

**EMPLOYMENT AGREEMENT BETWEEN THE CITY OF MADISON  
AND  
KAREN M. KAPUSTA-POFAHL**

This Agreement made this 10<sup>th</sup> day of May, 2022 by and between the City of Madison, a municipal corporation of Dane County, Wisconsin (hereafter, the "City") and Karen M. Kapusta-Pofahl, a natural person (hereafter, "Common Council Chief of Staff" or "Chief of Staff").

WITNESSETH;

WHEREAS, the City desires to hire Karen M. Kapusta-Pofahl as an employee of the City of Madison to perform the services described herein on its sole behalf as the Common Council Chief of Staff, and

WHEREAS, Karen M. Kapusta-Pofahl represents that they possess the necessary knowledge, skill, abilities and experience to perform such services and is willing to perform such services as the Common Council Chief of Staff, and

WHEREAS, Karen M. Kapusta-Pofahl has been duly selected and has been confirmed for appointment to the position of Common Council Chief of Staff by the Common Council of the City of Madison on May 10, 2022, and

WHEREAS, the Common Council of the City has authorized the execution of the Agreement by Resolution No. RES-22-\_\_\_\_\_.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and agreements contained in this document, the receipt and sufficiency of which is mutually acknowledged, the parties agree as follows:

**I. COMMON COUNCIL CHIEF OF STAFF HIRED**

Karen M. Kapusta-Pofahl is hereby hired as a non-civil service employee of the City, holding the position of Common Council Chief of Staff pursuant to the terms, conditions and provisions of this Agreement. The Chief of Staff shall have and exercise full authority and discretion as a Department Head within the City's organizational structure and act as Appointing Authority for employees of the Common Council Office in accordance with all appropriate City Ordinances and Mayor's Administrative Procedure Memoranda.

**II. FUNCTIONS, DUTIES AND RESPONSIBILITIES OF THE COMMON COUNCIL CHIEF OF STAFF**

**A. General Responsibilities:**

This is a professional, managerial, and supervisory position responsible for the strategic management of the Council Office and staff, including developing staff and

program-level strategies, setting priorities, problem-solving, and providing leadership to ensure optimal support for Alders in the execution of Alder initiatives and responsibilities. The incumbent will provide expert consultation and support in analyzing City policies and will assist individual Alders in navigating City legislative and administrative processes and procedures. Reporting to the Common Council Executive Committee (CCEC), under the direct supervision of the Common Council President, the incumbent will build relationships and serve as a communication and policy liaison between the Common Council Office, the Mayor's Office, City managers and staff, and the general public.

B. Examples of Duties and Responsibilities:

- Review the policy analysis of Council Office Staff, identify areas for improvement, and facilitate the movement from policy analysis to Common Council action. Suggest resolutions or ordinance modifications where appropriate.
- Maintain a neutral position on policy decisions while providing expert advice and consultation to Alders on a wide range of highly complex, sensitive, and confidential topics.
- Work with the Mayor's Office, City departments, community organizations, and other entities where tact, persuasiveness, and judgment must be exercised to reach an objective or maintain goodwill.
- Assist Alders in navigating City legislative process, administrative policies, and interfacing departments.
- Work with City Department Heads and Managers to determine the impact of legislative decisions on City operations and report the impacts to Council.
- Perform or manage special projects and initiatives in collaboration with the Common Council Executive Committee. Work with other departments to achieve project/initiative goals as needed. Assign staff to support these efforts as needed.
- Oversee all aspects of the Common Council Office, including planning and organizing work and resources to ensure the highest level of service possible. Analyze and modify organizational structures and workflow to improve efficiency, creativity, and accountability.
- Supervise, plan, organize, coordinate, assign and evaluate the work of Council Office staff. Establish and implement operational policies, goals, and objectives for the department within guidelines provided by the Executive Committee; and assure departmental operations are carried out.
- Facilitate and lead the hiring, coaching, training, engagement, and development of Council Office staff to allow staff to reach maximum potential and performance.

- Work with the Council President, Legislative System Management Specialist, and Finance Department in developing the Common Council Office budget and present the proposed budget to the Executive Committee. Present the Common Council Office budget during the annual budget sessions.
- Work with City Staff and the Executive Committee to ensure the deployment of effective tools and practices to allow Alders to fulfill duties and responsibilities efficiently and effectively.
- Work with Alders and Council Office staff to identify work being done by multiple alders, which could be done more efficiently and effectively by Council Office staff.
- Work with Council Office Staff, City Staff, and Alders to resolve problems, identify areas for improvement, facilitate change, and take corrective action when necessary.
- Attend Common Council, Executive Committee, Department/Division Head, Finance Committee, and other meetings at the direction of the Executive Committee to ensure appropriate communication and the free flow of information between the Common Council, Mayor's Office, and City Staff.
- Ensure appropriate communication with various City Managers on a regular basis to discuss council priorities and communication of City and agency goals, initiatives, plans, and policy-related issues.
- Work with the City Attorney's Office and IT to ensure timely and appropriate responses to community inquiries and public information requests.
- Respond to requests from the media and develop press releases at the direction of the Council President and/or the Executive Committee.
- Review and prepare a variety of correspondence and reports for Alders at the direction of the Council President and/or the Executive Committee.
- Ensure appropriate communication and build working relationships with the Mayor's Office and City Staff.
- Work with other staff to develop and present new alder orientation and training for boards, commission, and committee staff.
- Facilitate the Boards, Committees, and Commissions Administrative Support Team.
- Make presentations to the Common Council and various committees.
- Demonstrate a commitment to the City's racial equity and social justice initiatives (RESJI). Participate in and help lead city-wide and agency efforts toward implementing RESJI principles. Provide staff supervision in a manner consistent with recommendations and best practices outlined by the City's employee engagement

- and equity initiative.
  - Instill a culture of continuous learning and a commitment to ongoing initiatives involving performance excellence systems.
  - Demonstrate and promote organizational values, in everyday work, to further the mission and vision of the City of Madison.
  - Perform other duties as required.
- C. The Chief of Staff agrees to perform such functions and duties at a professional level of competence and efficiency. The Chief of Staff shall abide by all requirements of the laws of the State of Wisconsin, and of the ordinances, resolutions, regulations, rules and practices of the City which exist at the time of execution of this Agreement or which may, hereafter, be enacted or amended by the State of Wisconsin or the City in the exercise of their lawful authority. In the event a provision of this Agreement conflicts with any City ordinance, resolution, regulation, rule or policy, the provision of the Agreement shall control, except that nothing herein shall be interpreted as modifying the obligations or terms Madison General Ordinance §3.35 (the Ethics Code).
- D. The Chief of Staff shall devote full time to the duties and responsibilities provided herein and shall engage in no pursuit that interferes with them. The Common Council President, however, may approve the Chief of Staff reasonable time away from the regular duties and responsibilities provided such time is approved in advance and taken as vacation leave or absence without pay. Further, the Common Council President may authorize other limited outside professional activities on City time provided that they are determined to be of benefit to the City and the Chief of Staff is not compensated for such activities. Nothing herein limits the Chief of Staff from performing outside services for compensation provided such outside services have been approved by the Common Council President, are not done on City time, and otherwise comply with City ordinances and rules.
- E. The standard City workweek is 38.75 hours. However, the Chief of Staff shall have reasonable flexibility from this standard to accommodate additional time expended outside regular working hours required by attendance at meetings and the like. Such flexibility is not intended to provide or be used as additional vacation or other paid leave.
- F. The Chief of Staff shall have no right to make contracts or commitments for or on behalf of the City except as preauthorized by statute, ordinance or express written consent of the City.
- G. The Chief of Staff shall continue to reside within the City of Madison for the duration of this contract. As a condition of accepting this contract, the Chief of Staff agrees to waive any right to challenge this residency requirement, by court action or otherwise.

### **III. COMPENSATION AND BENEFITS**

- A. The Chief of Staff's salary shall be based on an annualized rate of \$125,000 and shall be paid in approximately equal biweekly payments according to regular City payroll practices. This position is exempt from the provisions of §3.54(9) MGO governing compensation for managerial employees. Annual cost of living increases will be equivalent to increases for members of Compensation Group 18. The Chief of Staff shall not be entitled to receive any additional overtime compensation, compensatory time off, or bonuses.
- B. The Chief of Staff shall, in addition to the compensation provided in Paragraph A above, and except as otherwise set forth in the Agreement, receive the same benefits as all other non-represented professional employees in Compensation Group 18. These benefits may be provided and/or modified by the Madison General Ordinances, Resolution of the Common Council, Administrative Procedure Memoranda or other official City action throughout the duration of this agreement.
1. Vacation: The Chief of Staff shall be entitled to twenty-five (25) days of vacation in each year of this Agreement. Credited but unused vacation in excess of ten (10) days may be carried forward to the succeeding year. If the Chief of Staff leaves the position before the end of the contract period, they shall be paid in full for any earned but unused vacation pro-rated to the day the Chief of Staff terminates City employment. If the Chief of Staff leaves the position at the end of the contract period or retires and qualifies for Wisconsin Retirement System (WRS) benefits, the Chief of Staff shall be paid in full for all vacation the Chief of Staff would have earned in that year.
  2. Floating Holiday: The Chief of Staff shall be entitled to 3.5 floating holidays per year. If the Chief of Staff leaves the position before the end of the contract period or leaves the position at the end of the contract period, any unused floating holidays are forfeited. If the Chief of Staff retires and qualifies for WRS benefits, any unused floating holidays will be paid out at retirement.
  3. Sick Leave: If the Chief of Staff leaves the position before the end of the contract period, the Chief of Staff shall be entitled to payment in full (100%) of any earned but unused City sick leave accumulated prior to the start of this current contract period. The Chief of Staff shall be entitled to one-half (50%) of any earned but unused sick leave accumulated to the day the Chief of Staff terminated City employment during the current contract period. If the City terminates the Chief of Staff's contract before the end of the contract period or the Chief of Staff leaves the position at the end of the contract period or the Chief of Staff retires during the contract period and qualifies for WRS benefits, they shall be entitled to payment in full (100%) of any earned but unused sick leave accumulated to the day of termination.
  4. Vacation Conversion: If the Chief of Staff accrues a balance of more than five weeks from the preceding year(s), the Chief of Staff may elect to convert up to ten (10) days of their annual vacation to an amount of cash equivalent, calculated on their regular earnings. The Chief of Staff shall apply for such conversion option in accordance with City procedures, and such amount shall

be paid in a manner determined by the City.

5. The Chief of Staff shall be eligible to participate at City expense in professional seminars, conferences, workshops and related meetings consistent with the role as Chief of Staff and in accordance with applicable Administrative Procedure Memoranda.
6. The Chief of Staff shall be reimbursed for relevant professional association and/or licensure dues.
7. The Chief of Staff shall be eligible for smart phone with data plan reimbursement up to seventy-five (\$75) dollars per month for City usage.
8. The Chief of Staff shall be eligible to be a vehicle monitor. The Chief of Staff shall agree to abide by all policies and procedures found in APM 2-13 City Vehicle Driver Policy.

#### **IV. CONTRACT TERM**

- A. This Agreement shall take effect on April 3, 2022, and shall expire on April 2, 2027, unless terminated sooner as provided herein.
- B. For a period of twelve (12) months from the effective date of this Agreement, the Chief of Staff shall serve a probationary period. During the probationary period, the Chief of Staff serves at the pleasure of the CCEC and may be removed at will by the CCEC. The CCEC will give the Chief of Staff four (4) weeks' notice of removal. Following the probationary period, and for any renewal of this Agreement, the Chief of Staff may only be removed as otherwise provided herein.

#### **V. AGREEMENT RENEWAL / NON-RENEWAL**

- A. The CCEC, in its sole discretion, may offer renewal of this Agreement to the Chief of Staff. The CCEC shall notify the Chief of Staff of the intent to renew the Agreement at least ninety (90) calendar days before the expiration of this Agreement. Failure to so notify the Chief of Staff shall extend the term of this Agreement by the time of the delay in actual notification (but in no event for more than ninety (90) days) without change in the Chief of Staff's anniversary date and shall not act as a full renewal of the Agreement. Renewal of the agreement and of its provisions shall be subject to the approval of the Common Council. In the event the Common Council does not renew this Agreement, this Agreement will remain in effect for ninety (90) days following the non-renewal action by the Common Council or five (5) years from the date of this Agreement, whichever is later. The benefits enumerated in Section III. B. of the Agreement will be paid as if the Chief of Staff left at the end of the contract period.
- B. The CCEC, in their sole discretion, may elect not to offer renewal of this Agreement to the Chief of Staff. In such event, the CCEC shall notify the Chief of Staff of the intent not to renew the contract at least ninety (90) calendar days before the expiration of this Agreement. Failure to so notify shall extend the term of this Agreement by the

time of the delay in actual notification (but in no event for more than ninety (90) days) and shall not act as a renewal of the Agreement. At the expiration of the Agreement, the parties' rights, duties, responsibilities and obligations shall end.

## **VI. EARLY TERMINATION OF AGREEMENT / MATERIAL BREACH**

- A. The Chief of Staff may elect to terminate this Agreement before the expiration of the contract period. If the Chief of Staff provides less than forty-five (45) calendar days' notice in writing to the Common Council President, the Chief of Staff forfeits all rights to the cash equivalent of any of the benefits enumerated in Section III. B. of the Agreement. If the Chief of Staff provides forty-five (45) calendar days' notice, or greater, in writing to the Common Council President, the benefits enumerated in Section III. B. of the Agreement will be paid according to the terms of the Chief of Staff leaving during the contract period. These forfeiture provisions do not apply if the Chief of Staff retires from this position and qualifies for benefits under the Wisconsin Retirement System.
- B. The CCEC may, in their sole discretion, terminate this Agreement within ninety (90) days of the expiration period defined in Section IV. A. of the Agreement. Early termination of the Agreement is accomplished by (a) notifying the Chief of Staff of the date of early termination, and (b) committing to pay, in a lump sum, the salary and benefits in Section III. B. that the Chief of Staff would have earned through the end of the contract period, together with payment of the City's share of any health insurance premiums through the end of the contract period. If this Agreement is terminated early through the provisions of this buy-out clause, the Chief of Staff's employment with the City ends on the early termination date.
- C. The CCEC may discharge the Chief of Staff for the Chief of Staff's breach of a material provision of this Agreement after utilizing the procedure defined in Section VI. D of this Agreement. In the event of a discharge for the Chief of Staff's breach of a material provision of this Agreement, the Chief of Staff shall forfeit all compensation and benefits on the date of discharge.
- D. In the event of an alleged breach of a material provision of this Agreement, by either party, the concerned party shall notify the other party, in writing, within thirty (30) working days of the alleged breach, of the specific provisions of this Agreement that were allegedly breached. After notification of the alleged breach, the parties shall meet within thirty (30) working days to resolve the alleged breach. If the issue is not resolved, the Chief of Staff may pursue contract remedies and the City may discharge the Chief of Staff under the terms of Section VI. C of this Agreement.
- E. The City retains the right, in its sole discretion, to abolish the position of Chief of Staff or to reorganize the position in the best interest of the City. In the event the City abolishes the position of Chief of Staff or reorganizes the to the extent that the position of Chief of Staff is no longer required, this Agreement shall terminate and all rights, duties and obligations of the parties shall mutually end without recourse ninety (90) calendar days after final approval of such abolishment of position or reorganization by the Common Council, except as provided in Madison General Ordinance §3.35 (the

Ethics Code). The benefits enumerated in Section III. B. of the Agreement will be paid as if the Chief of Staff left at the end of the contract period.

## **VII. PERSONNEL ACTIONS**

- A. The Chief of Staff is subject to the CCEC's supervision and is, during the term of this Agreement, subject to the CCEC's authority to impose discipline or to discharge the Chief of Staff for a breach of this agreement if deemed necessary. The Chief of Staff shall come to work and follow all applicable work rules including those designed to protect the interests and safety of the City, employees, and members of the general public. This includes all applicable Madison General Ordinances, Resolutions of the Common Council, Administrative Procedure Memorandums (APM), and City Personnel Rules. The City recognizes, however, that corrective action may be necessary if the Chief of Staff fails to meet these expected standards. The purpose of any disciplinary action that the City takes is to correct behavior and is not intended to be merely a punitive action. Such disciplinary action shall be administered consistent with the accepted standards of just cause.
- B. The Chief of Staff is expected to prepare an annual work plan for their Office. The Chief of Staff shall be evaluated annually by the CCEC to assess work performance. This evaluation shall include the establishment of Office goals and an assessment of challenges and accomplishments. It may also involve soliciting input from other department heads, staff supervised by the Chief of Staff, and/or Common Council Members.

## **VIII. CITY OBLIGATIONS AND RIGHTS**

The City shall provide staff, equipment, supplies and space that it deems reasonable, in its sole discretion, for the conduct of the work of the Chief of Staff. The City retains the sole right to determine the organizational structure and overall functioning of Office of the Common Council.

## **IX. REOPENING THE AGREEMENT**

Either party may request that the Agreement be reopened for renegotiation if or when the Chief of Staff's duties or responsibilities change significantly. A "significant" change in the Chief of Staff's duties is defined as that degree of change in duties and responsibilities that would qualify a civil service position for reclassification pursuant to standard City personnel practices.

Factors which may be considered include the addition or deletion of duties, changes in Department services or the addition or deletion of programs. If there is no agreement, the original Agreement shall control and shall not be reopened. Agreement changes, if any, and any resulting reclassification of the position shall not be deemed the creation of a new position so as to require competition.

## **X. LIABILITY PROTECTION**



The City shall defend and indemnify the Chief of Staff against and for any and all demands, claims, suits, actions and legal proceedings brought against them in their official capacity or personally for acts performed within the scope of their employment to the extent and only to the extent authorized by the Wisconsin Statutes in effect at the time of the act complained of and as may be provided by any City insurance coverage for employees at such time.

**XI. STATEMENT OF ECONOMIC INTERESTS**

Pursuant to Madison General Ordinance §3.35 (the Ethics Code), the Chief of Staff shall file a Statement of Economic Interests with the City Clerk within 14 working days of their appointment. Each person required to file a Statement of Economic Interests shall annually file with the Clerk an updated Statement of Interests no later than April 30 of each year.

**XII. DOCUMENTS AND MATERIALS PROPERTY OF THE CITY**

All of the documents, materials, files, reports, data and the like which the Chief of Staff prepares or receives while this Agreement is in effect are the sole property of the City of Madison. The Chief of Staff will not publish any such materials or use them for any research or publication without attribution to the City other than as work performed pursuant to the terms of this Agreement.

**XIII. APPEARANCE BEFORE ANY CITY ENTITY FOLLOWING SEPARATION FROM EMPLOYMENT**

The Chief of Staff shall be subject to the provisions of Madison General Ordinance §3.35 (the Ethics Code).

**XIV. NO ASSIGNMENT OR SUBCONTRACT**

The Chief of Staff shall not assign or subcontract any interest or obligation under this Agreement.

**XV. AMENDMENT**

This Agreement shall be amended only by the written agreement of the parties, said Addendum to be approved and authorized for execution in the same fashion as this original Agreement.

**XVI. NO WAIVER**

No failure to exercise and no delay in exercising any right, power or remedy on either party's part shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof, or the exercise of any other right, power, or remedy.

**XVII. ENTIRE AGREEMENT**

No agreements, oral or written, express or implied, have been made by either party to the Agreement except as expressly provided herein. All prior agreements and negotiations are superseded by this Agreement. This Agreement and any duly executed amendments constitute the entire Agreement between the parties.

**XVIII. SEVERABILITY**

In the event any provisions of this Agreement are determined by any court of law to be unconstitutional, illegal, or unenforceable, it is the intention of the parties that all other provisions of this Agreement shall remain in full force and effect.

**XIX. GOVERNING INTENT AND LAW**

This Agreement shall be interpreted in the first instance in accordance with the spirit and intent of the Substitute Report of the Human Resources Committee Report approved by the Common Council on August 2, 1988 and shall be controlled, construed and enforced in accordance with the laws of the State of Wisconsin.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the day and year contained herein.

CITY OF MADISON  
A Municipal Corporation

\_\_\_\_\_  
Witness

\_\_\_\_\_  
\_\_\_\_\_, C.C. President

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Maribeth L. Witzel-Behl, City Clerk

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Karen M. Kapusta-Pofahl, Chief of Staff

APPROVED:

APPROVED AS TO FORM:

\_\_\_\_\_  
David P. Schmiedicke, Finance Director

\_\_\_\_\_  
Michael R. Haas, City Attorney