

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE) RESOLUTION NO. 11-4241
APPOINTMENT OF DANIEL B. COOPER)
AS ACTING CHIEF OPERATING OFFICER) Introduced by Council President Tom Hughes

WHEREAS, Chief Operating Officer Michael Jordan has submitted his resignation effective March 15, 2011; and

WHEREAS, as a result of Mr. Jordan's resignation, there will be a vacancy in the office of Chief Operating Officer effective March 15, 2011; and

WHEREAS, the Metro Council President and Council intend to fill the vacancy on a permanent basis after conducting a competitive process to assist in the selection of a Chief Operating Officer. The Council President desires to appoint an Acting Chief Operating Officer to serve until the selection process is completed; and

WHEREAS, the duties and responsibilities of the Chief Operating Officer are described and provided for in the Metro Charter and the Metro Code; and

WHEREAS, Section 2.20.070 of the Metro Code provides that during any vacancy in the office of Chief Operating Officer, such vacancy shall be filled with all due speed and that the Council President has the authority to appoint an acting Chief Operating Officer subject to confirmation by the Metro Council by resolution; and

WHEREAS, the Metro Council President has appointed Daniel B. Cooper to serve as Acting Chief Operating Officer subject to Council confirmation; and

WHEREAS, Mr. Cooper is qualified to be the Acting Chief Operating Officer and has stated his intent to accept the position and to vacate his current position as Metro Attorney during the period of time in which he will serve as Acting Chief Operating Officer; and

WHEREAS, the Metro Code provides that the employment of a Chief Operating Officer shall be subject to the terms of an employment agreement and the Metro Council President has negotiated an employment agreement with Daniel B. Cooper, subject to approval by the Council; now therefore

BE IT RESOLVED by the Metro Council:

1. The appointment of Daniel B. Cooper as Acting Chief Operating Officer is confirmed; and
2. A vacancy in the position of Metro Attorney is hereby declared as of the date Mr. Cooper commences his duties as Acting Chief Operating Officer; and

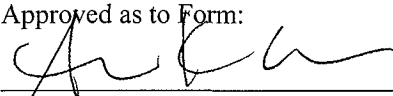
3. The Metro Council President is authorized to execute an employment agreement with Daniel B. Cooper, substantially similar in form to Exhibit A attached herein.

ADOPTED by the Metro Council this 24th day of February 2011.



Tom Hughes, Council President

Approved as to Form:



Alison Kean Campbell, Deputy Metro Attorney

EXHIBIT A TO RESOLUTION NO. 11-4241

**AMENDMENT TO EMPLOYMENT AGREEMENT FOR DANIEL B. COOPER
AS ACTING METRO CHIEF OPERATING OFFICER**

This Amendment to Employment Agreement for Daniel B. Cooper as Acting Metro Chief Operating Officer ("Agreement") is entered into by and between Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter (herein referred to as "Metro") and Daniel B. Cooper (herein referred to as "Mr. Cooper"), and amends that certain employment agreement currently existing between Metro and Mr. Cooper ("Pre-existing Agreement").

RECITALS

- A. Due to a vacancy in the position of Chief Operating Officer, Metro requires the services of an Acting Chief Operating Officer.
- B. Daniel B. Cooper currently serves Metro as the Metro Attorney, and he and Metro are currently parties to a written Pre-Existing Agreement setting forth the duties, obligations, salary, benefits, and other details regarding Mr. Cooper's employment as the Metro Attorney.
- C. On February 24, 2011, in accordance with the Metro Charter and the Metro Code, the Metro Council confirmed via Resolution 11-4241 the Metro Council President's appointment of Daniel B. Cooper to serve as Metro's Acting Chief Operating Officer until that position is no longer vacant. The Metro Council finds that Mr. Cooper has the experience and qualifications to serve Metro as the Metro Chief Operating Officer as provided for in the Metro Charter and the Metro Code.
- D. Mr. Cooper has stated his agreement to accept the position of Acting Metro Chief Operating Officer, and Mr. Cooper intends to take a temporary leave of absence from his position as Metro Attorney to accept the position as Acting Metro Chief Operating Officer. The parties intend that Mr. Cooper will return to the position of Metro Attorney after the Metro Chief Operating Officer position is no longer vacant or if this Agreement is otherwise terminated.
- E. This Agreement amending Mr. Cooper's Pre-Existing Agreement shall be effective March 15, 2011 and shall be referred to as the "Acting Metro Chief Operating Employment Agreement."

NOW, THEREFORE, IN CONSIDERATION of the compensation to be paid by Metro to Mr. Cooper as specified in this Agreement, and in consideration of the mutual promises contained in this Agreement, the parties hereby agree as follows:

1. Engagement. Metro hereby employs and Mr. Cooper hereby accepts employment from Metro for the position and duties of Acting Metro Chief Operating Officer.
2. Term of Agreement. Mr. Cooper's employment as Acting Metro Chief Operating Officer under this Agreement shall begin on March 15, 2011, and shall continue until terminated as provided herein.
3. Services. Mr. Cooper shall faithfully, industriously and to the best of his ability provide his services as Acting Metro Chief Operating Officer, and shall have all powers and perform all duties as may be required of him by the Metro Charter, the Metro Code, and the Council.

4. Termination. The Metro Code provides that the Metro Chief Operating Officer serves at the pleasure of the Council and is subject to removal by the Council President with the concurrence of the Council by resolution. This Agreement shall terminate on the earliest of the following occurrences:
- (a) On the first regularly scheduled day of work that the position of Metro Chief Operating Officer is no longer vacant.
 - (b) 72 hours after the Metro Council concurs by resolution a written notice of termination by the Metro Council President.

Upon termination Mr. Cooper shall resume his position as Metro Attorney.

5. Compensation.

- A. Salary. As compensation for Mr. Cooper's services, Metro shall pay Mr. Cooper the sum of One Hundred Seventy Nine Thousand Five Hundred Dollars (\$179,500) per year, payable in the same frequency and manner as other Metro employees and subject to customary withholding taxes and other taxes as required with respect to compensation paid by Metro to an employee.
- B. Benefits. Mr. Cooper's performance and salary increases and eligibility for benefits and accrual of vacation, sick and other leave shall continue as is currently provided in Mr. Cooper's Pre-Existing Agreement. Mr. Cooper's leave of absence as Metro Attorney and term of service as Acting Metro Chief Operating Officer shall not constitute a break in service for insurance or any other purposes.

6. Other Terms. All other terms and conditions in Mr. Cooper's Pre-Existing Agreement not modified herein shall remain in full force and effect.

7. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon.

IT IS SO AGREED:

Daniel B. Cooper

Tom Hughes
Metro Council President

APPROVED AS TO FORM:

Nathan S. Sykes
Senior Metro Attorney

STAFF REPORT

FOR THE PURPOSE OF CONFIRMING THE APPOINTMENT OF DANIEL B. COOPER AS ACTING CHIEF OPERATING OFFICER

Date: February 24, 2011

Prepared by: Andy Shaw,
503-797-1746
Tony Andersen,
503-797-1878

BACKGROUND

Chief Operating Officer Michael Jordan has submitted his resignation effective March 15, 2011, which will result in a vacancy in the Office of the Metro Chief Operating Officer.

The Metro Council President and Council intend to permanently fill the vacancy after a competitive recruitment process for selection for the position of Chief Operating Officer. In the interim, the Council President wishes to appoint an Acting Chief Operating Officer to serve in the role until the recruitment process closes and a replacement is hired.

Metro Code Section 2.20.070 directs the Council President to appoint an Acting Chief Operating Officer “with all due speed”, which appointment is then subject to confirmation by the Metro Council by resolution...

Council President Hughes has appointed Daniel B. Cooper to serve as Acting Chief Operating Officer subject to Council confirmation by resolution as required by Metro Code. As of February 24, 2011, Mr. Cooper is the current Metro Attorney. Council President Hughes has determined that Mr. Cooper is qualified to serve as Acting Chief Operating Officer.

ANALYSIS/INFORMATION

1. **Known Opposition** None
2. **Legal Antecedents** Metro Charter Chapter V, Section 25(1) and Metro Code Chapter 2.20 govern the creation, duties, powers, and other functions of the Metro Chief Operating Officer. Section 2.20.070 of the Metro Code states that during any vacancy in the position of the Metro Chief Operating Officer, the vacancy shall be filled with all due speed and that the Council President has the authority to appoint an Acting Chief Operating Officer subject to confirmation by the Metro Council by resolution.
3. **Anticipated Effects** This appointment will fill the vacancy in the position of Chief Operating Officer on an interim basis by Daniel B. Cooper, transferring the current Metro Attorney to the position of Chief Operating Officer, thereby creating a vacancy in the position of Metro Attorney. A companion resolution (Resolution No. 11-4242) appoints Alison Kean Campbell, current Deputy Metro Attorney, as Acting Metro Attorney during the vacancy created by this action.
4. **Budget Impacts** Due to the transfer of the current Metro Attorney to the position of Acting Metro Chief Operating Officer, and the subsequent transfer of the current Deputy Metro Attorney to the position of Acting Metro Attorney, there will be no new hire required to fill the vacancy created by the resignation of the current Chief Operating Officer, thus resulting in a net budget savings to Metro during the interim period. The Metro Code requires that an employment agreement be executed setting the compensation for the Chief Operating Officer. The proposed compensation for Mr. Cooper as set forth in Exhibit A to Resolution #11-4241, “Acting Metro Chief Operating Employment Agreement,” is less than the current salary for Mr. Jordan, resulting in a further net savings to Metro.

RECOMMENDED ACTION

Council President Hughes and staff recommend adoption of Resolution No. 11-4241.