

**EMPLOYMENT AGREEMENT
BETWEEN
THE CITY OF MADISON
AND
WILLIAM T. VANDENBROOK**

This Agreement made this 19th day of July, 2011, by and between the City of Madison, a municipal corporation of Dane County, Wisconsin (hereafter, the "City") and William T. Vandebrook, a natural person (hereafter, the "Superintendent"),

WITNESSETH;

WHEREAS, the City desires to hire the Superintendent as an employee of the City of Madison to perform the services described herein on its sole behalf as the Fleet Service Superintendent, and

WHEREAS, the Superintendent represents that he possesses the necessary knowledge, skill, and experience to perform such services and is willing to perform such services as Fleet Service Superintendent, and

WHEREAS, the Superintendent has been duly selected and has been confirmed for appointment to the position of Fleet Service Superintendent by the Common Council of the City of Madison on July 19, 2011, and

WHEREAS, the Common Council of the City has authorized the execution of the Agreement by Resolution number.

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 do agree as follows:

I. FLEET SERVICE SUPERINTENDENT HIRED

William T. Vandebrook is hereby hired as a non-civil service employee of the City, holding the position of Fleet Service Superintendent pursuant to the terms, conditions and provisions of this Agreement. The Superintendent shall have and exercise full authority and discretion as a Division head within the City's organizational structure and act as Appointing Authority for employees of the Division in accordance with all appropriate City Ordinances and Mayor's Administrative Procedure Memoranda.

II. FUNCTIONS, DUTIES AND RESPONSIBILITIES OF THE SUPERINTENDENT

A. General Responsibilities:

This is responsible managerial, administrative, and technical work in planning for and directing the programs, operations and staff of Fleet Service. Fleet Service is responsible for the purchase, maintenance,

inspection, repair, replacement and disposal of the centralized municipal fleet of vehicles, trucks and specialized equipment. Under the general direction of the Mayor, and in conjunction with the Public Works Team, the employee functions with a high degree of independence in the development and implementation of assigned programs.

B. Examples of Duties and Responsibilities:

Develop and manage the programs and operations of Fleet Service, incorporating the administration, maintenance, inspection, repair, replacement and disposal of the centralized municipal automotive fleet (to include a wide variety of on and off-road vehicles, and special purpose equipment). Develop and maintain a cost-effective preventive maintenance plan, and over-see its implementation through subordinate supervisors.

Evaluate automotive equipment needs in consultation with user departments. Prepare detailed truck, automotive, and specialized equipment specifications. Advise city officials on a variety of automotive equipment considerations. Plan for and determine the cost-effective service and replacement of fleet equipment.

Develop and maintain Fleet Service policies and procedures. Prioritize and expedite crucial cost-effective repairs. Maintain close communication and coordination with user agencies to maximize service delivery.

Develop and maintain effective service and vehicle/equipment operational cost analysis information and recordkeeping systems. Prepare and present comprehensive budgetary information. Oversee cost-effective inventory control system(s) relative to automotive parts, supplies and fuel.

Manage Fleet Service supervisory, skilled, semi-skilled and administrative staff. Serve as Appointing Authority for Fleet Service. Hire, train, motivate, supervise, evaluate and discipline staff. Respond to employee grievances. Maintain applicable occupational health and safety standards.

Oversee the maintenance and repair of fleet vehicles at satellite user locations.

Prepare and present a variety of operational and budgetary reports and recommendations.

Participate in various City staff teams, relative to both motor equipment planning and utilization, and more generalized City management matters. Collaborate with the Public Works Team on issues of mutual interest. Participate in related program planning and problem resolution. Participate in labor contract negotiations.

Provide media and legislative liaison for Fleet Service. Represent Fleet Service in a variety of contexts.

Perform related work as required.

- C. The Superintendent agrees to perform such functions and duties at a professional level of competence and efficiency. The Superintendent 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 as provided in Madison General Ordinance 3.35.
- D. The Superintendent shall devote full time to the duties and responsibilities provided herein and shall engage in no pursuit which interferes with them. The Mayor, however, may approve the Superintendent's 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 Mayor may authorize other limited outside professional activities on City time provided that they are determined to be of benefit to the City and the Superintendent is not compensated for such activities. Nothing herein limits the Superintendent from performing outside services for compensation, provided such outside services have been approved by the Mayor, are not done on City time, and otherwise comply with City ordinances and rules.
- E. The standard City work week is 38.75 hours. However, the Superintendent 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 Superintendent 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 Superintendent shall continue to reside within the City of Madison for the duration of this contract.

III. COMPENSATION AND BENEFITS

- A. The Superintendent's initial year's salary shall be based on an annualized rate of \$106,826.46 and shall be paid in approximately equal biweekly payments according to regular City payroll practices. Annual salary adjustments including 2011 and thereafter may be made at the Mayor's

discretion, subject to approval of the Common Council, as provided in the City's established managerial pay plan. The Superintendent shall not be entitled to receive any additional overtime compensation, compensatory time off, or bonuses.

B. The Superintendent shall, in addition to the compensation provided in Paragraph A above and except as otherwise set forth in this Agreement, be entitled to the following benefits:

1. The Superintendent shall receive the same benefits as all other non-represented professional employees in Compensation Group 18 as 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 subject to paragraph II. G. hereof.
2. In addition to the monetary compensation and benefits provided in paragraph 1, the Superintendent shall be entitled to twenty-seven (27) days of vacation in each year of this Agreement. Up to ten (10) days credited but unused vacation may be carried forward to the succeeding year. In rare instances, unused vacation in excess of ten (10) days may be carried forward to the succeeding year with the approval of the Mayor. Except as otherwise provided, the Superintendent shall be paid in full for credited but unused vacation existing at the expiration of this Agreement or upon the Superintendent's retirement, when qualified for receipt of Wisconsin Retirement Fund benefits.
3. The Superintendent shall be eligible to participate at City expense in professional seminars, conferences, workshops, and related meetings consistent with the role as Superintendent and according to applicable Administrative Procedure Memoranda.

IV. TERM: RENEWAL OPPORTUNITY; NON-RENEWAL; BUYOUT

A. This Agreement shall take effect on September 5, 2011, and shall expire on September, 5, 2016, unless sooner terminated as provided herein.

B. The Mayor, in his/her sole discretion, may offer renewal of this Agreement to the Superintendent. The Mayor shall notify the Superintendent of the intent to renew the Agreement at least ninety (90) calendar days before the expiration of this Agreement. Failure to so notify the Superintendent 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 Superintendent'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.

- C. The Mayor, in his/her sole discretion, may elect not to offer renewal of this Agreement to the Superintendent. In such event, the Mayor shall notify the Superintendent 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. However, after the first renewal of this Agreement, the Superintendent will, at the sole discretion of the Mayor, be eligible to take a voluntary demotion into any vacant or newly created position for which the Superintendent is qualified.
- D. In the event of non-renewal of this Agreement, under either Paragraphs B or C above, the Mayor may, in his/her sole discretion, terminate this Agreement at any earlier date within ninety (90) days of the expiration of this Agreement, as determined by the Mayor. The early termination is to be accomplished by (a) notifying the Superintendent of the date of early termination, and (b) committing to buy out the balance of this Agreement by paying the Superintendent the balance due under this Agreement in a lump sum, including salary and leave benefits (vacation, floating holiday, paid leave, sick leave) earned or to be earned through the original term of this Agreement, together with payment of the City's share of any health insurance premiums or the provision for such payment through the original term of this Agreement. The buy-out may be for the full period left on this Agreement, or any portion of the final ninety (90) days thereof. If this Agreement is terminated early through the provisions of this buy-out clause, the Superintendent's employment with the City ends as of the date of early termination.

V. PERSONNEL ACTIONS

The Superintendent is subject to the Mayor's supervision and is, during the term of this Agreement, subject to the Mayor's authority to impose discipline on or to discharge the Superintendent as is provided in Sec. 3.53(16) of the Madison General Ordinances, or as may be renumbered or amended hereafter. The Superintendent shall be entitled to the procedural appeal and provisions contained in such subsection or as may be provided other non-represented employees at the time of imposition of suspension or discharge.

VI. CITY OBLIGATIONS AND RIGHTS

The City shall provide staff, equipment, supplies and space which it deems reasonable, in its sole discretion, for the conduct of the work of the

Superintendent. The City retains the sole right to determine the organizational structure and overall functioning of the Fleet Service Division.

VII. REOPENING THE AGREEMENT

Either party may request that the Agreement be reopened for renegotiation if or when the Superintendent's duties or responsibilities change significantly. A "significant" change in the Superintendent's duties is defined as that degree of change in duties and responsibilities which 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 Divisional 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.

VIII. LIABILITY PROTECTION

The City shall defend and indemnify the Superintendent against and for any and all demands, claims, suits, actions and legal proceedings brought against him in his official capacity or personally for acts performed within the scope of his 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.

IX. DISCLOSURE OF ECONOMIC INTERESTS

Pursuant to Madison General Ordinance 3.35, the Superintendent shall file a Statement of Economic Interests with the City Clerk within 14 days of his appointment. Each person required to file a Statement of Economic Interests shall annually file with the Clerk an updated Statement no later than April 30 of each year.

X. DOCUMENTS AND MATERIALS PROPERTY OF THE CITY

All of the documents, materials, files, reports, data and the like which the Superintendent prepares or receives while this Agreement is in effect are the sole property of the City of Madison. The Superintendent 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. The Superintendent shall complete and file an oath of office pursuant to sec. 62.09(4), Wis. Stats.

XI. APPEARANCE BEFORE ANY CITY ENTITY FOLLOWING SEPARATION FROM EMPLOYMENT

The Superintendent shall be subject to the provisions of Madison General Ordinance 3.35.

XII. TERMINATION OF AGREEMENT

- A. The Superintendent may unilaterally terminate this Agreement during its term. If the Superintendent unilaterally terminates this Agreement on less than ninety (90) calendar days notice in writing to the Mayor, the Superintendent shall forfeit all rights to recover the cash equivalent of accumulated sick leave, unused vacation leave, and all other future benefits. These forfeiture provisions shall not apply if the Superintendent retires from this position (upon qualifying for receipt of benefits pursuant to the Wisconsin Retirement Fund requirements).
- B. The Superintendent's discharge (as provided for in Madison General Ordinance 3.53(16) during the term of this Agreement shall be deemed a breach of material provision of the Agreement. In the event of a discharge or other breach of a material provision of the Agreement by the Superintendent, the Superintendent shall forfeit all compensation and benefits from the date of notification of the breach by the City. This action shall not impact the receipt of benefits earned during the total period of employment. 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, which shall be followed by a meeting of the parties to resolve the alleged breach. In the event the issue is not resolved, the Superintendent may pursue contract remedies. In the event of a breach of a material provision of this Agreement by the Superintendent, the City shall notify the Superintendent in writing within thirty (30) working days, which shall be followed by a meeting of the parties to resolve the alleged breach. In the event the issue is not resolved, the City may pursue contract remedies.
- C. The City retains the right, in its sole discretion, to abolish the position of Superintendent or to reorganize as it deems in the best interest of the City. In the event the City abolishes the position of Superintendent or reorganizes the Division to the extent that the position of Superintendent 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.

XIII. NO ASSIGNMENT OR SUBCONTRACT

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

XIV. AMENDMENT

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

XV. 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.

XVI. ENTIRE AGREEMENT

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

XVII. 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.

XVIII. 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 first written above.

CITY OF MADISON
A Municipal Corporation

Witness

Paul R. Soglin, Mayor

Witness

Maribeth L. Witzel-Behl, City Clerk

Witness

William T. Vandebrook, Fleet Services
Superintendent.

APPROVED:

APPROVED AS TO FORM:

Finance Director

Michael P. May, City Attorney