

**EMPLOYMENT AGREEMENT BETWEEN THE CITY OF MADISON
AND
MATTHEW W. TUCKER**

This Agreement made this 31st day of August, 2021 by and between the City of Madison, a municipal corporation of Dane County, Wisconsin (hereafter, the "City") and Matthew W. Tucker, a natural person (hereafter, "Building Inspection Division Director" or "Director").

WITNESSETH;

WHEREAS, the City desires to hire the Division Director as an employee of the City of Madison to perform the services described herein on its sole behalf as the Building Inspection Division Director, and

WHEREAS, the Building Inspection Director represents that they possess the necessary knowledge, skill, abilities and experience to perform such services and is willing to perform such services as the Building Inspection Division Director, and

WHEREAS, the Building Inspection Division Director has been duly selected and has been confirmed for appointment to the position of Building Inspection Division Director by the Common Council of the City of Madison on August 31, 2021, 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 agree as follows:

I. BUILDING INSPECTION DIRECTOR HIRED

Matthew W. Tucker is hereby hired as a non-civil service employee of the City, holding the position of Building Inspection Division Director pursuant to the terms, conditions and provisions of this Agreement. The Director 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 Building Inspection Division in accordance with all appropriate City Ordinances and Mayor's Administrative Procedure Memoranda.

II. FUNCTIONS, DUTIES AND RESPONSIBILITIES OF THE BUILDING INSPECTION DIVISION DIRECTOR

A. General Responsibilities:

This is responsible managerial and administrative work in directing the programs and services of the Building Inspection Division, which encompasses the following City programs: 1) Housing and Property Maintenance Code Enforcement; 2) Building

Inspection (administers Building, Housing, Zoning, Plumbing, Electrical and Heating Codes); 3) Permit Plan Review; 4) Zoning and Sign Code Enforcement; and 5) Consumer Protection (regulates measurement standards). This work requires considerable independent judgment in developing division policies and procedures and resolving complex operational problems. This work requires a commitment to upholding the City's mission, values and service promise, and a commitment to racial and gender equity. Work is reviewed by the Director of Planning & Community & Economic Development primarily for conformance with Division goals and objectives.

B. Examples of Duties and Responsibilities:

- Manage and administer the Building Inspection Division of the Department of Planning & Community & Economic Development. Hire, train, supervise, coordinate and evaluate staff. Maintain a positive work environment that welcomes and supports a diverse staff. Develop, administer and monitor division budget. Establish annual division performance standards and goals with the Director. Review and develop work procedures. Perform affirmative action and labor relations activities. Provide direction, leadership, information and recommendations to subordinate staff on diverse programs, projects and improvements to services/procedures.
- Conceptualize, plan, coordinate, implement and manage Housing Code Enforcement and Property Maintenance strategies and programs using an equity lens. Review building construction plans for compliance with existing regulations and structural integrity as required. Interpret codes, evaluate alternatives and resolve code enforcement problems that relate to special or unusual situations; assess and resolve administrative problems that relate to Division operations. Meet with developers and the general public to discuss codes and their application. Meet with Mayor's Office and other City agencies for the purpose of communication, coordination and problem solving.
- Serve as departmental representative on State Department of Commerce, Safety and Buildings Division code-related committees. Act as secretary/staff to building/fire code review/appeals board. Help support the City's sustainability efforts that focus on the built environment.
- Administer and enforce regulatory codes and standards related to structural, electrical, plumbing, heating, air-conditioning, zoning, signs, vending and weights and measures controls, and develop division procedures for their interpretation and application and understanding. Secure compliance with State and local laws pertaining to weights and measures, snow removal and weed control.
- Prepare special written and oral reports on division activities and/or projects in progress or, in response to inquiries. Direct staff in remedying emergency/public safety situations that relate to code enforcement.
- 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.

- Instill a culture of continuous learning and a commitment to ongoing initiatives involving performance excellence systems.
 - Demonstrate and promote organizational values, in everyday work, to further the mission and vision of the City of Madison.
 - Perform related work as required.
- C. The Director agrees to perform such functions and duties at a professional level of competence and efficiency. The Director 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 Director 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 Director 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 workweek is 38.75 hours. However, the Director 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 Director 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 Director shall continue to reside within the City of Madison for the duration of this contract. As a condition of accepting this contract, the Director agrees to waive any right to challenge this residency requirement, by court action or otherwise.

III. COMPENSATION AND BENEFITS

- A. The Director's salary shall be based on an annualized rate of \$127,500 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 Director shall not be entitled to receive any additional overtime compensation, compensatory time off, or bonuses.

- B. The Director 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 Director 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 Director 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 Director terminates City employment. If the Director leaves the position at the end of the contract period or retires and qualifies for Wisconsin Retirement System (WRS) benefits, the Director shall be paid in full for all vacation the Building Inspection Director would have earned in that year.
 2. Floating Holiday: The Director shall be entitled to 3.5 floating holidays per year. If the Director 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 Director retires and qualifies for WRS benefits, any unused floating holidays will be paid out at retirement.
 3. Sick Leave: If the Director leaves the position before the end of the contract period, the Director shall be entitled to payment for one-half (50%) of any earned but unused sick leave to the day the Director terminated City employment. If the City terminates the Director's contract before the end of the contract period or the Director leaves the position at the end of the contract period or the Director retires and qualifies for WRS benefits, they shall be entitled to payment in full (100%) of any sick leave the Director would have earned through the end of that year.
 4. Vacation Conversion: If the Director accrues a balance of more than five weeks from the preceding year(s), the Director may elect to convert up to ten (10) days of their annual vacation to an amount of cash equivalent, calculated on their regular earnings. The Director shall apply for such conversion option in accordance with City procedures, and such amount shall be paid in a manner determined by the City.
 5. The Director shall be eligible to participate at City expense in professional seminars, conferences, workshops and related meetings consistent with the role as Director and in accordance with applicable Administrative Procedure Memoranda.

6. The Director shall be reimbursed for relevant professional association and/or licensure dues.
7. The Director shall be eligible for smart phone with data plan reimbursement up to seventy-five (\$75) dollars per month for City usage.
8. The Director shall be eligible to be a vehicle monitor. The Director shall agree to abide by all policies and procedures found in APM 2-13 City Vehicle Driver Policy.

IV. CONTRACT TERM

- A. This Agreement shall take effect on July 11, 2021, and shall expire on July 10, 2026, unless terminated sooner as provided herein.
- B. For a period of twelve (12) months from the effective date of this Agreement, the Director shall serve a probationary period. During the probationary period, the Director serves at the pleasure of the Mayor and may be removed at will by the Mayor. The Mayor will give the Director four (4) weeks' notice of removal. Following the probationary period, and for any renewal of this Agreement, the Director 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 Director. The Mayor shall notify the Director of the intent to renew the Agreement at least ninety (90) calendar days before the expiration of this Agreement. Failure to so notify the Director 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 Director'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 Director 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 Director. In such event, the Mayor shall notify the Director 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 Director 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 Director is qualified. The benefits enumerated in Section III. B. of the Agreement will be paid as if the Director left at the

end of the contract period.

VI. EARLY TERMINATION OF AGREEMENT / MATERIAL BREACH

- A. The Director may elect to terminate this Agreement before the expiration of the contract period. If the Director provides less than forty-five (45) calendar days' notice in writing to the Mayor, the Director forfeits all rights to the cash equivalent of any of the benefits enumerated in Section III. B. of the Agreement. If the Director 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 Director leaving during the contract period. These forfeiture provisions do not apply if the Director 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 Director 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 Director 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 Director's employment with the City ends on the early termination date.
- C. The Mayor may discharge the Director for the Director'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 Director's breach of a material provision of this Agreement, the Director 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 Director may pursue contract remedies and the City may discharge the Director 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 Director or to reorganize the position in the best interest of the City. In the event the City abolishes the position of Director or reorganizes the to the extent that the position of Director 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 Director left at the end of the contract period.

VII. PERSONNEL ACTIONS

- A. The Director 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 Director for a breach of this agreement if deemed necessary. The Director 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 Director 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 Director is expected to prepare an annual work plan for their Division. The Director shall be evaluated annually by the Mayor to assess work performance. This evaluation shall include the establishment of Division goals and an assessment of challenges and accomplishments. It may also involve soliciting input from other department heads, staff supervised by the Director, 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 Director. The City retains the sole right to determine the organizational structure and overall functioning of the Building Inspection Division.

IX. REOPENING THE AGREEMENT

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

XIV. NO ASSIGNMENT OR SUBCONTRACT

The Director 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

Matthew W. Tucker, Building Inspection
Division Director

APPROVED:

APPROVED AS TO FORM:

David P. Schmiedicke, Finance Director

Michael R. Haas, City Attorney