

**EMPLOYMENT AGREEMENT BETWEEN
THE CITY OF MADISON
AND
MARIBETH L. WITZEL-BEHL**

This Agreement made this 21st day of September, 2021 by and between the City of Madison, a municipal corporation of Dane County, Wisconsin (hereafter, the "City") and Maribeth L. Witzel-Behl, a natural person (hereafter, the "City Clerk").

WITNESSETH;

WHEREAS, the City desires to hire Maribeth L. Witzel-Behl as an employee of the City of Madison to perform the services described herein on its sole behalf as the City Clerk, and

WHEREAS, Maribeth L. Witzel-Behl represents that they possess the necessary knowledge, skill, abilities and experience to perform such services and is willing to perform such services as the City Clerk, and

WHEREAS, Maribeth L. Witzel-Behl has been duly selected and has been confirmed for appointment to the position of City Clerk by the Common Council of the City of Madison on September 21, 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. CITY CLERK HIRED

Maribeth L. Witzel-Behl is hereby hired as a non-civil service employee of the City, holding the position of City Clerk pursuant to the terms, conditions and provisions of this Agreement. The City Clerk 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 City Clerk's Office in accordance with all appropriate City Ordinances and Mayor's Administrative Procedure Memoranda.

II. FUNCTIONS, DUTIES AND RESPONSIBILITIES OF CITY CLERK

A. General Responsibilities:

This is responsible managerial work in planning, coordinating and implementing the programs, operations, and services of the Clerk's Office consistent with governing State Statutes and City Ordinances. This managerial role shall include: The administration and recording of the proceedings of the Common Council; development and implementation of election processes and procedures; issuance of

City and County licenses and permits; maintenance of a centralized information bureau as the custodian of official City of Madison documents; and related policy development and direction. This department head role requires working in close cooperation with other City managers. This work requires a commitment to upholding the City's mission, values and service promise, and a commitment to racial and gender equity. Under the direction of the Mayor, the City Clerk shall exercise considerable judgment and discretion in meeting established objectives.

B. Examples of Duties and Responsibilities:

- Plan, coordinate, and manage the equitable implementation of the programs, operations and services of the Clerk's Office. Manage professional and administrative staff. Provide for effective employee relations. Maintain a positive work environment that welcomes and supports a diverse staff.
- Direct the programs, operations, and services of the City Clerk's Office. Carry out all related statutory responsibilities and duties of a City Clerk. Serve as Clerk of the Common Council and the Committee of the Whole. Administer the oath of office to the Mayor, Alderpersons, and Municipal Judge upon election or appointment.
- Direct the preparation of Common Council agendas and proceedings. Maintain the official records of the City and publish official notices. Serve as the recipient of all official communications, and provide affidavits for court proceedings regarding documents filed with the office.
- Administer the City's legislative tracking system (Legistar). Provide training and direction to other city agencies in relation to the City's legislative tracking system and legislative process. Provide staff support for the Police & Fire Commission and the Alcohol License Review Committee. Assist members of the public in connecting with their government.
- Plan and direct all City elections and supervise the registration of voters. Hire, train, and manage election officials. Staff and equip each polling location to minimize voter lines. Ensure each polling location has the training and tools needed to make voting accessible for voters with disabilities. Provide accessible and equitable voting options throughout the City for in-person absentee voting.
- Hire, train and manage the hourly employees who independently administer in-person absentee voting. Manage the security of election equipment, ballots, data, and results. Appoint, train, and serve on the municipal Board of Canvassers to certify municipal election results. Advise and support the Board of Canvassers for the Madison Metropolitan School District.
- Develop voter outreach materials to empower eligible voters to register and vote. Work with UW-Madison and community partners to identify and address obstacles to voting access. Recruit, train, and direct community volunteers to conduct voter

outreach throughout the City. Partner with community organizations to dispel misinformation about voting rights and elections. Help previously disenfranchised voters and youth see themselves as future voters by offering mock elections to provide hands-on opportunities to learn about the voting process. Provide civics training to school groups and community organizations.

- Organize voter registration drives for eligible voters who are unable to register online. Collect and analyze data on why eligible voters are unable to cast a ballot or have their ballot counted, and develop solutions to address the barriers identified.
- Provide court testimony, affidavits, and declarations for state and federal court cases regarding voting rights. Provide technical advice and feedback to the Wisconsin Election Commission. Provide training and guidance to election administrators in Wisconsin and in other states. Advise national organizations on election best practices.
- Provide lobby law oversight. Oversee candidate filings and campaign finance filings for the City of Madison and the Madison Metropolitan School District Board of Education. Direct the issuance of City and County licenses and permits. Administer the elections of Madison's Central Business Improvement District. Oversee the annual Statement of Interests filing for City of Madison elected officials and candidates, members of City committees/boards/commissions, and certain City employees.
- Oversee the posting of City meeting agendas, the compilation of the weekly meeting schedule, and the annual creation of the official city roster. Mentor youth interns and students connecting with the Clerk's Office through the UW PEOPLE Program and the 100 Black Men of Madison Democracy Project.
- Develop and maintain a high level of awareness of related professional standards and the effective integration of evolving technologies and methods. Maintain effective cooperative relationships both internally and with other governmental agencies.
- Direct the general administration of the department to include the development and implementation of the departmental budget, personnel administration, and the integration of racial equity and social justice into all aspects of the agency's work, etc.
- Provide related high-level expertise and consultation to the Mayor and Common Council. Represent the interests of the organization in a wide variety of internal and external settings.
- Prepare and present relevant written and oral reports. Perform and/or oversee special studies. Maintain necessary records, files, and statistics.
- 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 City Clerk agrees to perform such functions and duties at a professional level of competence and efficiency. The City Clerk 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 City Clerk 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 City Clerk 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 City Clerk is not compensated for such activities. Nothing herein limits the City Clerk 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 City Clerk 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 City Clerk 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 City Clerk shall continue to reside within the City of Madison for the duration of this contract. As a condition of accepting this contract, the City Clerk agrees to waive any right to challenge this residency requirement, by court action or otherwise.

III. COMPENSATION AND BENEFITS

- A. The City Clerk's salary shall be based on an annualized rate of \$127,624 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 City Clerk shall not be entitled to receive any additional overtime compensation, compensatory time off, or bonuses.

- B. The City Clerk 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 City Clerk 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 City Clerk 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 City Clerk terminates City employment. If the City Clerk leaves the position at the end of the contract period or retires and qualifies for Wisconsin Retirement System (WRS) benefits, the City Clerk shall be paid in full for all vacation the City Clerk would have earned in that year.
 2. Floating Holiday: The City Clerk shall be entitled to 3.5 floating holidays per year. If the City Clerk 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 City Clerk retires and qualifies for WRS benefits, any unused floating holidays will be paid out at retirement.
 3. Sick Leave: If the City Clerk leaves the position before the end of the contract period, the City Clerk shall be entitled to payment for one-half (50%) of any earned but unused sick leave to the day the City Clerk terminated City employment. If the City terminates the City Clerk's contract before the end of the contract period or the City Clerk leaves the position at the end of the contract period or the City Clerk retires and qualifies for WRS benefits, they shall be entitled to payment in full (100%) of any sick leave the City Clerk would have earned through the end of that year.
 4. Vacation Conversion: If the City Clerk accrues a balance of more than five weeks from the preceding year(s), the City Clerk 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 City Clerk 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 City Clerk shall be eligible to participate at City expense in professional seminars, conferences, workshops and related meetings consistent with the role as City Clerk and in accordance with applicable Administrative Procedure Memoranda.

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

IV. CONTRACT TERM

This Agreement shall take effect on September 12, 2021, and shall expire on September 11, 2026, unless terminated sooner as provided herein.

V. AGREEMENT RENEWAL / NON-RENEWAL

- A. The Mayor, in their sole discretion, may offer renewal of this Agreement to the City Clerk. The Mayor shall notify the City Clerk of the intent to renew the Agreement at least ninety (90) calendar days before the expiration of this Agreement. Failure to so notify the City Clerk 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 City Clerk'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 City Clerk 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 City Clerk. In such event, the Mayor shall notify the City Clerk 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 City Clerk 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 City Clerk is qualified. The benefits enumerated in Section III. B. of the Agreement will be paid as if the City Clerk left at the end of the contract period.

VI. EARLY TERMINATION OF AGREEMENT / MATERIAL BREACH

- A. The City Clerk may elect to terminate this Agreement before the expiration of the contract period. If the City Clerk provides less than forty-five (45) calendar days' notice in writing to the Mayor, the City Clerk forfeits all rights to the cash equivalent

of any of the benefits enumerated in Section III. B. of the Agreement. If the City Clerk 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 City Clerk leaving during the contract period. These forfeiture provisions do not apply if the City Clerk 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 City Clerk 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 City Clerk 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 City Clerk's employment with the City ends on the early termination date.
- C. The Mayor may discharge the City Clerk for the City Clerk'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 City Clerk's breach of a material provision of this Agreement, the City Clerk 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 City Clerk may pursue contract remedies and the City may discharge the City Clerk 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 City Clerk or to reorganize the position in the best interest of the City. In the event the City abolishes the position of City Clerk or reorganizes the to the extent that the position of City Clerk 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 City Clerk left at the end of the contract period.

VII. PERSONNEL ACTIONS

- A. The City Clerk 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 City Clerk for a breach of this agreement if deemed necessary. The City Clerk 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 City Clerk 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 City Clerk is expected to prepare an annual work plan for their Division. The City Clerk 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 City Clerk, 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 City Clerk. The City retains the sole right to determine the organizational structure and overall functioning of the City Clerk's Office.

IX. REOPENING THE AGREEMENT

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

XIV. NO ASSIGNMENT OR SUBCONTRACT

The City Clerk 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

City Clerk's Office

Witness

Maribeth L. Witzel-Behl, City Clerk

APPROVED:

APPROVED AS TO FORM:

David P. Schmiedicke, Finance Director

Michael R. Haas, City Attorney