

CLARK COUNTY STAFF REPORT

DEPARTMENT: County Council

DATE: December 6, 2022

REQUESTED ACTION: Approve Employment Agreement (Agreement) between Clark County and Kathleen Otto.

Consent Hearing County Manager

Request approval of an Agreement with Kathleen Otto to continue services as the County Manager to perform all duties and responsibilities delegated to the County Manager by the Charter and the Clark County Code, or any amendments thereto.

Agreement terms include, but not limited to:

- Term: January 1, 2023 through December 31, 2025 with an option to extend one (1) year upon mutual agreement
- Salary:
 - \$198,000 for 2023
 - \$207,900 for 2024
 - \$218,295 for 2025
- Benefits: Same as the employees in the M1 classification (e.g. Department heads, deputies of elected departments, etc.)

COUNCIL POLICY IMPLICATIONS

None.

ADMINISTRATIVE POLICY IMPLICATIONS

None.

COMMUNITY OUTREACH

None.

BUDGET IMPLICATIONS


YES	NO	
X		Action falls within existing budget capacity.
	X	Action falls within existing budget capacity but requires a change of purpose within existing appropriation
	X	Additional budget capacity is necessary and will be requested at the next supplemental. If YES, please complete the budget impact statement. If YES, this action will be referred to the county council with a recommendation from the county manager.

BUDGET DETAILS

Local Fund Dollar Amount	
Grant Fund Dollar Amount	
Account	All funds
Company Name	

DISTRIBUTION:

Council staff will post all staff reports to The Web. <https://www.clark.wa.gov/council-meetings>



Karen Dill Bowerman
Chair, Clark County Council

APPROVED: 

CLARK COUNTY, WASHINGTON
CLARK COUNTY COUNCIL

DATE: DEC. 6, 2022

SR# 244-22



**EMPLOYMENT AGREEMENT BETWEEN
CLARK COUNTY AND KATHLEEN OTTO**

THIS AGREEMENT is made and entered into this 6th day of December, 2022, by and between CLARK COUNTY, WASHINGTON, by and through its COUNTY COUNCIL, (hereinafter called "County" or "County Council"), and Kathleen Otto (hereinafter called "County Manager" or "Employee"). This AGREEMENT takes effect on January 1, 2023. The County Manager Agreement that was executed by the parties on or about February 16, 2021, remains in effect until December 31, 2022.

WITNESSETH:

WHEREAS, Employee currently serves as County Manager for the County;

WHEREAS, Kathleen Otto was the Deputy County Manager and Director of Internal Services and began serving as Interim County Manager in March 2020;

WHEREAS, County Council appointed Kathleen Otto to serve as County Manager, pursuant to the Home Rule Charter of Clark County (hereinafter called "Charter"), in February 2021;

WHEREAS, Kathleen Otto has served in this role with dedication, excellence and professionalism and the Council desires to recognize and confirm her continued service;

WHEREAS, County Council desires to continue to employ Kathleen Otto to serve as County Manager;

WHEREAS, pursuant to Clark County Charter, Article 3.2.A.4, the Clark County Council shall establish the County Manager's terms of employment, including compensation, by written contract, provided the County Manager's employment shall be at-will and terminable in accordance with contract terms and the Charter;

WHEREAS, pursuant to Clark County Charter, Article 5.4.C., the County Manager is exempt from Clark County's human resource policies including, but not limited to Policy No. 8.0 relating to compensation; and

WHEREAS, it is the desire of both parties to establish and agree to certain common expectations regarding compensation, benefits, job security, and the terms and conditions of employment.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

I. RESPONSIBILITIES AND DUTIES.

A. The County Council agrees to continue to employ Kathleen Otto as County Manager to perform all duties and responsibilities delegated to the County Manager by the Charter and the Clark County Code, or any amendments thereto.

B. Serving as County Manager is a full-time position. Therefore, County Manager shall not spend time working, speaking, consulting, or providing other services in non-County connected business, for which compensation is paid, without the express prior written consent of the County Council.

II. TERM.

A. County Manager shall be retained in this position from January 1, 2023 through December 31, 2025.

B. The parties may mutually agree to one (1) year extensions of this Agreement. Either party shall give notice to the other party that the contract will not be extended no less than sixty (60) days prior to the expiration of the initial term of this agreement or the most recent extension.

C. The effective date of this Agreement will occur on January 1, 2023.

D. It is understood and agreed that the term of this agreement may be limited by amendments to the Charter relating to the County Manager position.

III. SALARY.

A. County agrees to pay County Manager an annual salary of \$198,000, for the year 2023, payable in the same intervals and same manner as employees of the County and subject to customary withholdings.

B. County agrees to pay County Manager an annual salary of \$207,900, for the year 2024, payable in the same intervals and same manner as employees of the County and subject to customary withholdings.

C. County agrees to pay County Manager an annual salary of \$218,295, for the year 2025, payable in the same intervals and same manner as employees of the County and subject to customary withholdings.

D. County Manager may be considered for salary adjustments, as authorized by the County Council. Adjustments may be considered based on market factors, merit and/or job performance. Except as set forth in Paragraph III(D), any salary adjustment must be mutually agreed by the parties and set forth in writing as an amendment to this agreement.

E. County shall not at any time during the term of this Agreement, or any extension thereto, reduce the salary, compensation, or other financial benefits of County Manager, except to the degree of such a reduction across-the-board for all executive management (M1) employees of the County.

IV. BENEFITS.

A. *Medical/Dental/Vision.* County agrees to provide the County Manager with medical, dental and vision benefits and coverage in the same manner and amount as provided by the County to its executive management (M1) employees. Such standard offerings are subject to amendment, replacement or elimination by the County.

B. *Other Employee Benefits.* Employee shall receive all employment benefits, including normal payoffs for accrued but unused Paid Time Off, provided by the County to its executive management (M1) employees. Such standard offerings are subject to amendment, replacement or elimination by the County.

C. *Holidays.* County Manager is entitled to the same paid holidays per calendar year as executive management (M1) employees. Such standard offerings are subject to amendment, replacement or elimination by the County.

D. *Paid Time Off.* County Manager shall accrue Paid Time Off at the same rate as she receives as an executive management (M1) employee, including any increases in accrual that she may be entitled to based on current Human Resources policies as if she were continuing as an executive management (M1) employee. Use of Paid Time Off shall comply with Clark County Human Resources Policy. Such standard offerings are subject to amendment, replacement or elimination by the County.

E. *Automobile Allowance.* County shall provide County Manager a car allowance of \$450.00 per month to fully compensate her for the use of her personal vehicle in the performance of her duties as County Manager.

V. RETIREMENT.

A. County Manager is covered by the State of Washington Public Employees' Retirement System (PERS). County shall contribute the state-required amounts for the employer's share of County Manager's participation in the PERS Retirement System, as established in state law. The parties acknowledge that the amount of the employer contribution is subject to adjustment by the Washington Department of Retirement Services in the future, and agree that said contribution shall be adjusted (either increased or decreased). County Manager shall provide the employee contribution, as established by the Washington Department of Retirement Services.

VI. MEMBERSHIPS, SUBSCRIPTIONS AND TRAVEL/BUSINESS EXPENSES.

County agrees to budget and to pay for reasonable professional memberships and travel for appropriate business purposes. County Manager shall be eligible for reimbursement of other expenses incurred within the course and scope of employment, according to the policies, practices and limits of the County.

VII. OUTSIDE ACTIVITIES.

In addition to Section I.(B), County Manager shall refrain from outside pursuits that present a conflict of interest or time, or which diminish her effectiveness or efficiency as County Manager, or could be perceived as such. Any such activity, which could arguably give rise to such a concern, shall be disclosed to the County Council, and the County Council reserves the right to disapprove the activity.

VIII. INDEMNIFICATION.

County shall defend, save harmless, and indemnify County Manager against any tort, professional liability claim, or demand, or other legal action in accordance with the provisions of Clark County Code § 2.97, or any amendments thereto.

IX. TERMINATION/SEVERANCE

A. As provided in the Charter, County Manager's position is terminable at-will by either party, in accordance with the terms of this Agreement and the Charter. County Manager serves at the pleasure of the County Council and nothing in this Agreement shall be taken to limit, prevent, or otherwise interfere with the authority of the County Council to terminate the services of the County Manager.

B. In the event County Manager is terminated by the County Council, the County shall provide a severance payment. The payment amount shall be equal to six (6) months' salary. The severance shall be paid in a lump sum, unless otherwise agreed to by the parties. Termination shall include discharge; resignation offered at the request of the County Council; layoff; or if the County reduces the base salary, compensation or any other financial benefit of the County Manager, unless it is applied in no greater percentage than the average reduction of all department heads.

C. In addition to the severance payment, the County shall pay County's contributions toward health insurance during the severance period provided in the paragraph B above, if the County Manager elects and is eligible to receive continued health insurance under the terms and conditions of the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA). If County Manager secures other health insurance after termination, County's obligations to maintain County's health insurance contributions shall cease. County Manager shall notify the County within five (5) days of securing new health insurance.

D. In the event of nonrenewal of this Agreement, County Manager shall continue to serve in the position of County Manager position for the remainder of the three (3) term. Provided, should the County Council determine that it is in the best interest of the County that a management change be made prior to the expiration of the Agreement, then the County Manager shall receive the severance package set forth in Sections (A) and (B) of this section.

E. No such severance shall be due or payable if the termination is based on acts of willful neglect of duty; dishonesty in the performance of job duties; misconduct; malfeasance; or nonfeasance.

F. In the event County Manager decides to resign from her position prior to the end date of this Agreement or any extension, as provided in Section II above, County Manager shall provide the County with sixty (60) days' written notice of the effective date of resignation.

X. RESOLUTION OF DISPUTES.

Any dispute concerning the interpretation of this Agreement or other matter of disagreement between the County Council and County Manager shall be brought to the attention of the County through the Chair of the County Council. This Agreement shall be interpreted under Washington law.

XI. GENERAL PROVISIONS.

A. County Manager shall be expected to follow all County policies, or any updates or revisions thereto. A majority of the Council may approve, in its sole discretion, exceptions to the policies that impact the County Manager.

B. Should any provision, or any portion thereof, contained in this Agreement be held unconstitutional, invalid or unenforceable, the remainder of this Agreement shall not be affected and shall remain in full force and effect.

C. Sections VIII "Indemnification," shall survive the expiration or termination of this Agreement. Termination of County Manager's employment shall not release either party from any liability or obligation that had previously accrued and remains to be performed, discharged, or satisfied as of the date of termination.

D. This Agreement sets forth the entire agreement between the parties and supersedes all other oral or written representations or previous agreements between them, including but not limited to the County Manager Agreement that was executed by the parties on or about February 16, 2021. County and County Manager agree that there are no other essential terms or conditions of the employment relationship that are not described within this Agreement, the Charter, or the County Code. Except for amendments to the Charter, any change to terms and conditions of this Agreement will be written down in a supplemental agreement, which shall be signed by both County Council and County Manager before it is effective.

IN WITNESS THEREOF:


COUNTY COUNCIL



Karen Bowerman, Chair

12/6/2022
Date

COUNTY MANAGER



Kathleen Otto

12/08/2022
Date

