

**EMPLOYMENT AGREEMENT BETWEEN THE CITY OF MADISON
AND
KRISHNA KUMAR**

This Agreement made this 18th day of May, 2021 by and between the City of Madison, a municipal corporation of Dane County, Wisconsin (hereafter, the "City") and Krishna Kumar, a natural person (hereafter, "Water Utility General Manager" or "General Manager").

WITNESSETH;

WHEREAS, the City desires to hire the General Manager as an employee of the City of Madison to perform the services described herein on its sole behalf as the Water Utility General Manager, and

WHEREAS, the General Manager represents that they possess the necessary knowledge, skill, abilities and experience to perform such services and is willing to perform such services as the Water Utility General Manager, and

WHEREAS, the General Manager has been duly selected and has been confirmed for appointment to the position of Water Utility General Manager by the Common Council of the City of Madison on May 18, 2021, and

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

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. WATER UTILITY GENERAL MANAGER HIRED

Krishna Kumar is hereby hired as a non-civil service employee of the City, holding the position of Water Utility General Manager pursuant to the terms, conditions and provisions of this Agreement. The General Manager 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 Water Utility in accordance with all appropriate City Ordinances and Mayor's Administrative Procedure Memoranda.

II. FUNCTIONS, DUTIES AND RESPONSIBILITIES OF THE GENERAL MANAGER

A. General Responsibilities:

The General Manager leads the work of the Madison Water Utility, and is ultimately responsible for the financial, technical, maintenance and repair, operational,

developmental, public relations, and administrative functions of the Utility. This position reports to the Water Utility Board and the Mayor, and works as a member of the Public Works team. The work involves the exercise of independent judgment and discretion in carrying out responsibilities under broad policies established by the Water Utility Board, the City Common Council, the State Public Service Commission and the Wisconsin Department of Natural Resources.

B. Examples of Duties and Responsibilities:

- Ensure there is an adequate and safe water supply for domestic, industrial, and fire protection purposes. Plan for prolonged drought, energy shortages, urban development, environmental influences, or other occurrences which may disrupt/affect water supply or water needs.
- Hire, direct, support, and evaluate a diverse staff of employees, both directly and through supervisors. Respond to employee grievances directly or through supervisors.
- Ensure effective communication within the utility.
- Monitor and oversee ground water quality, water treatment operations, and quality of the distribution system.
- Oversee the activities and operations of the Madison Water Utility and its staff. Meet with Utility Management Team and staff to discuss operational and administrative issues. Monitor activities; review suggestions, ideas, and potential improvements in operations; and develop, initiate, and implement policy and operational improvements.
- Develop and implement rules, regulations, and administrative policies for all units.
- Oversee consistent use of the City's employee check-in tool.
- Oversee budget preparation and monitoring. Prepare and present budget recommendations to the Water Utility Board, the Mayor and the Common Council. Oversee the preparation of rate change requests and other related reports and requests to the Public Service Commission and the Wisconsin Department of Natural Resources.
- Lead efforts to make the Madison Water Utility and the City of Madison more sustainable and equitable. Support all staff to be familiar with and participate in the City's racial equity and social justice initiative.
- Represent the Water Utility to the public, including presenting at a variety of City and public meetings, communicating with residents and the media, and ensuring that the utility has a robust communications plan.
- Coordinate water works services, maintenance functions and other activities with other governmental units, utilities and private sector users. Initiate and defend rate

reform, alternative financing methods, customer education, and customer service programs and activities.

- Member of the Public Works Management Team.
 - Familiar with national best practices of water utilities and how utilities are implementing a “one water” approach. Maintain awareness of advances in the technological and administrative activities of other utilities, especially water utilities. Encourage staff to maintain professional and technical expertise and skills.
 - Perform related work as required.
- C. The General Manager agrees to perform such functions and duties at a professional level of competence and efficiency. The General Manager 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 General Manager shall devote full time to the duties and responsibilities provided herein and shall engage in no pursuit that interferes with them. The Mayor, however, may approve the General Manager 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 General Manager is not compensated for such activities. Nothing herein limits the General Manager 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 workweek is 38.75 hours. However, the General Manager 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 General Manager 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. Following a 6-month grace period, the General Manager shall establish residency within the City of Madison and continue to reside within the City of Madison for the

duration of this contract. As a condition of accepting this contract, the General Manager agrees to waive any right to challenge this residency requirement, by court action or otherwise.

III. COMPENSATION AND BENEFITS

- A. The General Manager's salary shall be based on an annualized rate of \$150,000 and shall be paid in approximately equal biweekly payments according to regular City payroll practices. Annual salary adjustments during the term of this agreement 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 General Manager shall not be entitled to receive any additional overtime compensation, compensatory time off, or bonuses.
- B. The General Manager 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 General Manager shall be entitled to twenty-seven (27) 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 with the approval of the Mayor. If the General Manager 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 General Manager terminates City employment. If the General Manager leaves the position at the end of the contract period or retires and qualifies for Wisconsin Retirement System (WRS) benefits, the General Manager shall be paid in full for all vacation the General Manager would have earned in that year.
 2. Floating Holiday: The General Manager shall be entitled to 3.5 floating holidays per year. If the General Manager 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 General Manager retires and qualifies for WRS benefits, any unused floating holidays will be paid out at retirement.
 3. Sick Leave: If the General Manager leaves the position before the end of the contract period, the General Manager shall be entitled to payment for one-half (50%) of any earned but unused sick leave to the day the General Manager terminated City employment. If the City terminates the General Manager's contract before the end of the

contract period or the General Manager leaves the position at the end of the contract period or the General Manager retires and qualifies for WRS benefits, they shall be entitled to payment in full (100%) of any sick leave the General Manager would have earned through the end of that year.

4. The General Manager shall be eligible to participate at City expense in professional seminars, conferences, workshops and related meetings consistent with the role as General Manager and in accordance with applicable Administrative Procedure Memoranda.
5. The General Manager shall be reimbursed for relevant professional association and/or licensure dues.
6. The General Manager shall be eligible for smart phone with data plan reimbursement up to seventy-five (\$75) dollars per month for City usage.
7. The General Manager shall be provided with a City owned vehicle for business use and to commute home at the end of the workday. The General Manager agrees to abide by all policies and procedures found in APM 2-13 City Vehicle Driver Policy.
8. The General Manager shall be reimbursed for relocation expenses for the General Manager's relocation to the City of Madison in accordance with APM 2-1. The General Manager is responsible for obtaining two (2) bids for the move and submitting them to the City for authorization. Relocation expenses include: commercial carrier expenses, personal transportation expenses, temporary housing, and temporary storage of household items. The maximum reimbursement is \$6,000.

If the General Manager resigns during the first twelve (12) months, the City shall be reimbursed for the relocation expenses; up to twenty-four (24) months, the General Manager shall repay 50% of said total relocation expenses.

IV. CONTRACT TERM

- A. This Agreement shall take effect on June 1, 2021, and shall expire on May 31, 2026, unless terminated sooner as provided herein.
- B. For a period of twelve (12) months from the effective date of this Agreement, the General Manager shall serve a probationary period. During the probationary period, the General Manager serves at the pleasure of the Mayor and may be removed at will by the Mayor. The Mayor will give the General Manager four (4) weeks' notice of removal. Following the

probationary period, and for any renewal of this Agreement, the General Manager may only be removed as otherwise provided herein.

V. AGREEMENT RENEWAL / NON-RENEWAL

- A. The Mayor, in their sole discretion, may offer renewal of this Agreement to the General Manager. The Mayor shall notify the General Manager of the intent to renew the Agreement at least ninety (90) calendar days before the expiration of this Agreement. Failure to so notify the General Manager 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 General Manager'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 General Manager left at the end of the contract period.

- B. The Mayor, in their sole discretion, may elect not to offer renewal of this Agreement to the General Manager. In such event, the Mayor shall notify the General Manager 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, the General Manager 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 General Manager is qualified. The benefits enumerated in Section III. B. of the Agreement will be paid as if the General Manager left at the end of the contract period.

VI. EARLY TERMINATION OF AGREEMENT / MATERIAL BREACH

- A. The General Manager may elect to terminate this Agreement before the expiration of the contract period. If the General Manager provides less than forty-five (45) calendar days' notice in writing to the Mayor, the General Manager forfeits all rights to the cash equivalent of any of the benefits enumerated in Section III. B. of the Agreement. If the General Manager provides forty-five (45) calendar days' notice, or greater, in writing to the Mayor, the benefits enumerated in Section III. B. of the Agreement will be paid according to the terms of the General Manager leaving during the contract period. These forfeiture provisions do not apply if the General

Manager retires from this position and qualifies for benefits under the Wisconsin Retirement System.

- B. The Mayor 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 General Manager 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 General Manager 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 General Manager's employment with the City ends on the early termination date.
- C. The Mayor may discharge the General Manager for the General Manager'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 General Manager's breach of a material provision of this Agreement, the General Manager 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 General Manager may pursue contract remedies and the City may discharge the General Manager 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 Water Utility General Manager or to reorganize the position in the best interest of the City. In the event the City abolishes the position of Water Utility General Manager or reorganizes the Water Utility to the extent that the position of General Manager 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 General Manager left at the end of the contract period.

VII. PERSONNEL ACTIONS

- A. The General Manager is subject to the Mayor's supervision and is, during the term of this Agreement, subject to the Mayor's authority to impose discipline or to discharge the General Manager for a breach of this agreement if deemed necessary. The General Manager 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), Mayor's Directives, Collective Bargaining Agreements, and City Personnel Rules. The City recognizes, however, that corrective action may be necessary if the General Manager 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 General Manager is expected to prepare an annual work plan for their department. The General Manager shall be evaluated annually by the Mayor to assess work performance. This evaluation shall include the establishment of departmental goals and an assessment of challenges and accomplishments. It may also involve soliciting input from other department heads, staff supervised by the General Manager, 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 General Manager. The City retains the sole right to determine the organizational structure and overall functioning of the Water Utility.

IX. REOPENING THE AGREEMENT

Either party may request that the Agreement be reopened for renegotiation if or when the General Manager's duties or responsibilities change significantly. A "significant" change in the General Manager'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 Water Utility 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 General Manager 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 General Manager 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 General Manager prepares or receives while this Agreement is in effect are the sole property of the City of Madison. The General Manager 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 General Manager shall be subject to the provisions of Madison General Ordinance §3.35 (the Ethics Code).

XIV. NO ASSIGNMENT OR SUBCONTRACT

The General Manager 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

Satya Rhodes-Conway, Mayor

Witness

Maribeth L. Witzel-Behl, City Clerk

Witness

Krishna Kumar, Water Utility General
Manager

APPROVED:

APPROVED AS TO FORM:

David P. Schmiedicke
Finance General Manager

Michael R. Haas, City Attorney