

Council Business Meeting

October 5, 2021

Agenda Item	Confirmation of Mayoral Appointment of Katrina Brown as City Attorney	
From	Julie Akins Gary Milliman	Mayor City Manager Pro Tem
Contact	Gary.milliman@ashland.or.us	

SUMMARY

The City Council is being asked to confirm the Mayoral appointment of Katrina Brown as the City Attorney and to authorize the Mayor and City Manager Pro Tem to sign an employment agreement between the City of Ashland and Katrina Brown.

POLICIES, PLANS, AND GOALS SUPPORTED

Ashland City Charter Article XIII
Ashland Municipal Code 2.28.220 and 2.28.230

PREVIOUS COUNCIL ACTION

The City Council approved the proposed selection process for a City Attorney at its regular Business Meeting on [June 15, 2021](#).

BACKGROUND AND ADDITIONAL INFORMATION

In May of this year, David Lohman announced his plans to retire after serving as Ashland's City Attorney for ten years. After Mr. Lohman's announcement, City staff worked with the Mayor to outline a recruitment and selection process for a new City Attorney for Council consideration. Council considered and approved the proposed selection process at its June 15, 2021 Business Meeting.

The City formally opened the recruitment on or about July 12, 2021. The City received three applications for the position of City Attorney. The Mayor and the City Manager Pro Tem reviewed the applications and conducted interviews with two of the candidates who most closely matched the City's Job Qualification Requirements. Only one applicant, Katrina Brown, had any municipal law experience. The following is a brief summary of the qualifications of each applicant:

Katrina Brown has served as Interim City Attorney since her appointment by the Mayor on June 15, 2021. She has also served the City of Ashland as its Assistant City Attorney for four years. Prior to accepting a position in Ashland, she served as an Assistant City Attorney for the City of Salem for 10 years and as a Deputy District Attorney in Douglas County for over seven years. Ms. Brown is very familiar with the City and its legal needs.

Ms. Brown was formally interviewed and demonstrated a good understanding of the position and of the legal services required to support the breadth of services provided by the City. She is very familiar with the City organization and staff and City leadership policies and goals. She recognizes that many of the issues with which the City is dealing are complex and require careful, independent evaluation. She understands her role as the legal advisor to the City Council and staff and is comfortable working in a public setting.

The other two applicants had no municipal experience. One of the applicants, an Oregon resident, was interviewed, but it was found that his learning curve in municipal law would be too steep to accommodate the City’s needs. A third applicant currently resides in Washington, D.C., and was not interviewed.

Katrina Brown was the most qualified candidate with extensive experience in municipal government, both with the City of Salem and the City of Ashland. Ms. Brown worked closely with David Lohman in her capacity as the Assistant City Attorney since she was hired in 2017. Her appointment will also ensure continuity of legal services.

Pursuant to the City’s Charter, the City Attorney is appointed by the Mayor, with confirmation by the City Council.

FISCAL IMPACTS

The City Attorney position has funding and existing appropriations available. Base compensation will be approximately \$11,000 less annually than for the previous City Attorney.

STAFF RECOMMENDATION

Staff recommends that the City Council confirm Katrina Brown's appointment as City Attorney and authorize the Mayor and City Manager Pro Tem to sign an employment agreement to effectuate the appointment.

ACTIONS, OPTIONS & POTENTIAL MOTIONS

- I move to approve Katrina Brown's appointment as City Attorney and authorize the Mayor and City Manager Pro Tem to sign the associated employment agreement.
- I move to amend the employment agreement as follows . . .

REFERENCES & ATTACHMENTS

Attachment: Employment Agreement between the City of Ashland and Katrina Brown.

CITY OF ASHLAND EMPLOYMENT AGREEMENT

CITY ATTORNEY

THIS EMPLOYMENT AGREEMENT (“Agreement”) is made and entered into by and between the City of Ashland ("City") and Katrina L. Brown ("Employee").

RECITALS

- A. The City desires to employ the services of Employee as the City Attorney for the City of Ashland; and
- B. The City desires to establish certain conditions of employment for Employee; and
- C. It is the desire of the City to: (1) secure and retain the services of Employee as the City Attorney and to provide an inducement for Employee to remain in such employment; (2) make possible work productivity by assuring Employee's morale and peace of mind concerning financial security; and (3) provide a just means for terminating this Agreement; and
- D. Employee desires to accept employment as the City Attorney for the City of Ashland, and to begin her employment as such on October 5, 2021.

AGREEMENT

Now therefore, the City and Employee hereby agree as follows:

SECTION 1. DUTIES. The City agrees to employ Katrina L. Brown as the City Attorney for the City of Ashland to perform the functions and duties as specified in the Ashland Municipal Code and the job description for the position of City Attorney and to perform such other legally and ethically permissible and proper functions and duties as the Mayor and City Council shall from time-to-time assign. Employee shall devote full time to the performance of the duties of City Attorney.

SECTION 2. EFFECTIVE DATE; TERM.

- A. Employee is appointed to the position of City Attorney commencing October 5, 2021 (the “Effective Date”).
- B. Employee agrees to remain in the position of City Attorney until October 5, 2024 (the “Termination Date”), and not accept other employment except as provided in this Agreement.
- C. In the event that written notice is not given by either party to terminate this Agreement at

least ninety (90) days prior to the Termination Date, this Agreement shall be extended for successive three-year periods on the same terms and conditions as provided herein.

- D. In the event Employee wishes to voluntarily resign from the position of City Attorney during the term of this Agreement, Employee shall give the City not less than thirty (30) days prior written notice of such intention, unless such notice is waived by the Mayor and approved by the City Council. After giving written notice of her resignation, Employee will cooperate in every way with the smooth and regular transfer of duties to any individual newly-appointed to perform the duties of City Attorney.

SECTION 3. SALARY. Beginning October 5, 2021, the City agrees to pay Employee the salary at Step 5 of the Employee Salary Schedule effective as of July 1, 2021, (\$69.5905 per hour) payable in the same manner as other employees of the City are paid. Employee shall be eligible for annual salary increases as set forth in the City's Employee Salary Schedule.

SECTION 4. PERFORMANCE EVALUATION. The City shall review and evaluate the performance of the Employee annually. Employee shall receive a copy of any written performance evaluation and shall be provided an adequate opportunity to discuss the details of any such evaluation.

SECTION 5. HOURS OF WORK; ADMINISTRATIVE LEAVE. It is recognized that Employee must devote a great deal of time outside of normal office hours to the business of the City, and to that end Employee will be allowed to take compensatory time off as Employee shall deem appropriate during normal office hours, so long as the business of the City is not adversely affected. Work in excess of forty (40) hours per week is deemed part of the professional responsibility for which the Employee shall not be paid overtime. In recognition of the extra hours required of the City Attorney, Employee shall receive forty (40) hours of Administrative Leave each year to be used before June 30 of the following year, or it shall be deemed forfeited. Employee shall receive additional Administrative Leave if granted by the City Council in the Management Resolution adopted each year.

SECTION 6. HEALTH, WELFARE, AND RETIREMENT BENEFITS. Except as specifically modified by this Agreement, Employee shall be entitled to receive the same retirement benefits, vacation leave, sick leave, paid holidays, administrative leave, health insurance, and other fringe benefits and working conditions as they now exist or may be amended in the future, as apply to any department head, as spelled out in the City's Management Resolution. These benefits are in addition to any of those specifically enumerated in this Agreement for the benefit of Employee. Employee contributions to the Public Employees' Retirement System (PERS) shall be "picked up" by the City. Employee shall not have the option of receiving money designated for retirement contributions and directly making the contribution to PERS. Employee's reported salary for tax purposes shall be reduced by the amount of the Employee's contribution to PERS. Additionally, on the Effective Date of this Agreement, the City shall contribute a one-time benefit of an additional forty (40) hours of vacation leave to Employee's vacation leave bank.

SECTION 7. DUES AND SUBSCRIPTIONS. The City agrees to budget and to pay for all professional dues and subscriptions for Employee necessary for the continuation and full participation in national, regional, state, and local associations and organizations needed and desirable for Employee's continued professional participation, growth, and development and for the good of the City.

SECTION 8. PROFESSIONAL DEVELOPMENT. The City agrees to budget and allocate sufficient funds to pay for all necessary travel and living expenses of Employee to represent the City at conferences or meetings of national and state committees, commissions, or associations of which Employee is a member. The City also agrees to budget and allocate sufficient funds to pay for any registration fees and travel expenses of Employee related to required Continuing Legal Education (CLE) seminars and trainings for Employee.

SECTION 9. OREGON STATE BAR LICENSE. Employee shall maintain a valid Oregon State Bar license during the term of this Agreement. The City shall pay the Employee's annual Oregon State Bar dues and annual Jackson County Bar dues.

SECTION 10. AUTOMOBILE ALLOWANCE. Employee's duties require that Employee has the use of a motor vehicle at all times during her employment with the City. The City shall provide an automobile allowance of \$400.00 per month for the use of a motor vehicle for City business and travel. Employee shall be responsible for paying all insurance, operation, maintenance, and repair costs of the motor vehicle.

SECTION 11. TOOLS AND EQUIPMENT. The City agrees to supply all tools and equipment necessary for the City Attorney to perform her duties effectively and efficiently.

SECTION 12. PROFESSIONAL LIABILITY. The City agrees that it shall indemnify, defend, and hold Employee harmless from and against all demands, claims, suits, actions, errors, or other omissions in legal proceedings brought against the Employee in her individual capacity or in her official capacity, provided the incident arose while the Employee was acting within the scope of her employment. If, in the good faith opinion of the Employee, a conflict exists regarding the defense of any such claim between the legal position of the City and the Employee, the Employee may engage legal counsel, in which event, the City shall indemnify the Employee for the cost of such legal counsel.

SECTION 13. SEVERANCE PAY.

- A. In the event Employee is dismissed during the term of this Agreement, and Employee is not being dismissed for a reason specifically set forth in Subsection B this section, the City agrees to offer Employee a severance agreement with pay. The amount of severance pay to be offered to Employee in the severance agreement shall be equal to Employee's monthly base salary at the time of dismissal, multiplied by the the number of months that Employee has been employed with the City, up to a maximum of six (6) months total. In addition, the severance agreement offered to Employee shall require the City to continue to pay the employer portion of all premiums for medical and dental insurance coverage

for Employee for the same number of months as Employee’s severance pay. As a condition of the severance agreement, the Employee will be required to release the City, its officers, representatives, insurers, and employees from any claims arising from employment with the City and the separation of employment.

- B. Employee will not be eligible to receive the severance agreement described in Subsection A of this section if this Agreement is not renewed by the City, as provided in Section 2, above. Employee also will not be eligible to receive the severance agreement with pay if Employee breaches any provision of this Agreement, or if Employee engages in any act of misconduct in the performance of her duties on behalf of the City. The term “misconduct” includes misappropriation of funds; dishonesty; insubordination; failure to perform duties in a manner that is consistent with applicable law; failure to correct performance deficiencies identified in writing by the City Council after a reasonable opportunity to correct the deficiencies; or committing any serious violation of City policy. The term “misconduct” also includes being convicted of any crime that the City views as impairing the Employee’s ability to effectively perform the Employee’s duties or as jeopardizing the reputation of the City.

SECTION 14. SEVERABILITY. If any term, section, or provision of this Agreement is held by a court of competent jurisdiction to be illegal or in conflict with the laws of the State of Oregon, the validity of the remaining terms, sections, and provisions of the Agreement shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the illegal or conflicting term, section, or provision.

SECTION 15. COMPLETE AGREEMENT. This Agreement represents the entire understanding and agreement between the City and Employee and supersedes all prior agreements, representations, and understandings between the parties. No modification, waiver, or amendment to this Agreement shall be binding on either party unless set forth in writing, signed by Employee and by the Mayor, and approved by the City Council.

Dated this ____ day of October, 2021.

Julie Akins, Mayor

Gary Milliman, City Manager Pro Tem

Accepted this ____ day of October, 2021.

Katrina L. Brown