Council for the first time and is not part of the consent agenda, public comment for that item will follow the staff report but precede Council review. Council should therefore allow for Public Comment following the staff report, and the same rules for Public Comment provided as part of the Council's Regular Meeting Agenda shall apply.

RESOURCE/FINANCIAL IMPACT:

The initial salary for Mr. Ellington's employment contract is \$237,200.

RECOMMENDATION

Staff recommends that the City Council approve the proposed Employment Agreement between the City of Shoreline and Bristol Ellington for the position of City Manager.

ATTACHMENT:

Attachment A: Employment Agreement Between the City of Shoreline and Bristol Ellington

Approved By: City Attorney: ***MK***

**EMPLOYMENT AGREEMENT BETWEEN
THE CITY OF SHORELINE AND BRISTOL ELLINGTON**

THIS AGREEMENT is made and entered into this _____ day of _____, 2022, by and between the City of Shoreline, Washington, a municipal corporation, hereinafter called “Employer” or “City,” and Bristol Ellington, hereinafter called “Employee” or “City Manager.”

WITNESSETH:

WHEREAS, Employer desires to employ the services of Bristol Ellington as City Manager of the City of Shoreline, as provided for in Chapter 35A.13 of the Revised Code of Washington (RCW); and

WHEREAS, it is the desire of City Council to provide certain benefits and to establish conditions of employment of said Employee, including inducements to continue employment; and

WHEREAS, Employer desires to establish an atmosphere which makes possible the Employee’s full productivity and at the same time, ensures the Employee’s future security by establishing a clear mutual understanding as to pay and fringe benefits and providing a just and proper means for terminating the services of the Employee if that action becomes necessary or desirable; now therefore

IN CONSIDERATION of the mutual covenants herein contained, the parties agree as follows:

1. Employment and Duties

A. The City Council hereby agrees to employ Bristol Ellington as City Manager of the City of Shoreline, to perform on a full-time basis the functions and duties specified in Chapter 35A.13 RCW for this office and other permissible and proper duties and functions as the City Council shall from time-to-time assign, subject to this Agreement.

B. The City Manager agrees to remain in the exclusive employment of the City of Shoreline, while employed by the City of Shoreline. “Employment,” however, shall not be construed to include occasional teaching, writing, professional consultation or speaking performed on leave or outside normal work hours, even if outside compensation is provided for such services. Said activities are expressly allowed, provided that in no case is any activity allowed which would present a conflict of interest with the City of Shoreline. The Mayor shall be given notice of any compensated outside employment. De minimis use of City equipment for such purpose is hereby authorized.

2. Term

- A. This Agreement and appointment shall become effective November 28, 2022.
- B. This Agreement is for an indefinite term of employment with no guaranteed tenure, subject, however to the limitations, notices, requirements, payments, and matters hereinafter set forth.
- C. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Employer to terminate the services of Employee at any time, subject to the provisions set forth in Section 7 of this Agreement and those contained in applicable state law.
- D. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Employee to resign his position with Employer at any time, subject to a sixty (60) day notice and the provisions of this Agreement.

3. Compensation and Benefits

- A. **Base Annual Salary.** For services rendered by Employee pursuant to this Agreement, Employer shall pay Employee a base annual salary of Two Hundred Thirty-Seven Thousand and Two Hundred Dollars (\$237,200.00) on the City's regular payroll schedule. The Employer agrees to increase the base salary January 1 of each year by the amount of the across-the-board cost of living increase applied to salary ranges of the other employees of the Employer; provided, the Employer agrees to additional increases necessary to maintain a minimum of 10% salary differential between the City Manager and his highest paid subordinate. This is a flat or one-step range. Employer agrees that during the term of employment as City Manager Employee's salary will never be reduced below the base annual salary as adjusted above, except as provided in Section 6. Employee shall receive similar equipment as other employees to conduct business and shall, at a minimum, be provided a cell phone and a laptop computer at the City's expense. Employer agrees to cover the cost of the Employee's selected COBRA coverage for up to four (4) full months after the last day of employment.
- B. **Social Security Replacement Account.** Employer and Employee shall make their required payments of six-point two percent (6.2%) of Employee's base annual salary, with immediate vesting, into the Social Security 401(a) replacement fund administered by the City, or such other percentage contribution established for this fund by the City Council for all employees. In addition, the parties shall make required contributions to the Medicare Program at the federally determined percentage.
- C. **Insurance Coverage.** Employer agrees to provide for health, hospitalization, surgical, long-term disability, life, vision, dental and comprehensive medical insurance for the Employee and his dependents equal to that which is provided to all other employees of the City of Shoreline.

D. Retirement. Employee is covered by the State of Washington PERS 2 retirement system. Employer shall contribute the State required amounts for the Employer's share of Employee's participation in the PERS 2 retirement system as established in state law. The parties acknowledge that the amount of the Employer contribution is subject to adjustment by the state legislature in the future and agree that said contribution shall be adjusted (either increased or decreased) accordingly.

Employer shall contribute an amount of \$890 per month to the Employee's 457 Deferred Compensation Plan account.

E. Leave

1. Employee shall accrue vacation leave at a rate per pay period equivalent to 17 days in each calendar year and Employee shall be treated as an employee at the 5-year mark (as set forth in the Accrual Table in the Employee Handbook) in relation to all other vacation leave provisions.

2. Employee shall be granted sick leave, management leave, personal leave, holidays, and other leave at a rate and for purposes applicable to other City exempt employees under the Employee Handbook. Employee shall complete exempt leave slips to be approved by the Mayor.

F. Travel reimbursement. Travel expenses including use of personal vehicles beyond the city limits of Shoreline shall be subject to reimbursement under the City Business Expense Policy.

4. Professional Development

A. Memberships and Training. Employer hereby agrees to pay for expenses of Employee for membership to the Washington City/County Managers Association and paid attendance to its annual conferences. Employer hereby agrees to pay for expenses of Employee for membership to the International City/County Managers Association and shall pay for attendance at the ICMA conference and for other reasonable professional development programs if funds are available in the annual budget for the City Manager's Office. Reimbursement for expenses incurred under this section shall be made according to the City Business Expense Policy and approved by the Mayor.

B. Annual Performance Evaluation

1. With the assistance of a qualified facilitator acceptable to Employer and Employee, Employer shall review and evaluate the performance of the Employee after six months and twelve months, and then at least once annually thereafter. The Mayor shall provide the Employee with a written summary of the findings of the Employer and provide adequate opportunity for the Employee to discuss his evaluation with the Employer.

2. Annually, the Employer and Employee shall define such goals and performance objectives which they determine necessary for the proper operation of the City and in the attainment of the Employer's policy objectives and shall further establish a relative priority among those various goals and objectives, said goals and objectives to be reduced to writing. Goals and objectives shall generally be attainable within the specified timeframes and be within the appropriations provided within the annual operating and capital budgets. The Employer may revise such goals and objectives as necessary to meet the changing needs of the City following consultation with the Employee.

3. The parties agree that review of the City Manager salary shall be a subject of this annual review.

5. Indemnification

As a condition of Employee's employment Employer agrees that it shall defend, hold harmless and indemnify Employee and his marital community against any tort, professional or personal liability claim, demand, or legal action of any kind or nature, whether groundless or otherwise, arising directly or indirectly out of an alleged act or omission occurring in the performance of Employee's duties according to Shoreline Municipal Code Chapter 2.40. This indemnification and hold harmless shall continue after Employee's cessation of employment but only insofar as it relates back to claims, demands, suits, judgments and professional, personal and community liability arising either directly or indirectly out of his employment. The terms of this provision assume and are conditioned upon the Employee acting in a lawful manner and within the scope of his authority as City Manager and fully cooperating in the defense of any such claims and suits.

6. No Reduction of Benefits

Unless expressly provided herein, Employer shall not at any time during the term of the Employee's tenure in office reduce the salary, compensation, or other financial benefits of Employee, including office arrangements, except to the same degree of such a reduction across-the-board for all employees of the Employer.

7. Termination and Severance

A. In the event the Employee is terminated or requested by the Employer to resign for the convenience of the City of Shoreline, or voters elect to change from a Council/Manager form of government and Employee does not agree to accept another position with the City of Shoreline following reorganization, then Employer shall provide severance compensation in the amount of four (4) months of salary based upon the salary in effect at the time of notice of termination, resignation or change of government, cash equivalent of earned vacation, management leave and personnel leave balances, and deferred compensation. Said severance compensation shall be paid in a lump sum, monthly or in quarterly installments, at the Employee's election. The Employer shall be

authorized to perform any deductions required by law. The Employer shall extend and pay for Employee's health coverage benefits for four (4) months.

B. Any termination action taken by the Employer shall be subject to the notice period required by state law (RCW 35A.13.130 and RCW 35A.13.140, or successor statutes). The Employer may, in its sole discretion, substitute advance notice of termination, in addition to that required by statute, for any or all of the four months severance compensations listed above. Additionally, the Employer and Employee may, by mutual consent, arrange for a time-certain effective date of such termination, subject to the aforementioned notice period required by state law.

C. Failure of the Employer to correct a material breach of the Agreement after notice and a reasonable opportunity to comply will be considered a constructive discharge without cause and Employee will be entitled to severance compensation specified in this section.

D. In the event the City Manager is terminated for "just cause," then Employer's only obligation to the City Manager is to pay all compensation and benefits accrued but unpaid at the date of termination. "Just cause" is defined and hereby limited for the purposes of this Agreement to the following reasons: (1) willful neglect of duty; (2) felony or misdemeanor conviction of any crime involving moral turpitude; (3) dishonesty in the performance of job duties; or (4) improper government action as defined in RCW 42.02.020.

8. Relocation

Employee shall be reimbursed reasonable relocation expenses up to a maximum of \$10,000.

9. General Provisions

A. In addition to the rights and benefits detailed herein, the City Manager shall receive all benefits accruing to the exempt employees of the City of Shoreline, except where they are in conflict with the specific provisions of this Agreement.

B. The text herein shall constitute the entire agreement between the parties.

C. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of the parties.

D. This Agreement shall become effective upon execution by Employee and adoption and approval by the City Council of the City of Shoreline.

E. If any provisions, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall not be affected and shall remain in full force and effect.

F. Notices pursuant to this Agreement shall be deemed given as of the date of personal service or date of deposit, postage prepaid, in the United States Postal Service addressed to the Employer at City Clerk, 17500 Midvale Avenue North, Shoreline, WA 98133-4905 or the Employee at the address maintained by the Employee at the City for mailing federal tax notices.

Keith Scully
Mayor

Bristol Ellington

Approved of as to form
Margaret J. King
City Attorney