

**AMENDED EMPLOYMENT AGREEMENT
BETWEEN
THE CITY OF MADISON
AND
KWASI K. OBENG**

This Agreement made this 21st day of November, 2017, by and between the City of Madison, a municipal corporation of Dane County, Wisconsin (hereafter, the "City") and Kwasi K. Obeng, a natural person (hereafter, the " Common Council Chief of Staff" or "CoS").

WITNESSETH;

WHEREAS, the City desires to hire the CoS 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, the CoS represents that he possesses the necessary knowledge, skill, and experience to perform such services and is willing to perform such services as the Common Council Chief of Staff, and

WHEREAS, the CoS 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, and

WHEREAS, the Common Council of the City has authorized the execution of the Agreement by Ordinance Number ORD-17-0058.

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. COMMON COUNCIL CHIEF OF STAFF HIRED

Pursuant to §3.53(1)(h) of the Madison General Ordinances, the CoS is exempt from the City civil service system. Instead, the CoS will serve for a term of five (5) years pursuant to the terms, conditions and provisions of this Agreement. The Common Council Chief of Staff 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 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 the analysis of City policy and will provide assistance to 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 and administrative policies and procedures.

Work with City Department/Division Heads and Managers to determine the impact of legislative decisions on City operations and report the impacts to Council.

Provide independent analysis of budget items, suggest alternatives, provide analysis to the CCEC, and develop summaries and updates of the status of budget amendments.

Review City programs and provide analysis at the direction of the CCEC.

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 work flow 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 CCEC; 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 City Staff and the CCEC to ensure the deployment of effective tools and practices to allow Alders to fulfill duties and responsibilities in an efficient and effective manner.

Work with Alders and Council Office staff to identify work being done by multiple alders which could be done more efficiently and as 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.

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 supervision of staff in a manner consistent with recommendations and best practices outlined by the City's employee engagement and equity initiative.

Attend Common Council, CCEC, 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 inquires and public information requests.

Respond to requests from the media and develop press releases at the direction of the Council President and/or the CCEC.

Review and prepare a variety of correspondence and reports for Alders at the direction of the Council President and/or the CCEC.

Ensure appropriate communication and build working relationships with the Mayor's Office and City Staff.

Make presentations to the Common Council and various committees.

Perform or manage special projects.

Perform other duties as assigned.

- C. The CoS agrees to perform such functions and duties at a professional level of competence and efficiency. 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 that nothing herein shall be interpreted as modifying the obligations or terms of Madison General Ordinance 3.35, the City's Ethics Code.
- D. The CoS 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 CoS's reasonable time away from the regular duties and responsibilities provided such time is approved in advance and taken as vacation leave, absence without pay, or other appropriate paid leave. 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 CoS is not compensated for such activities. Nothing herein limits the CoS from performing outside services for compensation, provided such outside service 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 CoS 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 CoS 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 CoS shall continue to reside within the City of Madison for the duration of this contract. As a condition of accepting this contract, the CoS agrees to waive any right to challenge this residency requirement, by court action or otherwise.

III. COMPENSATION AND BENEFITS

- A. The CoS's initial year's salary shall be based on an annualized rate of **\$107,000** ~~\$105,000~~ which shall be paid in approximately equal biweekly payments according to regular City payroll practices. The effective date of said salary shall be January 8, 2018. 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 CoS shall not be entitled to receive any additional overtime compensation, compensatory time off, or bonuses.
- B. The CoS 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 CoS 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. herein.
 - 2. In addition to the monetary compensation and benefits provided in paragraph 1, the CoS 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 with the approval of the Common Council President. Except as otherwise provided, the CoS shall be paid in full for credited but unused vacation existing at the expiration of this Agreement or upon the CoS's retirement, when qualified for receipt of Wisconsin Retirement Fund benefits. In the event the CoS leaves employment with the City, but does not retire, the CoS shall be entitled to payment for one-half (50%) of any unused sick leave to which the CoS would otherwise be entitled.

3. The CoS shall be eligible to participate at City expense in professional seminars, conferences, workshops and related meetings consistent with the role as CoS and in accordance with applicable Administrative Procedure Memoranda.
4. The CoS shall be reimbursed for relevant professional association dues.
5. The CoS shall be eligible to participate in the City CARS program.
6. The CoS shall be reimbursed for relocation expenses for the CoS's relocation to the City of Madison in accordance with APM 2-1. The CoS is responsible for obtaining two (2) bids for the move and submitting same 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 \$8,500. This will include travel expenses for the CoS making 1 or 2 trips to Madison to look for homes.

If the CoS resigns during the first twelve (12) months of their contract period, the CoS shall reimburse the City for 100% of the relocation expenses. If the CoS resigns during the first 13 to 24 months of their contract period, the CoS shall reimburse the City for 50% of the total relocation expenses. If the CoS resigns during the first 25 months of their contract period or thereafter, no reimbursement of relocation expenses shall be required.

IV. TERM: RENEWAL OPPORTUNITY; NON-RENEWAL

- A. This Agreement shall take effect on January 8, 2018, and shall expire January 7, 2023, unless sooner terminated as provided herein.
- B. For a period of six-months from the effective date of this agreement, the CoS shall serve a probationary period. During the probationary period, the CoS serves at the pleasure of the CCEC and may be removed at will by the CCEC. The CCEC will give the CoS four (4) weeks' notice of removal. Following the probationary period, and for any renewal of this Agreement, the CoS may only be removed as otherwise outlined in Section IV of this Agreement.
- C. The CCEC in its sole discretion, may offer renewal of this Agreement to the CoS. The CCEC shall notify the CoS of the intent to renew the Agreement at least ninety (90) calendar days before the expiration of this Agreement. Failure to so notify the CoS 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 CoS'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.

- D. The CCEC, in its sole discretion, may elect not to offer renewal of this Agreement to the CoS. In such event, the CCEC shall notify the CoS 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.

- E. In the event of non-renewal of this Agreement, under either Paragraphs C or D above, the CCEC may, in its sole discretion, terminate this Agreement at any earlier date within ninety (90) days of the expiration of this Agreement, as determined by the CCEC. The early termination is to be accomplished by (a) notifying the CoS of the date of early termination, and (b) committing to buy out the balance of this Agreement by paying the CoS 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 a lump sum 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 CoS's employment with the City ends as of the date of early termination.

V. PERSONNEL ACTIONS

During the term of this Agreement, the CoS is subject to the supervision and authority of the CCEC to impose discipline on or to discharge the CoS as is provided in Sec. 9 of the City of Madison Personnel Rules as may be renumbered or amended hereafter. The CoS shall be entitled to the procedural appeal and grievance provisions contained in Section 9 of the Personnel Rules as may be provided to 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 that it deems reasonable, in its sole discretion, for the conduct of the work of the CoS. The City retains the sole right to determine the organizational structure and overall functioning of the Office of the Common Council.

VII. REOPENING THE AGREEMENT

Either party may request that the Agreement be reopened for renegotiation if or when the CoS's duties or responsibilities change significantly. A "significant" change in the CoS'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 that 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 CoS 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 (Ethics Code), the CoS 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 CoS prepares or receives in the course of employment while this Agreement is in effect are the sole property of the City of Madison. The CoS 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.

XI. APPEARANCE BEFORE ANY CITY ENTITY FOLLOWING SEPARATION FROM EMPLOYMENT

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

XII. TERMINATION OF AGREEMENT

- A. The CoS may unilaterally terminate this Agreement during its term. If the CoS unilaterally terminates this Agreement on less than forty-five (45) calendar days' notice in writing to the Common Council President, the CoS 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 CoS retires from this position (upon qualifying for receipt of benefits pursuant to the Wisconsin Retirement Fund requirements). If the CoS unilaterally terminates this agreement on forty-five (45) or more calendar days' notice in writing to the Common Council President, the CoS shall have rights to be paid the cash equivalent of all accrued but unused sick leave, vacation, and all other benefits accrued but unused at the time of the unilateral termination.

- B. The CoS's discharge (as provided for in Section 9 of the Personnel Rules) 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 CoS, the CoS 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 but not taken 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 CoS or the City may pursue contract remedies.

- C. The City retains the right, in its sole discretion, to abolish the position of Common Council Chief of Staff or to reorganize as it deems in the best interest of the City. In the event the City abolishes the position of Common Council Chief of Staff or reorganizes the Office of the Common Council to the extent that the position of Common Council 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 (Ethics Code).

XIII. NO ASSIGNMENT OR SUBCONTRACT

The CoS shall not assign or subcontract any interest or 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

Marsha A. Rummel, C.C. President

Witness

Maribeth Witzel-Behl, City Clerk

Witness

Kwasi K. Obeng, C.C. Chief of Staff

APPROVED:

APPROVED AS TO FORM:

David P. Schmiedicke, Finance Director

Michael P. May, City Attorney