

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE)	RESOLUTION NO. 18-4903
APPOINTMENT OF NATHAN A. S. SYKES AS)	
ACTING METRO ATTORNEY)	Introduced by Council President Tom
)	Hughes

WHEREAS, the Metro Attorney has resigned her position as of August 3, 2018 and there will be a vacancy in this position as of that date; 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 Metro Attorney. The Council President desires to appoint an Acting Metro Attorney to serve until the selection process is completed; and

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

WHEREAS, Section 2.08.100 of the Metro Code provides that during any vacancy in the office of the Metro Attorney, such vacancy shall be filled with all due speed and that the Council President has the authority to appoint an Acting Metro Attorney subject to confirmation of the Metro Council by resolution; and

WHEREAS, the Metro Council President has appointed Nathan A. S. Sykes to serve as Acting Metro Attorney as of August 4, 2018, subject to Metro Council confirmation; and

WHEREAS, Mr. Sykes is qualified to be the Acting Metro Attorney and has stated his intent to accept the position during the period of time in which the position is vacant; and

WHEREAS, the Metro Code provides that the employment of the Metro Attorney shall be subject to the terms of an employment agreement and the Metro Council President has negotiated an employment agreement with Nathan A. S. Sykes subject to approval by the Council; now therefore

BE IT RESOLVED by the Metro Council:

1. The appointment of Nathan A. S. Sykes as Acting Metro Attorney is confirmed; and
2. The Metro Council President is authorized to execute an employment agreement with Nathan A. S. Sykes substantially similar in form to Exhibit A attached herein.

ADOPTED by the Metro Council this 2 day of August 2018.



 Tom Hughes, Council President

Approved as to Form:



 Alison R. Kean, Metro Attorney



**EMPLOYMENT AGREEMENT FOR
ACTING METRO ATTORNEY**

This Employment Agreement for Nathan A. S. Sykes as Acting Metro Attorney ("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 Nathan A. S. Sykes (herein referred to as "Mr. Sykes").

RECITALS

- A. Due to a vacancy in the position of Metro Attorney, Metro requires the services of an Acting Metro Attorney.
- B. Mr. Sykes currently serves Metro as the Deputy Metro Attorney and has been an attorney in the office of Metro Attorney since 2006.
- C. On August 2, 2018, in accordance with the Metro Charter and the Metro Code, the Metro Council confirmed via Resolution No. 18-4903 the Metro Council President's appointment of Mr. Sykes to serve as Metro's Acting Metro Attorney until that position is no longer vacant. The Metro Council finds that Mr. Sykes has the legal ability and qualifications to serve Metro as the Metro Attorney as provided for in the Metro Charter and the Metro Code.
- D. Mr. Sykes has stated his agreement to accept the position of Acting Metro Attorney, and Mr. Sykes intends to take a temporary leave of absence from his position as Deputy Metro Attorney to accept the position as Acting Metro Attorney. The parties intend that Mr. Sykes will return to the position of Deputy Metro Attorney unless appointed to the Metro Attorney position or after the Metro Attorney position is no longer vacant or if this Agreement is otherwise terminated.
- E. This Agreement shall be effective August 4, 2018, and shall be referred to as the "Acting Metro Attorney Employment Agreement."

NOW, THEREFORE, IN CONSIDERATION of the compensation to be paid by Metro to Mr. Sykes 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. Sykes hereby accepts employment from Metro for the position and duties of Acting Metro Attorney.
- 2. Term of Agreement. Mr. Sykes' employment as Acting Metro Attorney under this Agreement shall begin on August 4, 2018, and shall continue until terminated as provided herein.
- 3. Services. Mr. Sykes shall faithfully, industriously and to the best of his ability provide his services as Acting Metro Attorney, and shall have all powers and perform all duties as may be required of him by the Metro Charter, the Metro Code, and the Metro Council.
- 4. Termination. The Metro Code provides that the Metro Attorney serves at the pleasure of the Metro Council and is subject to removal by the Metro Council President with the concurrence of the Metro 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 Attorney 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, unless Mr. Sykes is appointed the Metro Attorney, Mr. Sykes shall resume his position as Deputy Metro Attorney.

5. Compensation.

- A. Salary. As compensation for Mr. Sykes services, Metro shall pay Mr. Sykes a sum that will be negotiated between the Metro Council President and Mr. Sykes, payable in the same frequency and manner as other Metro employees. Mr. Sykes' performance and salary shall be reviewed annually by Metro as provided below. Any salary increases shall be based on Metro's annual evaluation of Mr. Sykes' performance, availability of funding, and on Metro's assessment of inflation and a survey of annual salaries paid to comparable positions in the Metro region. The compensation paid to Mr. Sykes shall be subject to customary withholding taxes and other taxes as required with respect to compensation paid by Metro to an employee.
- B. Benefits. Mr. Sykes shall receive all normal and regular benefits accruing to Metro non- represented employees as provided in the Metro Code. Mr. Sykes' leave of absence as Deputy Metro Attorney and term of service as Acting Metro Attorney shall not constitute a break in service for insurance or any other purposes.

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

IT IS SO AGREED:




Nathan A. S. Sykes



Tom Hughes
Metro Council President

APPROVED AS TO FORM:



Joyce Wan
Senior Assistant Metro
Attorney

STAFF REPORT

FOR THE PURPOSE OF CONFIRMING THE APPOINTMENT OF NATHAN A. S. SYKES AS ACTING METRO ATTORNEY

Date: July 19, 2018

Prepared by: Roger Gonzalez,
Chief of Staff to Council President Hughes

BACKGROUND

Metro Attorney Alison Kean has submitted her resignation effective August 3, 2018, which will result in a vacancy in the Office of Metro Attorney.

The Metro Council President and Council intend to permanently fill the vacancy after a competitive recruitment for selection for the position of Metro Attorney. Under the Metro Code, the Metro Council President has the authority to appoint an Acting Metro Attorney, and in the interim wishes to appoint an Acting Metro Attorney to serve in the role until the recruitment process closes and a replacement is hired.

Metro Code Section 2.08.100 directs the Council President to appoint an Acting Metro Attorney “with all due speed,” which appointment is then subject to confirmation by the Metro Council by resolution.

Metro Council President Hughes has appointed Nathan A. S. Sykes as the Acting Metro Attorney subject to Metro Council confirmation. Council President Hughes has determined that Mr. Sykes is qualified to serve as an Acting Metro Attorney.

ANALYSIS/INFORMATION

1. **Known Opposition.** None
2. **Legal Antecedents.** Metro Charter Chapter V, Section 25(2) and Metro Code Chapter 2.08 govern the creation, duties, powers, and other functions of the Metro Attorney. Section 2.08.100 of the Metro Code provides that the Council President may appoint an Acting Metro Attorney subject to confirmation by the Metro Council by resolution. Metro Council President Tom Hughes has appointed Nathan A. S. Sykes as the Acting Metro Attorney subject to the Metro Council’s confirmation via this resolution.
3. **Anticipated Effects** This resolution will confirm the Council President’s appointment of Nathan A. S. Sykes as the Acting Metro Attorney and authorize the Council President to enter into an employment agreement with Mr. Sykes.
4. **Budget Impacts.** The salary of the Metro Attorney is currently budgeted for in the approved Metro Budget.

RECOMMENDED ACTION

Council President Hughes and staff recommend adoption of Resolution No. 18-4903.