

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ENTERING INTO AN )  
EMPLOYMENT AGREEMENT WITH METRO )  
DEPARTMENT DIRECTORS )

RESOLUTION NO. 05-3602

Introduced by Chief Operating Officer  
Michael Jordan in concurrence with Council  
President Bragdon

WHEREAS, Personnel Code, Section 2.02.010, states that no contract of employment can be created except by written agreement signed by the Council President or Chief Operating Officer and the employee, and subject to approval of Council; and

WHEREAS, Metro Council has instructed the Chief Operating Officer to prepare and negotiate an employment agreement with Metro's department directors; now therefore

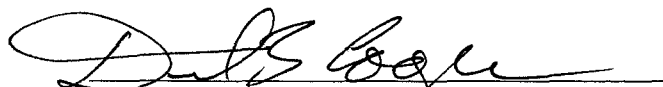
BE IT RESOLVED that the Metro Council authorizes the Chief Operating Officer to enter into an Employment Agreement at current salary and in a form substantially similar to the attached At Will Employment Agreement, with each of the following Metro department directors:

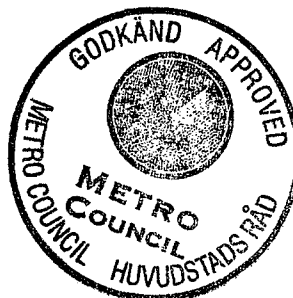
- Andrew Cotugno, Director of Planning
- James Desmond, Director of Parks & Greenspaces
- Michael Høglund, Director of Solid Waste & Recycling
- Kate Marx, Director of Public Affairs & Governmental Relations
- William Stringer, Director of Finance & Administrative Services
- Ruth Scott, Director of Human Resources
- Anthony Vecchio, Director of the Oregon Zoo

ADOPTED by the Metro Council this 28th day of July, 2005

  
David Bragdon, Council President

Approved as to Form:

  
Daniel B. Cooper, Metro Attorney



## AT-WILL EMPLOYMENT AGREEMENT

THIS AGREEMENT is entered into by and between Metro, a metropolitan service district organized under the laws of the State of Oregon and the Metro Charter (herein referred to as “Metro”) and \_\_\_\_\_ (herein referred to as “\_\_\_\_\_” or “Director”).

### RECITALS

1. Metro requires the services of a Director of \_\_\_\_\_.
2. \_\_\_\_\_ has the qualifications and the desire to serve Metro as its Director of \_\_\_\_\_.
3. This Agreement shall be referred to as the “\_\_\_\_\_ At-Will Employment Agreement.”

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

### AGREEMENT

1. **Engagement.** Subject to the parties’ right to terminate this Agreement as specified below, Metro hereby employs and \_\_\_\_\_ hereby accepts employment from Metro for \_\_\_\_\_’s services as \_\_\_\_\_.
2. **Term of Agreement.** \_\_\_\_\_’s employment under this Agreement shall begin on \_\_\_\_\_, and shall continue until terminated as provided herein.
3. **Services.** \_\_\_\_\_ shall faithfully, industriously and to the best of his/her ability provide his/her service as \_\_\_\_\_ of Metro, and shall perform all duties as may be required of him/her by the Metro Charter, Metro Code and the Chief Operating Officer (“COO”).
4. **Exclusivity.** During the term of this Agreement, and except as otherwise provided herein, \_\_\_\_\_ shall primarily devote his/her business efforts, time, attention, knowledge, and skills to Metro as its \_\_\_\_\_. Director may engage in outside business or professional activities, provided that Director obtains the written consent of the COO prior to engaging in any outside business or professional activities and provided that the COO has determined, in the COO’s sole discretion, that such activities: (a) do not impair performance of Director’s duties under this Agreement, (b) do not make use of Metro resources, (c) are not substantially similar to the services Director renders to Metro under this Agreement, and

(d) are not in violation of or otherwise inconsistent with the requirements of Metro policies, Metro Charter, Metro Code, or with any other applicable rules, regulations or legal requirements (as amended from time to time). The COO shall consult with the Metro Attorney before making his or her determination.

5. **Employment At-Will.** Metro and Director understand and acknowledge that Director serves at the pleasure of the COO. Metro and Director understand and acknowledge that Director's employment with Metro constitutes "at-will" employment. Subject to Metro's obligation to provide severance benefits as specified in this Agreement, Director and Metro acknowledge that this employment relationship may be terminated at any time, upon written notice to the other party, with or without cause or good reason and for any or no cause or reason, at the option of either Metro or Director. It is further understood and agreed that neither this Agreement, nor service provided under this Agreement, shall create a property interest of any kind. This Agreement has no monetary value.

6. **Compensation.**

A. **Salary.** As compensation for Director's services, Metro shall pay Director the sum of \$\_\_\_\_\_ per year, payable in the same frequency and manner as other Metro employees. Director's performance and salary shall be reviewed annually by Metro as provided below and thereafter the Director's salary may be adjusted by the COO, consistent with the Metro pay plan. The compensation paid to Director shall be subject to customary withholding taxes and other taxes as required with respect to compensation paid by Metro to an employee.

B. **Benefits.** Director shall receive all normal and regular benefits accruing to Metro non-represented employees as provided in Metro Code Chapter 2.02. For the purposes of this section, "benefits" means health insurance, including dental and vision care, life insurance, disability insurance, paid leave, employee assistance, and retirement benefits pursuant to the Public Employees Retirement System ("PERS"), and any other benefits which are provided routinely to Metro's non-represented employees. Metro will provide these benefits under the same terms and conditions as provided for Metro's non-represented employees. The employee benefits provided to Director under this section are subject to any addition, reduction or other change made by the Metro Council to the benefits provided to Metro's non-represented employees.

C. **Annual Leave.**

- (1) Director shall accrue annual leave as provided in the Metro Personnel Rules, as they may be amended from time to time, except that Director may exceed the 250 hour limit on accrued annual leave.
- (2) Under no circumstances may Director accrue more than 1,080 hours of annual leave. Director shall forfeit annual leave that both (a) exceeds the 250 hour limit; and (b) is accrued in a fiscal year in which Director has not taken

at least 80 hours of annual leave (“minimum leave”). The “minimum leave” requirement for excess leave accrual may be waived by the COO under extraordinary circumstances; and

- (3) Annual leave accrued in excess of 250 hours shall be forfeited and not be paid as accrued leave upon termination except as provided in Section 8B(3).

7. **Performance/Compensation Reviews.** The COO and Director shall mutually agree on an annual work plan for Director. The work plan shall include the Performance Indicators, attached as Exhibit A to this Agreement and incorporated herein by reference, and measurable performance goals for Director. The work plan shall provide for a review methodology to measure Director’s accomplishment of the annual work plan.

8. **Termination.**

A. **Termination By The Parties.**

- (1) **Termination by Metro:** Director understands and agrees that Director serves at the pleasure of Metro’s COO and that the COO may terminate Director’s employment with Metro at any time, with or without Cause, by giving Director a written notice of termination. If the written notice of termination does not specify the effective date of termination, the effective date of termination shall be the date on which the written notice was given. Cause is defined in section 8.C of this Agreement.
- (2) **Termination by Director:** Director may terminate Director’s employment with Metro at any time by giving to Metro a written notice of termination, specifying the effective date of termination. If the written notice of termination does not specify the effective date of termination, the effective date of termination shall be the date that is thirty (30) days after the date on which the written notice was given.
- (3) Upon termination, accrued leave shall be paid as provided by law.

B. **Termination Without Cause.** Metro may terminate this Agreement without Cause and, at Metro’s sole election, may do so without prior notice to Director. Upon termination of employment without Cause, and provided Director has completed an extended probationary period of one (1) year under Metro’s Personnel Rules, Director shall receive severance pay and paid benefits as follows:

- (1) Severance pay shall be six (6) months salary. Severance pay shall be subject to usual and customary withholding for applicable local, state, and federal taxes.

- (2) Upon the effective date of termination, Director shall be eligible for continued health insurance as established by law (“COBRA”). Metro shall pay for the cost of said insurance to the level utilized by Director at the time of termination until Director has become employed in another position, with health coverage in effect, or for six (6) months, whichever is less. In the event of the Director’s death following termination, Metro shall continue to pay the COBRA benefit provided herein on behalf of any dependents covered by Director’s health insurance at the time of termination.
- (3) Director shall receive payment for accrued unused annual leave in excess of 250 hours.

C. Termination for “Cause.” Metro may terminate this Agreement for “Cause” by giving Director written notice of intent to terminate for “Cause.” The written notice shall set forth the reasons for termination constituting Cause and provide an opportunity for Director to respond. In the event that Metro elects to terminate this Agreement for “Cause,” neither severance pay nor COBRA benefits shall be due Director. At any time prior to the effective date of a termination for Cause, Metro may provide written notice withdrawing the notice of proposed termination for Cause, and following such withdrawal may elect to terminate this Agreement pursuant to the provisions of Section 8B. “Cause” shall include one or more of the following:

- (1) Commission of any act specified in Metro Code 2.02.180(c), as it may be amended from time to time, the nature of which would tend to bring discredit or embarrassment to Metro or the Council, as determined by the COO in his reasonable discretion.
- (2) Violation of the Oregon Government Standards and Practices Act.

9. **Termination Authority.** The COO has the sole authority to terminate this Agreement on behalf of Metro. The COO may terminate this Agreement in writing pursuant to any provision of Paragraph 8 of this Agreement.
10. **Death.** The term of Director’s employment under this Agreement shall terminate upon his/her death without any further payment or the furnishing of any benefit by Metro under Section 8.B of this Agreement (other than accrued and unpaid salary and accrued benefits).
11. **Successorship.** This Agreement shall inure to and shall be binding upon Metro’s successors, assigns, trustees, etc.
12. **Modification.** This Agreement can only be modified by a written amendment, signed by Director and the COO. No oral or written statements, promises, or course of conduct shall serve to modify the Agreement in any way. No practices or customs which may arise between Director and Metro shall modify this Agreement or affect its meaning in any way.

13. **Construction.** This At-Will Employment Agreement is the final agreement between the parties, shall be construed as having been drafted jointly by the parties, is intended to be a complete and final expression of the agreement between the parties, and shall supersede any and all prior discussions or agreements.
14. **Severability.** In the event that any court of competent jurisdiction determines that one or more portions of this Agreement are invalid or unlawful, the remaining portions shall remain in full force and effect.
15. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Director consents to the personal jurisdiction of the state and federal courts located in Multnomah County, Oregon for any action or proceeding arising from or relating to this Agreement.

**EXECUTED IN DUPLICATE** on \_\_\_\_\_ to be effective \_\_\_\_\_.

**[DIRECTOR NAME]**

**METRO**

\_\_\_\_\_  
Michael J. Jordan  
Chief Operating Officer

**Exhibit A**  
**Performance Indicators**  
**Senior Management Occupational Group**

**Indicators for Quality of Work:**

**LEADERSHIP**

1. Accepts responsibility and is accountable for work of the department.
2. Provides leadership and management oversight to address and accomplish established agency goals and objectives.
3. Effectively manages resources to achieve goals and objectives.
4. Acts as change agent, taking reasonable risks, and identifying opportunities to improve operations.

**MANAGEMENT**

5. Directs short- and long-term plans to ensure effective and efficient operations; assesses needs and prioritizes resources toward achieving department responsibilities.
6. Plans, organizes, directs and evaluates the performance of managers, supervisors and assigned staff.
7. Effectively oversees department personnel issues.

**END PRODUCT**

8. Achieves organizational objectives professionally and without adverse consequence to Metro. Works effectively within the framework and limitations of policies, procedures, rules, and regulations.
9. Assembles facts and considers alternatives, balances competing considerations, and presents feasible options to policy-makers.

**COMMUNICATION & RELATIONSHIPS**

10. Establishes and maintains effective communications with Chief Operating Officer and Council regarding department direction, performance, and progress of programs and projects.
11. Develops and maintains relationships with internal and external interests, including local jurisdictions, state agencies, non-profit organizations, and corporations.
12. Directs the resolution of inquiries, complaints, problems or emergencies affecting the availability or quality of service; may respond directly to the most sensitive or complex inquiries or complaints.
13. Considers political sensitivities inherent in department's role.

## **Indicators for Productivity:**

### GLOBAL

1. Achieves all goals and objectives established for the department in a professional and timely manner that reflects positively on Metro.
2. Uses and manages resources (budget, people, technology, etc.) in a cost-effective manner and within budget.

### ENTREPRENEURIAL

3. Identifies new and alternative funding sources to assist in the achievement of organizational objectives.
4. Challenges the status quo by seeking continuous improvement.
5. Finds innovative ways to overcome problems or barriers.

### MANAGEMENT OF DEPARTMENT

6. Has a realistic sense of what can and cannot be accomplished.
7. Anticipates consequences of department actions. Prepares for opportunities or challenges from external sources.
8. Continuously assesses department work plans against agency goals and realigns or revises correspondingly.
9. Gives subordinates appropriate authority to do their jobs.
10. Tracks and monitors department projects for efficiency.
11. Anticipates obstacles and contingencies and allocates resources to meet changing needs.

### MANAGEMENT OF SELF

12. Sets and monitors performance goals for self.
13. Effectively delegates work to subordinates.
14. Handles administrative and paperwork requirements effectively and in a timely manner.

### COORDINATION OUTSIDE DEPARTMENT

15. Works with other directors and the Chief Operating Officer to identify agency-wide economies of scale and cooperates in designing and implementing inter-agency work teams.
16. As a member of the Senior Management Team, works with the Chief Operating Officer and other directors to respond to cross-departmental issues.



## **Indicators for Stakeholder Satisfaction:**

### **POLICY DEVELOPMENT**

1. Appropriately understands role in policy-making process (sometimes leading, sometimes supporting policy-makers, sometimes providing information).
2. Correctly identifies stakeholders as partners; balances competing interests; understands when to and when not to seek input and involve stakeholders in decision-making process.

### **LEADERSHIP**

3. Helps subordinates accept and embrace change.
4. Recognizes good ideas and supports them.
5. Addresses subordinates' performance deficiencies in a timely manner.
6. Effectively represents team to rest of agency.
7. Makes well-reasoned decisions; involves others outside the department in decision-making, when appropriate.
8. Completes performance evaluations on time.

### **COMMUNICATION**

9. Demonstrates and communicates the agency's vision; speaks knowledgeably about the agency's goals, objectives and strategies.
10. Communicates complex information in an understandable way.
11. Has highly developed verbal and written communication skills.

### **MANAGEMENT OF SELF**

12. Is adaptable to changing circumstances.
13. Remains even-tempered in stressful situations.
14. Seeks conflict resolution instead of conflict or conflict avoidance.
15. Models the behavior he/she expects in others.

## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 05-3602, FOR THE PURPOSE OF ENTERING INTO AN EMPLOYMENT AGREEMENT WITH METRO DEPARTMENT DIRECTORS

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Date: July 28, 2005

Prepared by: Michael Jordan

## BACKGROUND

Metro Personnel Code, Section 2.02.010 states that no contract of employment can be created except by written agreement signed by the Council President or Chief Operating Officer and the employee, and subject to approval of Council. Metro Council directed the Chief Operating Officer to prepare and negotiate an Employment Agreement with the following department directors:

- Andrew Cotugno, Director of Planning
- James Desmond, Director of Parks & Greenspaces
- Michael Hoglund, Director of Solid Waste & Recycling
- Kate Marx, Director of Public Affairs & Governmental Relations
- William Stringer, Director of Finance & Administrative Services
- Ruth Scott, Director of Human Resources
- Anthony Vecchio, Director of the Oregon Zoo

The attached At Will Employment Agreement has been prepared by the Chief Operating Officer for each of the department directors listed above.

## ANALYSIS/INFORMATION

1. **Known Opposition** None
2. **Legal Antecedents:** Metro Personnel Code, Section 2.02.010 which states “No contract of employment can be created nor can an employee’s status be modified, by any oral or written agreement, or course of conduct, except by a written agreement signed by the Council President or Chief Operating Officer and the employee, and subject to the approval of the Council.”
3. **Anticipated Effects:** Metro Department Directors will be subject to the employment terms, conditions and status as set forth in the At Will Employment Agreement.
4. **Budget Impacts:** The department director salaries contained in each agreement will be “current” level and, therefore, there is no immediate budget impact. In the event that a director’s employment is terminated without cause, there will be a budget impact that includes severance pay up to the equivalent of six (6) months’ salary, the payment of six (6) months’ of COBRA health insurance, and vacation buy-out to an accrual limit of 1,080 hours.

## RECOMMENDED ACTION

Recommend that Council authorize the Chief Operating Officer to enter into an employment agreement at current salary and in a form substantially similar to the attached At Will Employment Agreement, with each of the Metro department directors.