

EMPLOYMENT AGREEMENT
BETWEEN
THE CITY OF MADISON
AND
DAVID DENIG-CHAKROFF

This Agreement made this __ day of _____, 200__, by and between the City of Madison, a municipal corporation of Dane County, Wisconsin (hereinafter, the "City") and David Denig-Chakroff, a natural person (hereinafter, the "General Manager").

WITNESSETH;

WHEREAS, the General Manager has held the position and performed the duties of Water Utility Manager since March 25, 1996; and

WHEREAS, the City desires to retain 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 has been confirmed for re-appointment to the position of Water Utility General Manager by the Common Council of the City of Madison on _____ ; 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. GENERAL MANAGER RETAINED

The General Manager is hereby retained 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 the Water Utility.

II. FUNCTIONS, DUTIES AND RESPONSIBILITIES OF THE GENERAL MANAGER

A. The principal function of the General Manager is that of chief executive of Madison Water Utility responsible for performing the duties generally described in Chapter 13, Madison General Ordinances. The position involves administrative, managerial and professional work in directing the overall operations of the City of Madison's Water Utility. The work involves the financial, technical, maintenance and repair, operational, developmental, public relations, and administrative functions of the Utility. This position reports to the Board of Water Commissioners 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 Board,

the City Common Council, the Public Service Commission of Wisconsin and the Wisconsin Department of Natural Resources.

- B. The duties of the General Manager include: Overseeing the activities and operations of Madison Water Utility and its staff. Meeting with the Utility Management Team and staff to discuss operational and administrative issues. Monitoring activities; reviewing suggestions, ideas, and potential improvements in operations; and developing, initiating and implementing policy and operational improvements. Developing and implementing rules, regulations and administrative policies for all units. Hiring, directing, monitoring and evaluating a diverse staff of employees, both directly and through subordinates. Functioning as appointing authority, approving payrolls and performing other necessary supervisory functions. Dealing with employee grievances directly or through subordinate staff. Performing related management functions in the areas of personnel, affirmative action and labor relations. Overseeing budget preparation and monitoring. Preparing and presenting budget recommendations to the Board of Water Commissioners, the Mayor and the Common Council. Overseeing bond issues and other financial matters of the Utility. Overseeing the preparation of rate change requests and other related reports and requests to the Public Service Commission and the Wisconsin Department of Natural Resources. Representing the Water Utility at a variety of City and public meetings, and making public presentations as necessary. Ensuring the provision of an adequate and safe water supply for domestic, industrial, and fire protection purposes. Planning for prolonged drought, energy shortages, urban development and expansion and other occurrences which may disrupt/affect water supply or water needs, including maintenance of a Water Utility master plan and acquisition of property to meet future needs. Monitoring and overseeing drinking water quality, water treatment operations, and quality of the distribution system. Coordinating water works services, maintenance functions and other activities with other governmental units, utilities and private sector users. Initiating and defending rate reform, alternative financing methods, customer education, and customer service programs and activities. Functioning as part of the Public Works Management Team. Maintaining awareness of advances in the technological and administrative activities of other utilities, especially water utilities, and maintaining awareness and compliance with applicable federal and State laws, rules and regulations. Encouraging staff to maintain professional expertise and skills. Performing related work as required. Meeting the standards set out in Appendix A within the time frame set in Section XII of this Agreement.
- C. The General Manager 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 3.47, Code of Ethics.

- D. The General Manager shall devote full time to the duties and responsibilities provided herein and shall engage in no pursuit which interferes with them. The Mayor and the Board of Water Commissioners, however, may approve the General Manager'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 Director is not compensated for such activities. Nothing herein limits the Director 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 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 pre-authorized by statute, ordinance or express written consent of the City.
- G. The General Manager shall be subject to the City's residency requirement.

III. COMPENSATION AND BENEFITS

- A. The General Manager's initial year's salary under this Agreement shall be based on an annualized rate of \$113,364, which shall be paid in approximately equal biweekly payments according to regular City payroll practices. Annual salary adjustments in the years 2006-2010 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, Sec. 3.36(6), MGO. 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 monetary compensation provided in Paragraph A above, be entitled to the following benefits:
 - 1. The General Manager 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.
 - 2. In addition to the monetary compensation and benefits provided in Paragraph 1, the General Manager shall:
 - a. In addition to the monetary compensation and benefits provided in Paragraph 1, the General Manager shall be entitled to twenty-five (25) 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 General Manager shall be paid in full for credited but unused vacation existing at the expiration of this Agreement or upon the General Manager's retirement, when qualified for receipt of Wisconsin Retirement Fund benefits.

- b. Be eligible for a permit authorizing the General Manager to park in the City-County Building while on City business.
- c. Be entitled to participate, at City expense, in professional seminars, conferences, workshops and related meetings consistent with the role of General Manager and according to applicable Administrative Procedure Memoranda; to maintain agency membership in the American Water Works Association (AWWA) and Research Foundation (AWWA-RF and the Association of Metropolitan Water Agencies (AMWA); and, if appointed as a board member, trustee, or officer of these organizations, carry-out the responsibilities of such appointments.
- d. Be evaluated at least annually by the Mayor and by the Board of Water Commissioners to assess work performance. This feedback shall include the establishment of goals and assessment of challenges and accomplishments.

IV. TERM: RENEWAL OPPORTUNITY; NON-RENEWAL

- A. This agreement shall take effect retroactively to the expiration of the previous contract and shall expire on _____, unless sooner terminated as provided herein, including but not limited to the right of termination in section XII hereof.
- B. The Mayor, after consultation with and concurrence of the Board of Water Commissioners, may offer renewal of this Agreement to the General Manager. The Mayor and the Board of Water Commissioners 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.
- C. The Mayor, after consultation with and concurrence of the Board of Water Commissioners, may elect not to offer renewal of this Agreement to the General

Manager. In such event, the Board of Water Commissioners 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.

- D. In the event of non-renewal of this Agreement, under Paragraph 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 Water Utility General Manager of the date of early termination, and (b) committing to buy out the balance of this Agreement by paying the Water Utility General Manager 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 Water Utility General Manager's employment with the City ends as of the date of early termination.

V. PERSONNEL ACTIONS

The General Manager is subject to the supervision of the Mayor and the Board of Water Commissioners and is, during the term of this Agreement, subject to the Mayor's authority to impose discipline on or, with the concurrence of the Board of Water Commissioners, to discharge the General Manager as is provided in Sec. 3.35(16) of the Madison General Ordinances, or as may be renumbered or amended hereafter. The General Manager 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 General Manager. The City retains the sole right to determine the organizational structure and overall functioning of the Water Utility.

VII. REOPENING THE AGREEMENT

Either party may request that the Agreement be reopened for re-negotiation 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 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 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.

VIII. 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 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 3.47, the General Manager 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. APPEARANCE BEFORE ANY CITY ENTITY FOLLOWING SEPARATION FROM EMPLOYMENT

The General Manager shall be subject to the provisions of Madison General Ordinance 3.47.

XI. 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.

XII. TERMINATION OF AGREEMENT

- A. The General Manager may unilaterally terminate this Agreement during its term.
- B. The General Manager's discharge (as provided for in Madison General Ordinance 3.35(16) and Article V of this Agreement) 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 General Manager, the General Manager 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

General Manager shall notify the Mayor and the Board of Water Commissioners 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 General Manager may pursue contract remedies. In the event of a breach of a material provision of this Agreement by the General Manager, the City shall notify the General Manager 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 Water Utility General Manager or to reorganize as it deems 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 Water Utility General 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.

- 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 Water Utility General Manager as set forth in this paragraph. The notice shall be in writing and shall be delivered to the Water Utility Manager no sooner than September 24, 2008, and no later than December 24, 2008, delivery to the main office of the Water Utility constituting delivery to the Water Utility General Manager. Failure to deliver the notice of termination by December 24, 2008, constitutes a waiver of the right of termination set out in this paragraph. The notice may be delivered if and only if the Mayor, in consultation with and with the concurrence of the Board of Water Commissioners, concludes that the Water Utility General Manager has failed to make substantial progress toward meeting each of the standards set out in Appendix A to this Agreement (Appendix A Standards). The Appendix A Standards are intended to provide measurable goals to be met by the Water Utility General Manager, and failure to make substantial progress toward meeting those goals results in early termination of this Agreement. Determination of whether the General Manager has made substantial progress toward meeting the Appendix A Standards is in the sole discretion of the Mayor in consultation with and concurrence of the Board of Water Commissioners. The notice of termination shall specify a date, not less than 90 days after the date of the notice, on which this Agreement shall terminate. Termination under this paragraph shall have the same effect as termination under Section IV.C. of this Agreement. The General Manager shall be given thirty (30) days after receipt of the notice to attempt to cure any failure to meet the requirements of this paragraph, and the Mayor shall determine in his/her sole discretion if such a cure has been accomplished.

XIII. NO ASSIGNMENT OR SUBCONTRACT

The General Manager 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 written herein.

CITY OF MADISON
A Municipal Corporation

Witness

David Cieslewicz, Mayor

Witness

City Clerk

(signatures continue on following page)

Witness

Priscilla Mather, President
Board of Water Commissioners

Witness

David Denig-Chakroff,
Water Utility General Manager

APPROVED:

APPROVED AS TO FORM:

Dean Brassler, City Comptroller

Michael May, City Attorney