

**EMPLOYMENT AGREEMENT
BETWEEN
THE CITY OF MADISON
AND
DAVID C. DRYER**

This Agreement made this 15th day of June, 2010, by and between the City of Madison, a municipal corporation of Dane County, Wisconsin (hereafter, the "City") and David C. Dryer, a natural person (hereafter, the "Engineer"),

WITNESSETH;

WHEREAS, the City desires to retain the Engineer as an employee of the City of Madison to perform the services described herein on its sole behalf as the City Traffic Engineer and Parking Manager, and

WHEREAS, David C. Dryer represents that he possesses the necessary knowledge, skill, and experience to perform such services and is willing to perform such services as the City Traffic Engineer and Parking Manager, and

WHEREAS, David C. Dryer has been duly confirmed for reappointment to the position of City Traffic Engineer by the Common Council of the City of Madison on June 15, 2010, and

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

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. ENGINEER HIRED

The Engineer is hereby hired as a non-civil service employee of the City, holding the position of City Traffic Engineer and Parking Manager pursuant to the terms, conditions and provisions of this Agreement. The Engineer 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 Traffic Engineering Division in accordance with all appropriate City Ordinances and Mayor's Administrative Procedure Memoranda.

II. FUNCTIONS, DUTIES AND RESPONSIBILITIES OF THE CITY TRAFFIC ENGINEER AND PARKING MANAGER

A. General Responsibilities:

This position is responsible for managerial, professional and administrative work, in directing the programs, functions and staff of the Traffic Engineering Division and the Parking Utility. The Traffic Engineering Division is responsible for traffic engineering projects and designs, traffic operations, and communications activities. The Parking Utility is responsible for city-wide on-street and off-street parking and loading operations and programs, including the operation and

maintenance of Parking Utility-owned parking facilities. Under the general supervision of the Mayor, this work is characterized by considerable judgment and discretion in meeting program goals and objectives.

B. Examples of Duties and Responsibilities:

Develop and/or direct policy and planning activities for the Traffic Engineering Division and the Parking Utility. Manage a diverse, professional and technical, field and office staff, both directly and through subordinate supervisors. Provide liaison and represent agency interests to the City Council and associated policy-making bodies, on all Traffic Engineering Division and Parking Utility matters.

Develop, recommend, and administer related capital and operating budgets. Direct the overall financial development of the Parking Utility, and associated policies and revenues.

Direct the integration, coordination and implementation of all Traffic Engineering Division and Parking Utility programs, services, and staff.

Plan, organize, direct and control the construction and maintenance of traffic control regulation/warning devices, traffic engineering facilities, telecommunications systems and street lighting systems; and of all parking facilities, equipment, and related technology.

Administer the planning and geometric design or redesign of streets, highways, intersections and parking facilities. Manage the design, maintenance and construction of the telecommunications activities, equipment and facilities.

Direct programs to finance, install, maintain and operate traffic control systems.

Direct the development of neighborhood-level traffic management plans and strategies, analysis and traffic impact studies and development proposals; the development of transportation management plans, zoning-subdivision-conditional use transportation impact analysis review, transportation planning efforts including functional plans (bicycle master plan, etc.) and specialized plans (e.g., circulation and parking plans); and the development of project-level plans, preliminary and final designs, and environmental assessments for transportation improvement projects (e.g., streets, intersections, bicycle-pedestrian facilities, parking and transit facilities, etc.).

Promote bicycle-pedestrian-auto traffic education and Traffic Engineering Division safety programs.

Plan organizational changes and develop, evaluate, implement and monitor Traffic Engineering Division and Parking Utility policies and procedures.

Administer transportation safety studies, highway safety grants and related construction projects.

Manage the coordination of Traffic Engineering Division and Parking Utility activities with other City, County and State agencies and departments.

Coordinate emergency traffic regulations with Police Chief, Director of Public Works and others as appropriate.

Prepare periodic and annual management reports.

Perform related work as required.

- C. The Engineer agrees to perform such functions and duties at a professional level of competence and efficiency with respectful treatment of all customers. He 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 Engineer 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 Engineer'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.
- E. The standard City work week is 38.75 hours. However, the Engineer 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 Engineer shall have no right to make contracts or commitments for or on behalf of the City except as pre-authorized by statute, ordinance or express written consent of the City.
- G. The Engineer shall continue to reside within the City of Madison for the duration of this contract.

III. COMPENSATION AND BENEFITS

- A. The Engineer's salary shall be based on an annualized rate of \$126,603.62 which shall be paid in approximately equal biweekly payments according to regular City payroll practices beginning on the effective date of this agreement. Annual salary adjustments thereafter 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 Engineer shall not be entitled to receive any additional overtime compensation, compensatory time off, or bonuses.

- B. The Engineer shall, in addition to the compensation provided in Paragraph A above, and except as otherwise set forth in the Agreement, be entitled to the following benefits:
1. The Engineer shall receive the same benefits as all other non-represented employees as may be provided by the Madison General Ordinances, Resolution of the Common Council, Administrative Procedure Memoranda or other official City action subject to paragraph II. G. hereof.
 2. The Engineer shall be entitled to twenty seven (27) days of vacation in each year of this agreement. Credited but unused vacation may be carried forward to the succeeding year. Except as otherwise provided, the Engineer shall be paid in full for credited, but unused vacation existing at the expiration of this Agreement or upon the Engineer's retirement, when qualified for receipt of Wisconsin Retirement Fund benefits.
 3. The Engineer shall be eligible for participation in and dues paid for the Institute of Transportation Engineers (ITE), the National Parking Association (NPA), and the International Parking Institute (IPI).
 4. The Engineer shall be eligible to participate at City expense in professional seminars, conferences, workshops, and related meetings consistent with the role as Engineer and according to applicable Administrative Procedure Memoranda.
 5. The Engineer shall be eligible to be a CARS monitor in the City CARS program.

IV. TERM: RENEWAL OPPORTUNITY; NON-RENEWAL

- A. This Agreement shall take effect on May 17, 2010, and shall expire May 16, 2015, unless sooner terminated as provided herein.
- B. The Mayor, in his/her sole discretion, may offer renewal of this Agreement to the Engineer. The Mayor shall notify the Engineer of the intent to renew the Agreement at least ninety (90) calendar days before the expiration of this Agreement. Failure to so notify the Engineer 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 Engineer'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 Engineer. In such event, the Mayor shall notify the Engineer 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 Engineer 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 Engineer 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 Engineer of the date of early termination, and (b) committing to buyout the balance of this Agreement by paying the Engineer 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 Engineer's employment with the City ends as of the date of early termination.

V. PERSONNEL ACTIONS

The Engineer 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 Engineer as is provided in Sec. 3.53 (16) of the Madison General Ordinances, or as may be renumbered or amended hereafter. The Engineer 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 Engineer. The City retains the sole right to determine the organizational structure and overall functioning of the Traffic Engineering Division.

VII. REOPENING THE AGREEMENT

Either party may request that the Agreement be reopened for renegotiation if or when the Engineer's duties or responsibilities change significantly. A "significant" change in the Engineer'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 Departmental/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 Engineer 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 Engineer shall file a Statement of Economic Interests with the City Clerk within fourteen (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. APPEARANCE BEFORE ANY CITY ENTITY FOLLOWING SEPARATION FROM EMPLOYMENT

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

XI. DOCUMENTS AND MATERIALS PROPERTY OF THE CITY

All of the documents, materials, files, reports, data and the like which the Engineer prepares or receives while this Agreement is in effect are the sole property of the City of Madison. The Engineer 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.

XII. TERMINATION OF AGREEMENT

A. The Engineer may unilaterally terminate this Agreement during its term.

B. The Engineer's discharge (as provided for in Madison General Ordinance 3.35(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 Engineer, the Engineer 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 a breach of a material provision of this Agreement by the City, the Engineer shall notify the Mayor 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 Engineer may pursue contract remedies.

- C. The City retains the right, in its sole discretion, to abolish the position of City Traffic Engineer and Parking Manager or to reorganize as it deems in the best interest of the City. In the event the City abolishes the position of City Traffic Engineer and Parking Manager or reorganizes the Department/Division to the extent that the position of City Traffic Engineer and Parking Manager is no longer required, this Agreement shall terminate and all rights, duties and obligations of the parties shall mutually end without recourse one hundred eighty (180) 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.

- D. In addition to any other procedures for termination of this Agreement, the Agreement may be terminated by a notice given by the Mayor to the Engineer as set forth in this paragraph. The notice shall be in writing and shall be delivered to the Engineer no sooner than May 17, 2012, and no later than August 18, 2012, delivery to Traffic Engineering Division office constituting delivery to the Engineer. Failure to deliver the notice of termination by August 18, 2012, constitutes a waiver of the right to termination set out in this paragraph. The notice will be delivered if the Mayor concludes that the Engineer has failed to make substantial progress toward meeting each of the expectations set out in Appendix A of this agreement. Appendix A is intended to provide written expectations to be met by the Engineer within the allotted timeframe. The determination as to whether the Engineer has made substantial progress toward meeting expectations described in Appendix A is at the sole discretion of the Mayor and shall not be subject to an appeal of any kind. The notice of termination shall specify a date, not less than 90 days after the date of the notice, on which the agreement will terminate. Termination under this paragraph shall have the same effect as termination under section IV, subsection C of this Agreement.

XIII. NO ASSIGNMENT OR SUBCONTRACT

The Engineer 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 contained herein.

CITY OF MADISON
A Municipal Corporation

Witness

David Cieslewicz, Mayor

Witness

Maribeth Witzelbehl, City Clerk

Witness

David Dryer, City Traffic Engineer and
Parking Manager

APPROVED:

APPROVED AS TO FORM:

Dean Brassler, City Comptroller

Michael May, City Attorney

APPENDIX A

This Appendix is intended to provide written expectations that must be met by the Engineer during the first two (2) years of this employment contract. The Engineer shall provide a written report to the Mayor at each quarterly meeting with the Mayor regarding progress toward these expectations as well as other critical Traffic Engineering and Parking information and initiatives. Acknowledging that circumstances may change, these expectations may be altered by the mutual agreement of the Mayor and the Engineer.

1. The Engineer will regularly attend and participate as necessary in meetings of the Common Council, Board of Estimates, Community, Neighborhood and other appropriate meetings where issues involving Traffic Engineering and Parking or related issues are discussed.
2. The Engineer will effectively manage the Pedestrian-Bicycle program and staff. This will include a quarterly evaluation of staff progress toward creating a responsive and fiscally responsible program. The program and staff must show positive progress toward engaging City Staff and the general public in improvement initiatives, sharing of information and ideas, and fiscal responsibility or the Engineer must show that he has taken proactive steps to deal with performance deficiencies.
3. The Engineer will foster and promote an innovative Traffic Engineering Division, incorporating new initiatives and developing proposals based on the latest information, research, and technology available to professionals working in the field of Traffic Engineering and Parking. This will include regular reports to the Mayor describing the latest advancements in research and technology related to Traffic Engineering and Parking as well as recommendations for bringing these advancements to the City of Madison.

