

# Holland & Knight

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Holland & Knight LLP | www.hkllaw.com

February 5, 2015

*Via E-mail (SMadkour@co.clackamas.or.us)*

Board of County Commissioners  
Clackamas County  
2051 Kaen Road  
Oregon City, Oregon 97045

Re: Scot Sideras  
Name-Clearing Hearing

Dear Board:

I am providing this statement in advance of the name-clearing hearing (“NCH”) for Scot Sideras, currently scheduled for February 10, 2015.

## Introduction

Mr. Sideras was previously employed as a Senior Assistant County Counsel with Clackamas County but was terminated by Mr. Stephen Madkour on February 7, 2013. Mr. Sideras has requested this NCH because (1) the County is a government employer; (2) Mr. Madkour, acting on behalf of the County, made public disclosures of stigmatizing information about Mr. Sideras; (3) Mr. Sideras has demonstrated that he is in fact innocent of Mr. Madkour’s allegations; and (4) the public disclosures were made in connection with the termination of employment.

Mr. Madkour never presented to Mr. Sideras the reason he was terminated and Mr. Madkour’s subsequent explanations changed as each of his reasons became less tenable. Mr. Madkour first claimed that he terminated Mr. Sideras because Mr. Madkour believed that Mr. Sideras used his position, and information he obtained in that position, for his own personal gain and to the impairment and prejudice of his then-current client. Mr. Madkour publicly disclosed this allegation of misconduct to the Oregon Government Ethics Commission and the Oregon State Bar immediately after Mr. Sideras’ termination. Thereafter, those allegations made their way into the news media, stigmatizing and injuring Mr. Sideras’ reputation.

Mr. Madkour's allegations, however, were false and demonstrated a lack of understanding of both the law and what actually had occurred. Not only did Mr. Madkour not give Mr. Sideras an opportunity to explain, but Mr. Madkour's public allegations demonstrated that he simply didn't understand basic concepts in the state ethics rules as they apply to lawyers such as Mr. Sideras. Mr. Sideras vigorously defended himself. Both the Ethics Commission and the State Bar unequivocally dismissed Mr. Madkour's complaints against Mr. Sideras, after a time consuming and costly defense of his license to practice law. Notably, the State Bar rejected Mr. Madkour's legal analysis on all counts, and concluded that there simply was no basis to find that Mr. Sideras violated any ethics rules, or that he was otherwise guilty of the charges made by Mr. Madkour.

Mr. Sideras was an excellent and trusted County employee, who had been employed with the County for many years, providing legal advice to the County on almost all of its important projects. There were no prior complaints or write-ups; and his employee file is replete with an unbroken series of positive reviews. Mr. Madkour simply had no valid reason to terminate Mr. Sideras and, as explained below, Mr. Sideras promptly requested an NCH to clear his name but asked that it be deferred until after the Bar complaint was resolved. Now that both the State Bar and the Ethics Commission have rejected Mr. Madkour's analysis, Mr. Sideras has again requested this NCH to clear his name from the false and stigmatizing allegations made by Mr. Madkour.

The Board is undoubtedly familiar with Mr. Sideras and the factual scenario underlying his termination and so I will not belabor the facts here. I do, however, believe that some basic information may be helpful to share before the NCH. I will first provide a basic outline of the facts and second the results of the investigation with the Oregon State Bar

#### General Factual Background

- Mr. Sideras was employed with the County as an Assistant County Counsel from May 24, 2006, until his termination on February 7, 2013. His personnel file (included as Exhibit A) demonstrates that he was an excellent, and even remarkable, employee. Every performance appraisal contains praise for his outstanding performance and the appraisals regularly authorized a maximum merit salary increase; many of the appraisals also authorize an "exceptional service" bonus and specific praise for his performance. (See, e.g., November 2008 ("superior skills" and "phenomenal addition"); October 2009 ("trusted colleague" and "highest regard and trust in Scot's skills"); February 2011 ("exemplary in his work").
- After his election to Chair of the Clackamas County Board of Commissioners, but prior to his being sworn into office, then Chair-elect Ludlow asked Mr. Sideras to provide the County legal advice regarding the mechanism and means by which the County could remove Mr. Wheeler as County Administrator. Over the course of that meeting, and subsequent communications, Mr. Sideras responded to questions put to him by Chair-elect Ludlow and then-Commissioner-elect Smith. In the context of these discussions, Mr. Sideras was asked whether, if the county administrator did leave office, Mr. Sideras would

be interested in serving as an interim county administrator until a permanent administrator could be located.

- Mr. Madkour learned about these communications and subsequently terminated Mr. Sideras on February 7, 2013; Mr. Sideras was never presented with the reasons he was being fired. Mr. Madkour subsequently claimed the reason he was terminated was because he believed that Mr. Sideras had used County “information for his own personal gain and to the impairment and prejudice of a current client.” Mr. Madkour believed that Mr. Sideras effectively used his position (and information learned in his position) to oust County Administrator Steve Wheeler so that he could take Mr. Wheeler’s place. As discussed below and in the enclosed documents, Mr. Sideras adamantly denies these allegations.
- On February 25, 2013, Mr. Madkour provided a letter to the Board of Commissioners notifying them that he was *obligated* to disclose information regarding Mr. Sideras to the Bar. (See Exhibit B.) This, however, is not true and it was either a misrepresentation or bad legal advice for Mr. Madkour to so advise the Board. Oregon RPC 8.3(a) requires lawyers to report another lawyer to the Oregon State Bar when that lawyer has committed an ethics violation that raises a substantial question as to that lawyer’s honesty, trustworthiness or fitness as a lawyer. The rule, however, is tempered by the lawyer’s duty of confidentiality to the client under RPC 1.6(a). Practically, this means that no lawyer may report another lawyer to the Bar if the information is confidential information protected by the lawyer’s duty of confidentiality *unless* the client provides informed consent to the disclosure. *See, e.g.*, OSB Formal Op. 2005-95 (stating the same). There is no dispute that Mr. Madkour did not seek the informed consent of the Board to disclose client confidential information to the Bar. The great irony in this case is that in complaining to the Bar that Mr. Sideras breached his duty of confidentiality (with which the Bar disagreed), Mr. Madkour is the one who indisputably actually breached his duty to the County.
- On February 27, 2013, Mr. Madkour filed a complaint with the Oregon State Bar, and with the Oregon Government Ethics Commission (the “Commission”), against Mr. Sideras. (See Exhibits C and D.) The Commission promptly dismissed the complaint against Mr. Sideras on March 4, 2013. (See Exhibit E.) The Commission concluded that the information provided by Mr. Madkour was insufficient for it to take any action, effectively dismissing the complaint.
- On March 5, 2013, Chair Ludlow sent a letter to Assistant General Counsel Troy Wood at the State Bar indicating that Clackamas County had not consented to Mr. Madkour’s filing of the client confidential information related to the Sideras complaint. (See Exhibit F.) On the same day, Mr. Madkour also sent Mr. Wood an email noting he may not have been authorized to disclose the information regarding Mr. Sideras. (See Exhibit G.) Unfortunately, anything provided to the Bar is a public record and the information could not be clawed back after its erroneous submission.

- On March 5, 2013, the story about Mr. Sideras' termination broke in the media, and stories were written in both Willamette Week and the Oregonian, and posted on their respective websites. Due to the stigmatizing information made public by Mr. Madkour, Mr. Sideras promptly requested an NCH, but also requested it be deferred until after the Oregon State Bar concluded its investigation so that Mr. Sideras could indisputably demonstrate that his conduct was not improper or unethical. The Bar subsequently dismissed Mr. Madkour's complaint against Mr. Sideras on August 12, 2014. (See Exhibit H.)

Mr. Madkour's Complaint is Dismissed by the Oregon State Bar

The investigation with the Bar was thorough and required numerous responses from both Mr. Madkour and on behalf of Mr. Sideras. Although I will summarize some of the key arguments, and the Bar's conclusions, I am enclosing the correspondence for your review (see Exhibit I).

- Mr. Madkour's initial letter generally alleged that Mr. Sideras prepared a plan to replace the County Administrator; and in so doing, did not act under the advice or authority of County Counsel or the County Administrator. Mr. Madkour indicated that he believed Mr. Sideras acted to the prejudice of a current client and Mr. Madkour likened the County Administrator to the Chief Executive Officer, implying that the County Administrator was the "client" for whom Mr. Sideras worked.
- Mr. Sideras responded on April 5, 2013, denying the allegations and demonstrating their inconsistency with Oregon law. Mr. Madkour's assumption that Mr. Sideras could only act at the direction of County Counsel or the County Administrator confused the fundamental question regarding identity of the client; Mr. Sideras did not represent either Mr. Madkour or Mr. Wheeler – instead, he represented the County and could act to its benefit. Here, Mr. Sideras properly provided information to then Chair-elect Ludlow and then Commissioner-elect Smith when asked to do so and there was no breach of any ethical or legal requirements, or the applicable laws as to the meetings of public officials.
- Mr. Madkour's April 19, 2013 response now indicated that Mr. Sideras' conduct was improper because, to the extent he advised Chair-elect Ludlow and Commissioner-elect Smith, he did so and provided them confidential client communications before they were sworn into office. In other words, even though they had already been elected to their positions, Mr. Sideras could not discuss County business with them (even at their request and even if it inured to the benefit of the County) until they were actually sworn into office.
- In follow-up correspondence on May 10, 2013, Mr. Sideras explained that providing client information to members-elect was not an ethics violation. And on July 31, 2014, Mr. Sideras argued that there was no conflict of interest in his giving information to the

members-elect relating to their impending job duties when there was then a current Board of Commissioners.<sup>1</sup>

By letter dated August 12, 2014, the Bar decisively dismissed Mr. Madkour's complaint against Mr. Sideras, finding there was no probable cause to believe that Mr. Sideras committed misconduct in violation of the Oregon Rules of Professional Conduct governing lawyer conduct, or Chapter 9 of the Oregon Revised Statutes. The Bar rejected Mr. Madkour's analysis on all counts, and concluded as follows:

1. The Bar agreed with Mr. Sideras that his client was the County – not the then County Administrator or County Counsel.
2. There was no evidence that Chair Ludlow was illegally or improperly seeking Mr. Sideras' legal advice; nor would the Chair's acting on Mr. Sideras' advice be likely to result in substantial injury to the County. In fact, the Bar found just the opposite – “by seeking advice from an assistant county attorney presumably familiar with whatever statutory or other governing law pertained to the county's employment of a county administrator, [Chair] Ludlow was seeking to ensure that appropriate legal requirements were met.”
3. RPC 2.3 was inapplicable because Chair Ludlow was seeking advice that pertained to his role as the newly-elected chair of the Board of Commissioners – “a position of authority within the governing body of Mr. Sideras's client, the [C]ounty.”

#### Conclusion/Summary

In a March 5, 2013 Willamette Week article, Mr. Madkour stated that the termination: “was an internal personnel matter and *now it's in the hands of the bar*” (emphasis added). Mr. Sideras, however, was exonerated and the complaint filed by Mr. Madkour was found to have absolutely no merit. The simple truth is that Mr. Sideras was terminated by Mr. Madkour because Mr. Sideras provided then Chair-elect Ludlow and then Commissioner-elect Smith legal advice regarding the County's employment of a county administrator. As the Bar concluded, it was ethically appropriate for Mr. Sideras to speak with then Chair-elect and another Commissioner-elect about County business before they took office. In fact, Mr. Sideras, as an employee obligated to give the best legal advice to the County's officers, had no alternative but to respond completely and accurately to the Commissioner's requests.

There is no question that Mr. Madkour's allegations of professional misconduct are stigmatizing and have caused his career real prejudice. Mr. Sideras looks forward to this NCH providing him

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<sup>1</sup> There was a delay in the Bar's investigation of over a year. It is not known why the delay was so great and their public file does indicate a reason for the delay. It is assumed the delay related to the press of other matters in their office.

Board of County Commissioners  
February 5, 2015  
Page 6

a long overdue opportunity to clear his name from Mr. Madkour's wrongful allegations of misconduct.

Best regards,

HOLLAND & KNIGHT LLP

A handwritten signature in black ink, appearing to read "D. Elkanich", written over the printed name.

David J. Elkanich

DJE:kdf

cc: Stephen Madkour  
Mary Raethke

## Clackamas County Personnel Action Form – TERMINATION

Action Number

- Address Change  
 CHANGE IN TERMINATION DATE

|   |             |   |                                     |   |  |
|---|-------------|---|-------------------------------------|---|--|
| Effective Date  | Employee ID | First   | M.I.                                | Employee Name<br>Last                   |  |
| 7/7/13  | 20245       | Scot  | A                                   | Sideras                                 |  |
| <b>TERMINATION STATUS CHANGE INFORMATION</b><br>↓↓        |             | Address <b>5826 N Detroit</b>   |                                     |   |  |
|   |             | City <b>Portland</b>  | State                               | ZIP <b>97217-</b>                       |  |
|   |             | Home Phone<br><b>(503) 289-3948</b>   | Cell Phone<br><b>(503) 799-0835</b> | Business Phone<br><b>(503) 742-4332</b> |  |
|   |             | Original Reported Termination Date: <b>2/7/13</b> Revised Termination Date: <b>  /  /</b> |                                     |   |  |
| Employee Will Not Be Terminating <input type="checkbox"/> |             |   |                                     |   |  |

Department Name and Number      **0102 COUNSEL**

**EMPLOYEE GAVE NOTICE:**      \*\* Written       \*\* Attach written resignation      Verbal       E-Mail

**TERMINATION REASON**      End of Contract      PERS Status: 01

**NOTES:**

\*\*Call Payroll 24 hours in advance with final hours worked      Final Paycheck Delivery      Select

I hereby certify that the facts as stated are correct.

Date 2/11/13      Signature of Appointing Authority      Title County Counsel

**EMPLOYEE SIGNATURE** (Necessary in cases of Resignation) – If a written resignation is attached, signature not necessary.  
 I hereby voluntarily consent to the Personnel Action as described without coercion or compulsion.       Employee not available for signature.

Date: \_\_\_\_\_      Employee Signature: \_\_\_\_\_

**DES & BENEFITS AUTHORIZATION**      Approved by COUNTY\DOROTHYDOT on Wednesday, February 20, 2013  
 Approved by COUNTY\kristawea on Wednesday, February 20, 2013

PROGRAM/BAS GRP TER      BENEFITS TERM DATE 7-31-2013       COBRA       RETIRE NEX

| HEALTH/<br>FSA      | LIFE          | DISAB          | LEAVES/<br>PERS | GEN DED       | DISTRIB  |
|---------------------|---------------|----------------|-----------------|---------------|----------|
| MED <u>PHP-PERS</u> | LIF _____     | BASIC _____    | 50 _____        | BENE _____    | TB _____ |
| DEN <u>ODSINC</u>   | DEP _____     | SUPP _____     | 51 _____        | RMF _____     | BH _____ |
| EAP <u>EAP-01</u>   | ADD EE _____  |                | 52 _____        | AB-MED _____  | NS _____ |
| HC _____            | ADD FAM _____ | DEF COMP _____ | 5X _____        | AB-DEN _____  |          |
| DC _____            | GUL _____     | EE _____       | 5Y _____        | AB-LIFE _____ |          |
|                     | SPO _____     | NR1 _____      | 5Z _____        | UNUM _____    |          |
|                     | CHD _____     | POA _____      | 70 _____        | METLAW _____  |          |
|                     |               | FOP _____      | 72 _____        | LIB MUT _____ |          |
|                     |               | DC- _____      |                 | AFLAC 1 _____ |          |
|                     |               |                |                 | AFLAC 2 _____ |          |

Reviewed by COUNTYGNickerson on Wednesday, February 20, 2013

S:\Cheryl\Scot Sideras A PA TERMINATION End of Contract.dot

MARCH 2011

Form WF TERM

Reviewed by COUNTY\jbrown1 on Monday, February 25, 2013

## EMPLOYMENT AGREEMENT

This is an Employment Agreement ("Agreement") between Scot Arthur Sideras, ID# 20245, ("Employee") and Clackamas County ("Employer") acting by and through the Clackamas County Counsel ("Employer"). The previous Employment Agreement between the parties is hereby rescinded. Effective on the date this Agreement is signed by both parties, it is agreed:

1. **Employment.** Employer agrees to employ Employee as **Legal Counsel, Senior**, until such time as Employee's employment is terminated as provided below.

Employee accepts employment on the following terms and conditions and agrees that during the period of employment substantially all of Employee's professional attention will be devoted to rendering services on Employer's behalf. Employee shall perform such duties as Employer may from time to time assign. Employee will be employed in the unclassified service as defined in Chapter 2.05.030 of the Clackamas County Code, pursuant to this Agreement.

2. **Compensation.** Employee shall receive a salary, payable biweekly, at an annual rate of \$109,585.16, and shall automatically receive any cost-of-living increases granted to other employees in the "Group 1 Management" category or its successor. At the discretion of the Employer, an annual bonus of up to 5% of the annual salary may be awarded. A bonus greater than 5% requires the approval of the Board of County Commissioners.

3. **Performance Reviews.** Employee's performance may be reviewed periodically by the Employer or his designee. The goal is to conduct a performance review after twelve months of service, and each year of service thereafter, or at any earlier time deemed appropriate by the Employer. Employee may request additional performance reviews (but limited to one request in any six-month period). Performance reviews and the determination of future goals and objectives will be summarized in writing and may be revised thereafter as the Employer deems appropriate. Performance reviews do not guarantee a salary increase, but Employee's compensation may from time to time be adjusted to take into account Employee's success in achieving such goals and objectives as well as any changes in the general nature, quality and level of services performed and any other factors the Employer may deem it appropriate to consider.

4. **Automobile.** Employer shall reimburse Employee monthly at Employer's regular mileage rate for any business use of Employee's personal automobile that is authorized by Employer in advance (by policy or otherwise) and is reasonable and necessary to the performance of Employee's business duties. Employee shall maintain accurate records of any business use of Employee's personal automobile and submit such records to justify payment to Employee.

5. **Expenses.** Employer shall pay or reimburse Employee for any reasonable and necessary travel or other business expenses paid or incurred by Employee on Employer's

behalf to the extent that such expenses are authorized by Employer in advance (by policy or otherwise) and are incurred in connection with business duties. Employer may authorize per diem or similar allowance in lieu of requiring an accounting, but Employer may require an acceptable accounting by requesting the same of Employee.

6. **Employee Benefit Plans.** Employee shall be eligible to participate in benefit plans, such as vacations, sick pay, accident and health insurance, life insurance, disability income and wage continuation benefits, and pension/retirement and/or compensation deferral plans as Employer may from time to time adopt on the same basis as other employees in the "Group 1 Management" category or its successor, subject to the following:

a. Any benefit offered to employees in that category may from time to time be modified, superseded or eliminated by Employer, and any such actions shall automatically be binding on Employee. Employer shall give Employee at least 30 days' notice of any such changes.

b. Should Employee decline to continue working under such changed benefit plans, Employee will be considered to have voluntarily terminated employment pursuant to section 8.a.(2).

7. **Disability.**

a. If Employee becomes disabled because of mental or physical impairment and unable to perform Employee's duties and elects to take leave, whether full-time or intermittently, Employee's compensation and benefits shall continue in accordance with Employer's underlying benefit plans, including its leave policies, and applicable law. Once the Employee exhausts such rights to continued compensation or benefits, Employer shall have no obligation to continue compensation and benefits under this Agreement.

b. Employer reserves all rights to request a physical or mental examination of Employee to determine Employee's fitness and competency to perform services on the Employer's behalf. If Employee refuses to submit to such an examination without proffering justifiable medical reason, Employee will be considered to have voluntarily terminated employment under section 8.a. (2).

c. An employee without any expectation of being able to return to work with a reasonable accommodation may be terminated by the Employer. Employee shall not be entitled to compensation or employer-paid benefits after the effective date of termination under this paragraph, but employee shall, if eligible, be entitled to any applicable disability income or retirement benefits.

8. **Termination.** This Agreement and Employee's employment may be terminated as follows:

a. **Termination Without Cause.**

(1) **By Employer.** Employer shall have the right to terminate this Agreement and Employee's employment for any reason without cause upon giving not less than thirty (30) calendar days' written notice (or, in lieu of such notice, by providing for a lump-sum payment to Employee of an amount equal to Employee's regular salary for the 30 calendar days). Employer shall also be required to continue payment of Employee's salary for one-hundred eighty (180) calendar days (one-hundred fifty (150) days if the Employee receives a lump-sum payment in lieu of notice as described above). Employer shall only be required to provide the benefits furnished under Paragraph 6 through the end of the month in which Employee actually ceases to perform work for Employer, except for Employer-provided medical and dental insurance and EAP coverage, which shall be provided for the 150 or 180 calendar days referred to above (including family coverage if so enrolled).

(2) **By Employee.** Employee shall have the right to terminate this Agreement and Employee's employment for any reason without cause upon giving not less than thirty (30) calendar days' written notice. Employee shall be entitled to the salary and any benefits provided under Paragraph 6 for the full 30 calendar days provided, however, that in lieu of accepting such notice, Employer may pay Employee a lump-sum payment of severance pay equal to Employee's regular salary for the 30 calendar days.

b. **Automatic Termination.** This Agreement and Employee's employment shall be automatically terminated upon any one of the following events:

(1) Employee commits any act of fraud, dishonesty, or criminal or other conduct involving moral turpitude, either arising out of the employment relationship or which reflects adversely upon Employer's reputation or interests;

(2) Employee's death or retirement.

Employee shall not be entitled to compensation (including any pay in lieu of notice) or Employer-paid benefits after the effective date of the termination under this paragraph (b), provided, however, that if Employee performed any work prior to the effective date of the termination Employee's salary shall be prorated to that date.

c. **For-Cause Termination.** Employer shall have the right to discipline Employee, including terminating Employee, for cause. Any action taken against Employee for cause shall be subject to the standards and procedures established under the Clackamas County Code for classified employees, except that any appeal of a for cause termination or other disciplinary action shall be heard subject to paragraph 15 of this Agreement and not the appeal procedures of the County Code. If terminated for cause, Employer shall have no obligation under this Agreement to continue Employee's salary and benefits after the date of termination.

9. **Reasonable Suspicion Testing.** Employer may require a drug or alcohol test of Employee where Employer has a reasonable suspicion that Employee may be impaired, intoxicated, or under the influence of a controlled substance or alcohol while performing duties for Employer or while on Employer's premises. "Reasonable suspicion" means behavior, appearance, speech or body odors that provide a reason to believe Employee may be impaired, intoxicated, or under the influence of a controlled substance or alcohol.

10. **Policies, Procedures, Rules and Regulations.** In addition to this Agreement, Employee shall also be required to abide by any other policies, rules, procedures and regulations as may from time to time be adopted, modified, or rescinded by Employer to govern Employee's conduct or the performance of Employee's duties. Employer shall give Employee at least 30 days' notice of any such changes in its existing policies, rules, procedures or regulations that occur after the date of this Agreement. If Employee declines to continue working under such changed policies, rules, procedures or regulations, Employee will be considered to have voluntarily terminated employment pursuant to section 8.a.(2). Such other policies, rules, procedures and regulations shall not contradict or modify any term of this Agreement.

11. **Binding Effect and Assignment.** This Agreement shall be binding upon and inure to the benefit of Employer and Employee and their respective successors, heirs and legal representatives. Neither this Agreement nor any rights hereunder may be assigned without the written consent of the other party.

12. **Entire Agreement and Amendment.** This Agreement contains the entire agreement of the parties. No amendment or variation of the terms and conditions of this Agreement shall be valid unless it is in writing and signed by the parties.

13. **Severability.** In the event that any of the provisions herein shall be held to be invalid or unenforceable, the remaining provisions shall continue to be valid and enforceable.

14. **Constitutional/Statutory/Budgetary Limitations.** This Agreement is subject to all applicable contracting laws of the State of Oregon, is subject to the constitutional debt limitation of Oregon counties, and is contingent upon funds being appropriated for the particular position held by Employee. A termination pursuant to such restrictions shall be considered a termination without cause subject to section 8.a.(1).

15. **Arbitration.** All disputes arising out of this Agreement, including the meaning or effect of any of its provisions, or any aspect of the employment relationship or termination of employment, shall be resolved by final and binding arbitration. In any such dispute and request for arbitration, the parties shall submit a request to the United States Arbitration and Mediation, Inc., Portland, Oregon office, as arbitration administrator, for a list of five arbitrators maintaining their primary residence in Oregon. Upon receiving the list, the parties shall alternately strike one name each, until one name remains on the list, with the Employee striking first. The rules of the arbitration administration shall govern.

In consideration of this agreement to submit to final and binding arbitration, Employer and Employee also waive the right to submit any such dispute to government agencies or the courts. Each party shall bear its own costs and attorney fees in any arbitration proceeding, provided, however, that the arbitrator shall possess the discretion to award attorney fees and/or costs to the prevailing party where provided by statute. Any dispute as to the "prevailing party" shall be resolved by the arbitrator who heard the initial dispute. Employer shall be solely responsible for the arbitrator's fees and any separate arbitration and recording fees.

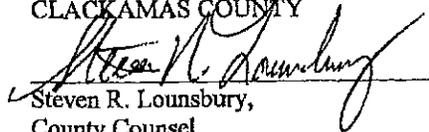
Employee and Employer state that they have carefully read this Agreement, that they have had the opportunity to have it reviewed and explained to them by advisors of their choosing, that they fully understand its final and binding effect, and that they are signing the Agreement voluntarily.

IN WITNESS WHEREOF, this Agreement has been executed by Employer and Employee.

EMPLOYEE

  
\_\_\_\_\_  
Scot Arthur Sideras

CLACKAMAS COUNTY

  
\_\_\_\_\_  
Steven R. Lounsbury,  
County Counsel

Date: 8-23-2010

Date: 9-9-10

## Clackamas County Personnel Action Form – TERMINATION

**Action Number** \_\_\_\_\_  Address Change **EMPLOYMENT AGREEMENT**  
 **CHANGE IN TERMINATION DATE**

|  |                    |                               |             |                                      |                   |                       |
|--|--------------------|-------------------------------|-------------|--------------------------------------|-------------------|-----------------------|
| <b>Effective Date</b>                              | <b>Employee ID</b> | <b>First</b>                  | <b>M.I.</b> | <b>Employee Name</b>                 | <b>Last</b>       |                       |
| 2/7/13   | 20245              | Scot                          | A           | Sideras                              |                   |                       |
| <b>TERMINATION STATUS CHANGE INFORMATION</b><br>↓↓ |                    | <b>Address</b> 5826 N Detroit |             |                                      |                   |                       |
|  |                    | <b>City</b> Portland          |             | <b>State</b>                         | <b>ZIP</b> 97217- |                       |
|  |                    | <b>Home Phone</b>             |             | <b>Cell Phone</b>                    |                   | <b>Business Phone</b> |
|  |                    | (503) 289-3948                |             | (503) 799-0835                       |                   | (503) 742-4332        |
| <b>Original Reported Termination Date:</b>         |                    | 2/7/13                        |             | <b>Revised Termination Date:</b> / / |                   |                       |
| <b>Employee Will Not Be Terminating</b>            |                    | <input type="checkbox"/>      |             |                                      |                   |                       |

**Department Name and Number** 0102 *COUNSEL*

**EMPLOYEE GAVE NOTICE:** \*\* Written  \*\* Attach written resignation Verbal  E-Mail

**TERMINATION REASON** Dismissal Termination of Contract 150 days = 07/07/13 **PERS Status:** 01

**NOTES:** TERMINATION WITH PAY

**\*\*Call Payroll 24 hours in advance with final hours worked Final Paycheck Delivery Select**

I hereby certify that the facts as stated are correct.

Date 2/11/13 Signature of Appointing Authority  Title County Counsel

**EMPLOYEE SIGNATURE** (Necessary in cases of Resignation) – If a written resignation is attached, signature not necessary.  
 I hereby voluntarily consent to the Personnel Action as described without coercion or compulsion.  Employee not available for signature.

Date: \_\_\_\_\_ Employee Signature: \_\_\_\_\_

**DES & BENEFITS AUTHORIZATION** Approved by COUNTY\DOROTHYDOT on Monday, February 11, 2013  
 Approved by COUNTY\kristawea on Monday, February 11, 2013  
 Reviewed by COUNTY\MStotik on Monday, February 11, 2013

**PROGRAM/BAS GRP** TER **BENEFITS TERM DATE** 2-28-2013  COBRA  RETIRE NFX  
**MEDICAL, DENTAL & EAP TERM** 7-31-2013

| HEALTH/<br>FSA |          | LIFE    |        | DISAB |          | LEAVES/<br>PERS |  | GEN DED |      | DISTRIB |
|----------------|----------|---------|--------|-------|----------|-----------------|--|---------|------|---------|
| MED            | PHP-PERS | LIF     | LIFNFX | BASIC | 3333.00  | 50              |  | BENE    | BENE | TB      |
| DEN            | ODSINC   | DEP     | DLIF   | SUPP  | 5000.00  | 51              |  | RMF     |      | BH      |
| EAP            | EAP-01   | ADD EE  |        |       |          | 52              |  | AB-MED  |      | CL      |
| HC             |          | ADD FAM | LIFGUL |       | DEF COMP | 5X              |  | AB-DEN  |      | NS      |
| DC             |          | GUL     |        | EE    |          | 5Y              |  | AB-LIFE |      | IIB     |
|                |          | SPO     |        | NR1   | DC-NRI   | 5Z              |  | UNUM    |      |         |
|                | HRA/VEBA | CHD     |        | POA   |          | 70              |  | METLAW  |      |         |
|                |          |         |        | FOP   |          | 72              |  | LIB MUT |      |         |
|                |          |         |        | DC-   | DC-6     |                 |  | AFLAC 1 |      |         |
|                |          |         |        |       |          |                 |  | AFLAC 2 |      |         |

Reviewed by COUNTYGNickerson on Wednesday, February 13, 2013

[http://web1.clackamas.us/alfresco/download/direct/workspace/SpacesStore/122cb710-5979-11e0-afad-2103f4d1777e/A\\_PA\\_TERMINATION.dot](http://web1.clackamas.us/alfresco/download/direct/workspace/SpacesStore/122cb710-5979-11e0-afad-2103f4d1777e/A_PA_TERMINATION.dot)

MARCH 2011

Form WF TERM

Reviewed by COUNTY\JBROWN1 on Tuesday, February 12, 2013

## EMPLOYMENT AGREEMENT

This is an Employment Agreement ("Agreement") between Scot Arthur Sideras, ID# 20245, ("Employee") and Clackamas County ("Employer") acting by and through the Clackamas County Counsel ("Employer"). The previous Employment Agreement between the parties is hereby rescinded. Effective on the date this Agreement is signed by both parties, it is agreed:

1. **Employment.** Employer agrees to employ Employee as **Legal Counsel, Senior**, until such time as Employee's employment is terminated as provided below.

Employee accepts employment on the following terms and conditions and agrees that during the period of employment substantially all of Employee's professional attention will be devoted to rendering services on Employer's behalf. Employee shall perform such duties as Employer may from time to time assign. Employee will be employed in the unclassified service as defined in Chapter 2.05.030 of the Clackamas County Code, pursuant to this Agreement.

2. **Compensation.** Employee shall receive a salary, payable biweekly, at an annual rate of \$109,585.16, and shall automatically receive any cost-of-living increases granted to other employees in the "Group 1 Management" category or its successor. At the discretion of the Employer, an annual bonus of up to 5% of the annual salary may be awarded. A bonus greater than 5% requires the approval of the Board of County Commissioners.

3. **Performance Reviews.** Employee's performance may be reviewed periodically by the Employer or his designee. The goal is to conduct a performance review after twelve months of service, and each year of service thereafter, or at any earlier time deemed appropriate by the Employer. Employee may request additional performance reviews (but limited to one request in any six-month period). Performance reviews and the determination of future goals and objectives will be summarized in writing and may be revised thereafter as the Employer deems appropriate. Performance reviews do not guarantee a salary increase, but Employee's compensation may from time to time be adjusted to take into account Employee's success in achieving such goals and objectives as well as any changes in the general nature, quality and level of services performed and any other factors the Employer may deem it appropriate to consider.

4. **Automobile.** Employer shall reimburse Employee monthly at Employer's regular mileage rate for any business use of Employee's personal automobile that is authorized by Employer in advance (by policy or otherwise) and is reasonable and necessary to the performance of Employee's business duties. Employee shall maintain accurate records of any business use of Employee's personal automobile and submit such records to justify payment to Employee.

5. **Expenses.** Employer shall pay or reimburse Employee for any reasonable and necessary travel or other business expenses paid or incurred by Employee on Employer's

behalf to the extent that such expenses are authorized by Employer in advance (by policy or otherwise) and are incurred in connection with business duties. Employer may authorize per diem or similar allowance in lieu of requiring an accounting, but Employer may require an acceptable accounting by requesting the same of Employee.

6. **Employee Benefit Plans.** Employee shall be eligible to participate in benefit plans, such as vacations, sick pay, accident and health insurance, life insurance, disability income and wage continuation benefits, and pension/retirement and/or compensation deferral plans as Employer may from time to time adopt on the same basis as other employees in the "Group 1 Management" category or its successor, subject to the following:

a. Any benefit offered to employees in that category may from time to time be modified, superseded or eliminated by Employer, and any such actions shall automatically be binding on Employee. Employer shall give Employee at least 30 days' notice of any such changes.

b. Should Employee decline to continue working under such changed benefit plans, Employee will be considered to have voluntarily terminated employment pursuant to section 8.a.(2).

7. **Disability.**

a. If Employee becomes disabled because of mental or physical impairment and unable to perform Employee's duties and elects to take leave, whether full-time or intermittently, Employee's compensation and benefits shall continue in accordance with Employer's underlying benefit plans, including its leave policies, and applicable law. Once the Employee exhausts such rights to continued compensation or benefits, Employer shall have no obligation to continue compensation and benefits under this Agreement.

b. Employer reserves all rights to request a physical or mental examination of Employee to determine Employee's fitness and competency to perform services on the Employer's behalf. If Employee refuses to submit to such an examination without proffering justifiable medical reason, Employee will be considered to have voluntarily terminated employment under section 8.a. (2).

c. An employee without any expectation of being able to return to work with a reasonable accommodation may be terminated by the Employer. Employee shall not be entitled to compensation or employer-paid benefits after the effective date of termination under this paragraph, but employee shall, if eligible, be entitled to any applicable disability income or retirement benefits.

8. **Termination.** This Agreement and Employee's employment may be terminated as follows:

a. **Termination Without Cause.**

(1) **By Employer.** Employer shall have the right to terminate this Agreement and Employee's employment for any reason without cause upon giving not less than thirty (30) calendar days' written notice (or, in lieu of such notice, by providing for a lump-sum payment to Employee of an amount equal to Employee's regular salary for the 30 calendar days). Employer shall also be required to continue payment of Employee's salary for one-hundred eighty (180) calendar days (one-hundred fifty (150) days if the Employee receives a lump-sum payment in lieu of notice as described above). Employer shall only be required to provide the benefits furnished under Paragraph 6 through the end of the month in which Employee actually ceases to perform work for Employer, except for Employer-provided medical and dental insurance and EAP coverage, which shall be provided for the 150 or 180 calendar days referred to above (including family coverage if so enrolled).

(2) **By Employee.** Employee shall have the right to terminate this Agreement and Employee's employment for any reason without cause upon giving not less than thirty (30) calendar days' written notice. Employee shall be entitled to the salary and any benefits provided under Paragraph 6 for the full 30 calendar days provided, however, that in lieu of accepting such notice, Employer may pay Employee a lump-sum payment of severance pay equal to Employee's regular salary for the 30 calendar days.

b. **Automatic Termination.** This Agreement and Employee's employment shall be automatically terminated upon any one of the following events:

(1) Employee commits any act of fraud, dishonesty, or criminal or other conduct involving moral turpitude, either arising out of the employment relationship or which reflects adversely upon Employer's reputation or interests;

(2) Employee's death or retirement.

Employee shall not be entitled to compensation (including any pay in lieu of notice) or Employer-paid benefits after the effective date of the termination under this paragraph (b), provided, however, that if Employee performed any work prior to the effective date of the termination Employee's salary shall be prorated to that date.

c. **For-Cause Termination.** Employer shall have the right to discipline Employee, including terminating Employee, for cause. Any action taken against Employee for cause shall be subject to the standards and procedures established under the Clackamas County Code for classified employees, except that any appeal of a for cause termination or other disciplinary action shall be heard subject to paragraph 15 of this Agreement and not the appeal procedures of the County Code. If terminated for cause, Employer shall have no obligation under this Agreement to continue Employee's salary and benefits after the date of termination.

9. **Reasonable Suspicion Testing.** Employer may require a drug or alcohol test of Employee where Employer has a reasonable suspicion that Employee may be impaired, intoxicated, or under the influence of a controlled substance or alcohol while performing duties for Employer or while on Employer's premises. "Reasonable suspicion" means behavior, appearance, speech or body odors that provide a reason to believe Employee may be impaired, intoxicated, or under the influence of a controlled substance or alcohol.

10. **Policies, Procedures, Rules and Regulations.** In addition to this Agreement, Employee shall also be required to abide by any other policies, rules, procedures and regulations as may from time to time be adopted, modified, or rescinded by Employer to govern Employee's conduct or the performance of Employee's duties. Employer shall give Employee at least 30 days' notice of any such changes in its existing policies, rules, procedures or regulations that occur after the date of this Agreement. If Employee declines to continue working under such changed policies, rules, procedures or regulations, Employee will be considered to have voluntarily terminated employment pursuant to section 8.a.(2). Such other policies, rules, procedures and regulations shall not contradict or modify any term of this Agreement.

11. **Binding Effect and Assignment.** This Agreement shall be binding upon and inure to the benefit of Employer and Employee and their respective successors, heirs and legal representatives. Neither this Agreement nor any rights hereunder may be assigned without the written consent of the other party.

12. **Entire Agreement and Amendment.** This Agreement contains the entire agreement of the parties. No amendment or variation of the terms and conditions of this Agreement shall be valid unless it is in writing and signed by the parties.

13. **Severability.** In the event that any of the provisions herein shall be held to be invalid or unenforceable, the remaining provisions shall continue to be valid and enforceable.

14. **Constitutional/Statutory/Budgetary Limitations.** This Agreement is subject to all applicable contracting laws of the State of Oregon, is subject to the constitutional debt limitation of Oregon counties, and is contingent upon funds being appropriated for the particular position held by Employee. A termination pursuant to such restrictions shall be considered a termination without cause subject to section 8.a.(1).

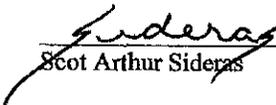
15. **Arbitration.** All disputes arising out of this Agreement, including the meaning or effect of any of its provisions, or any aspect of the employment relationship or termination of employment, shall be resolved by final and binding arbitration. In any such dispute and request for arbitration, the parties shall submit a request to the United States Arbitration and Mediation, Inc., Portland, Oregon office, as arbitration administrator, for a list of five arbitrators maintaining their primary residence in Oregon. Upon receiving the list, the parties shall alternately strike one name each, until one name remains on the list, with the Employee striking first. The rules of the arbitration administration shall govern.

In consideration of this agreement to submit to final and binding arbitration, Employer and Employee also waive the right to submit any such dispute to government agencies or the courts. Each party shall bear its own costs and attorney fees in any arbitration proceeding, provided, however, that the arbitrator shall possess the discretion to award attorney fees and/or costs to the prevailing party where provided by statute. Any dispute as to the "prevailing party" shall be resolved by the arbitrator who heard the initial dispute. Employer shall be solely responsible for the arbitrator's fees and any separate arbitration and recording fees.

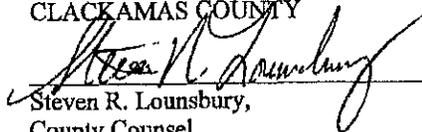
Employee and Employer state that they have carefully read this Agreement, that they have had the opportunity to have it reviewed and explained to them by advisors of their choosing, that they fully understand its final and binding effect, and that they are signing the Agreement voluntarily.

IN WITNESS WHEREOF, this Agreement has been executed by Employer and Employee.

EMPLOYEE

  
\_\_\_\_\_  
Scot Arthur Sideras

CLACKAMAS COUNTY

  
\_\_\_\_\_  
Steven R. Lounsbury,  
County Counsel

Date: 8-26-2010

Date: 9-9-10

Date Distributed 08/28/12

0102

RECEIVED  
BLACKHAWK CO EMPLOYEE SVCS

Department: County Counsel  
Location: CO COUNSEL  
Supervisor: Stephen Madkour  
Contract

2012 AUG 28 AM 11:29

Scot Sideras  
Legal Counsel, Senior\*

20245

### Salary Increase Form

|            |          |
|------------|----------|
| Effective: | 11/01/12 |
|------------|----------|

The following is an employee in your department which our records indicate is eligible for a salary increase. Please denote whether or not you wish the employee to receive the salary increase, sign, and return both the performance appraisal and the salary increase report to the Personnel Division **October 29, 2012**.

| Grant                               | Deny                     | Job Code | Salary Plan | Current Pay Rate | Current Pay Step | Current Salary Grade |
|-------------------------------------|--------------------------|----------|-------------|------------------|------------------|----------------------|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 020088   | NRP         | \$54.544960      | 0                | 35                   |

To be completed by WES and Facilities ONLY:

Workforce Software Department Number:

Charge Out Rate:

Date Off Probation:

Department Head Signature

8/27/12

Date

For Personnel Use Only

Please Do Not Stamp or Write In The Space Below

|                  |             |
|------------------|-------------|
| Status:          | R           |
| Type:            | F           |
| Employee ID      | 20245       |
| Effective Date:  | 11/01/12    |
| Grade:           | 35          |
| New Step         | 2.50%       |
| New Rate:        | \$55.908584 |
| Next Review Date | 11/01/13    |

Reviewed by COUNTY\DOROTHYDOT on Thursday, September 06, 2012

Approved by COUNTY\kristawea on Thursday, September 06, 2012

Reviewed by COUNTY\GNickerson on Thursday, September 06, 2012

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PUBLIC QUERY CLK\_SAL\_REVIEW\_DATES



## County Counsel Performance Planning & Review

Employee Name: Scot A. Sideras  
Position (or Job Title): Legal Counsel, Senior  
Classification: NRP 33  
Department: County Counsel

Date of Review Meeting:  
Date of Mid-year check-in:  
Reviewer :  
Years with County Counsel: 6

### **Part I: ORGANIZATIONAL GOALS**

**Department Goals: The Mission of County Counsel's Office is to Provide Cost-Effective Legal Advice and Representation to County Clients.**

- To draft legal documents and provide legal opinions and advice in response to client requests in a timely manner.
- To determine the county's legal liability when claims are filed and to efficiently and effectively resolve the claims through settlement or litigation. Work cooperatively with county risk management and with third-party administrators to assess risk and liability, assist in claim investigation and resolution.
- To assist the county in preventing liability, as well as vigorous defense of claims.
- To provide guidance and training to County departments and employees.
- To advise, support, and assist County staff in all aspects of their essential job duties including responding to public records request, subpoenas, or testimony at court, or other administrative hearings.
- To provide or oversee legal representation in civil matters on behalf of the County.
- To provide legal counsel to the Board of County Commissioners, County officers, the County Administrator, department directors, County employees and various boards and commissions, on matters pertaining to official County operations.
- To advise County departments on appropriate action for a variety of legal problems and issues.
- To provide legal advice and analysis of proposed state and federal legislation affecting County operations.
- To direct the research and preparation of legal opinions, memoranda, ordinances, resolutions, contracts, agreements, deeds and other legal documents.
- To continuously upgrade practice skills of staff and meet professional standards for continuing legal education.
- To establish an office environment that maximizes the ability of staff to respond professionally and efficiently to all legal needs.

## Part II POSITION RESPONSIBILITIES

Please fill in what you do: Advisory, teach of your clients, litigation, types of cases and approx ongoing workload.

### Key Responsibilities

- Advisory- Participation as a key team member on multimillion dollar projects involving the direct participation of Commissioners, County Administration, and Department Directors. Representative examples from the last 12 months include:
  - BCC- Sheriff Advisory Committee as to Best Practices; Vehicle Registration Fee; Urban Renewal Initiative and Referral; Portland-Milwaukie Light Rail
  - Department of Transportation and Development- Sunrise Corridor; Lolo Pass Road; Oregon Iron Works; Emmert International; General Growth Properties
  - Economic Development- SoloPower; Blue Heron; Organically Grown
  - Housing Authority- Elks Acquisition
- Advisory- The negotiation of principal transactions and drafting of the attendant documents as to projects that, while important, do not involve the direct participation of Commissioners or County Administration. Representative examples from the last 12 months include:
  - Department of Transportation and Development- North Clackamas Revitalization Area bond; right of way acquisitions from RS Davis; Owner Participation and Development Agreement as to Hawthorne Grove; Disposition and Development Amendments as to 92nd; various development easements, right of way easements, road dedications, vacations, acceptances, and jurisdictional transfers; agreements as to utilities' use of the right of way; umbrella agreements with sustainable energy providers for efficiency upgrades to homeowners and businesses; development agreements for system development charges; intergovernmental agreements with cities as to transportation services; intergovernmental agreements with ODOT for transportation systems, including Immediate Opportunity Funds.
  - North Clackamas Parks and Recreation- Property purchase on Mt. Talbot.
- Advisory- Participation in matters that, while involving the direct participation of Commissioners, County Administration, and Department Directors, do not have sufficient duration to support designation as a project. Representative examples from the last 12 months include:
  - BCC- The preparation of resolutions, on such topics as Lake Oswego streetcar, wages and benefits, and budget; building an agenda for summit meetings on topics such as transportation and economic development; briefings on subjects such as city incorporation; providing legislative analysis and support
  - Department of Transportation and Development- providing analysis on such subjects as maintenance mechanisms, urban renewal plans, reports on urban renewal plans, public records requests, participation in forensic audits; participation in meetings with developers interested in establishing public-private partnerships; participation in meetings with municipalities interested in intergovernmental cooperation on infrastructure and sports
  - Economic Development- providing analysis on such subjects as enterprise zones, strategic investment zones, and property assemblage
- Advisory- Providing direct advice to the Clerk as to matters of concern, including the certification and verification of petitions, election issues, and recording, including the introduction of electronic recording
- Litigation- Providing support to lead counsel on matters where specialized expertise is beneficial, specifically election matters

**Part III: COMPETENCIES**

**"HOW" I do my job through the use of behavioral skills**

A competency is a set of behaviors that help to define the skills, knowledge, abilities, and personal characteristics needed for excellent performance. Competencies are therefore not about WHAT results you deliver, but are about excellence in HOW you behave and the processes you choose on the way to those results.

**#1 Research Analysis and Judgment:** Measures the extent to which the attorney displays sound judgment and resolves issues using good reasoning and deduction, distinguishing between relevant and irrelevant information, and exhibiting creativity in problem-solving. Also measures the attorney's comprehensiveness in research, verifying accuracy of facts and arriving at well-supported and sound conclusions.

**Evaluation**

- Identifies relevant facts and determines whether additional development is necessary. Verifies accuracy of facts presented and, when appropriate, develops additional facts.
- Clarifies and identifies relevant legal issues, cutting through irrelevant material quickly and effectively.
- Conducts research in an efficient and comprehensive manner, determining relevant authorities.
- Exhibits sound judgment in analyzing issues and draws logical conclusions in making decisions, anticipating consequences of analyses.
- Utilizes creativity in solving problems, and developing arguments and positions.
- Evaluates the relative strengths and weaknesses of each argument, harmonizing legal and policy concerns.
- Makes decisions and recommends solutions and courses of actions that are well-supported, workable, and consistent with County policy.
- Demonstrates command of relevant law in practice area.

Employee's overall demonstration of Performance Behaviors are :

- Fully Effective
- Progressing Appropriately
- Need Improvement

Supervisor Assessment and Comments:

**#2 Communications:** Measures attorney's performance in exchanging information with others in an effective, appropriate, timely, clear, concise, logical, and organized manner. Communications include listening, speaking, writing, presenting, and sharing information.

**Final Review**

- Plans and organizes written work for clarity, tact, conciseness, logic, and persuasiveness.
- Employs appropriate format, grammar, and spelling, carefully proofreading work.
- Uses language and tone that are appropriate to the intended purpose.
- Addresses issues completely and properly, presenting accurate legal and factual arguments and citing the best available authorities.
- Plans and prepares for oral presentations, assuring that they are

Employee's overall demonstration of Performance Behaviors are:

- Fully Effective
- Progressing Appropriately
- Need Improvement

Supervisor Assessment and Comments:

|   |   |
|---|---|
| <p>concise and organized, with style and tone appropriate to the situations.</p> <ul style="list-style-type: none"> <li>• Presents legal and factual arguments in a persuasive manner.</li> <li>• Responds promptly, resourcefully, and directly to questions, demonstrating ability to deviate from prepared material/format.</li> <li>• Listens to and considers the views of others.</li> <li>• Demonstrates tact, firmness, and assertiveness in pursuing or protecting the client's interests.</li> <li>• Participates in meetings and conferences, contributing to the understanding of problems and assisting in reaching workable solutions.</li> <li>• Acts in a courteous and respectful manner when communicating with County colleagues and the public.</li> <li>• Displays effective negotiating skills and judgment in resolving a transaction with opposing counsel.</li> </ul>          |   |
| <p><b>#3 Workload Management:</b> <i>Measures the attorney's ability to effectively manage his or her workload, including skills in organizing and planning work according to deadlines, anticipating developments, and managing multiple assignments. Also measures attorney's productivity and ability to maximize available time and resources.</i></p>  | <p><b>Final Review</b></p>  |
| <ul style="list-style-type: none"> <li>• Meets deadlines imposed by sources both inside and outside the department.</li> <li>• Anticipates developments in cases or projects and plans work accordingly.</li> <li>• Utilizes sound organization approaches to information, files, records, and computer files, assuring availability to others while simultaneously maintaining integrity and security of information.</li> <li>• Maximizes time available, minimizing wasted time and effort.</li> <li>• Manages multiple assignments, setting priorities, setting target dates, and demonstrating discipline in following the plan.</li> <li>• Keeps supervisor and clients properly advised about the status of work assignments, seeking higher level guidance when necessary.</li> <li>• Utilizes resources prudently, preventing waste, loss, or unauthorized use of County resources.</li> </ul> | <p>Employee's overall demonstration of Performance Behaviors are :</p> <p><input checked="" type="checkbox"/> Fully Effective</p> <p><input type="checkbox"/> Progressing</p> <p><input type="checkbox"/> Appropriately</p> <p><input type="checkbox"/> Need Improvement</p> <p>Supervisor Assessment and Comments:</p> |
| <p><b>#4 Professionalism And Interpersonal Relationships:</b> <i>Measures attorney's development and maintenance of positive and constructive internal and external relationships, as demonstrated by willingness to function as a team player, give and receive constructive criticism, seek advice, respond to authority, resolve conflicts, recognize the needs and sensitivities of others, and treat others in a fair and equitable manner. Also measures attorney's commitment to personal and professional development, staying current on issues pertinent to the job, and seeking to improve knowledge and skills.</i></p>   |   |
| <ul style="list-style-type: none"> <li>• Builds and sustains productive working relationship with supervisor, understanding when it is appropriate to inform, consult,</li> </ul>   | <p>Employee's overall demonstration of Performance Behaviors are :</p> <p><input checked="" type="checkbox"/> Fully Effective</p>   |

- or seek advice.
- Builds and sustains productive working relationships with colleagues and support staff.
- Acts with sensitivity and tact.
- Considers the impact of decisions on others.
- Acts with utmost commitment to codes of conduct and ethics.
- Stays current on legal issues, policies, and procedures.
- Demonstrates a willingness to continue to learn and take on increasingly complex work.
- Solicits advice and actively seeks to improve professional knowledge and skills.
- Contributes to an environment that is free from discrimination and harassment, assuring that all attorneys can do their best work.
- Sets a good example through commitment to quality, teamwork, and self-development.
- Inspires other with dedication and a positive attitude.

Progressing Appropriately

Need Improvement

Supervisor Assessment and Comments:

| COMMENTS relative to performance behaviors demonstrated in COMPETENCIES |  |
|---|--|
| STRENGTHS shown and IMPROVEMENTS needed:                                |  |
| <b>Employee Comments:</b>   | I believe that I have demonstrated that I possess the skills necessary to provide the services required by our clients, and that one of my special strengths is the ability to supply the advice or document required according to their demanding timeline. Over the past year I have noted an improvement in the speed and quality of the product that I am able to deliver, which I attribute to the new additions to the team of counsels and support staff and the integration of talents and shared work ethic. I look forward to continuing this trend. |
| <b>Manager Comments:</b>  |  |

| Part IV: INDIVIDUAL GOALS   |  |
|---|--|
| <b>"WHAT" deliverables or results I expect to achieve</b>   |  |
| <i>Goals are tangible results that link day-to-day work to the Key Responsibilities and overall expectations for a particular position, and support the larger goals of the Team/Unit/Department.</i>   |  |
| <i>As a format or guide for writing goals please consider: Specific, Measurable, Achievable/Action-based, Results-oriented, Time-bound.</i>   |  |
| <i>OPTIONAL – describe what Success looks like if goal is met and Action Steps that can be taken towards meeting the goal.</i>  |  |
| <b>#1 goal</b>  | <b>Final Review</b>  |
| To maintain the legal skills and knowledge essential to timely provide legal services. While part of this comes from attending seminars and other venues for continuing legal education, mentoring and other teaching opportunities are another opportunity for learning. I will have achieved success when I have identified areas where I need to update my skills and knowledge, and taken definite steps to sharpen that focus. | <input type="checkbox"/> Met Goal<br><input type="checkbox"/> Partially Met Goal<br><input type="checkbox"/> Did Not Meet Goal |

|   |  |
|---|--|
| <b>Updates (if/as goal changes):</b>  | <input type="checkbox"/> Goal no longer applicable   |
| <b>#2 goal</b>  | <b>Final Review</b>  |
| I need to make sure that my listening and communication skills are of the highest order. The membership of work teams change, as do the individual profiles of the members. I need to be especially careful that I do not let behaviors that may have been successful in another setting interfere with current best practices. I will know I have been successful when feedback indicates that I have made a positive contribution, and if I am invited to participate in other opportunities as part of a team. | <input type="checkbox"/> Met Goal<br><input type="checkbox"/> Partially Met Goal<br><input type="checkbox"/> Did Not Meet Goal<br><br><input type="checkbox"/> Goal no longer applicable |
| <b>Updates (if/as goal changes):</b>  |  |
| <b>#3 goal</b>  | <b>Final Review</b>  |
| I am at a point of my career where I have decades of experience practicing law. My goal is to maximize the benefit of that experience and minimize its burden. This requires a forward focus and a degree of patience when revisiting problems thought to have been solved years ago. I know I will have achieved success when my clients are able to bring me problems of concern to them without first considering how I might react to the questions.  | <input type="checkbox"/> Met Goal<br><input type="checkbox"/> Partially Met Goal<br><input type="checkbox"/> Did Not Meet Goal<br><br><input type="checkbox"/> Goal no longer applicable |
| <b>Updates (if/as goal changes):</b>  |  |

|  |  |
|--|--|
| <b>COMMENTS relative to performance demonstrated in striving for results for GOALS</b> |  |
| <b>STRENGTHS shown and IMPROVEMENTS needed:</b>  |  |
| <b>Employee Comments:</b>  | These are not new goals. They are objectives that I have identified in the past, and towards which I have achieved consistent success. However I very much believe that they are currently very legitimate, and appreciate the opportunity to reflect on their current validity. |
| <b>Manager Comments:</b>   |  |

|  |   |
|--|---|
| <b>Part V. PROFESSIONAL DEVELOPMENT</b>  |   |
| <b>Build additional skills through experience and training, in support of career goals.</b>  |   |
| <i>This is about building skills that support growth beyond standard expectations of the current position, in alignment with the desires of the employee and the opportunities within the county. Specific training, projects, committees, competency development, etc. are all examples of activities that can support development.</i> |   |
| <b>Skill, competency, or experience to build:</b>  | <b>Trainings, projects, activities to assist in building the skill or competency:</b>   |
| Refining legal skills and knowledge  | Attending seminars and educational opportunities as appropriate.  |
| Listening and communication skills   | Look for opportunities for feedback. In the past working with PGA on joint projects has been especially helpful. Identify especially effective communicators in the County and find the key elements of their style.    |
| Team integration   | Identify the skill sets of frequent team members, and identify which of my talents best integrate. Look for opportunities, especially among my coworkers, where my talents and abilities would be helpful in their task |

|  |              |
|--|--------------|
|  | assignments. |
|--|--------------|

**Part VI: FINAL REVIEW**

**FINAL COMMENTS** relative to OVERALL work success: STRENGTHS shown and IMPROVEMENTS needed:

|                           |  |
|---------------------------|--|
| <b>Employee Comments:</b> | I believe that I have made important contributions to the success of the office of county counsel. I look forward to continuing to maintain the knowledge, skills, and attitude that enabled these accomplishments, and intend to pursue ways to refine my performance as part of a continuous path of improvement, using my own self awareness and the input of others. |
| <b>Manager Comments:</b>  |  |

**Final Review Rating (consider performance in both Competencies and Goals):**

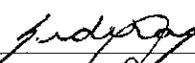
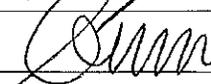
|                                   |   |                               |
|-----------------------------------|---|-------------------------------|
| <b>Fully Effective:</b>           | Overall, meets critical standards and normal expectations of performance success.<br><i>*Eligible for merit increase.</i>     | 1<br><input type="checkbox"/> |
| <b>Progressing Appropriately:</b> | Overall, is progressing toward Fully Effective at an acceptable rate.<br><i>*Eligible for merit increase.</i>                 | <input type="checkbox"/>      |
| <b>Needs Improvement:</b>         | Overall, not meeting critical standards or expectations for performance success.<br><i>* Not eligible for merit increase.</i> | <input type="checkbox"/>      |

**Action Recommended by Manager**

|   |  |
|---|--|
| Recommend a merit increase:   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Recommended increase is:  | _____%   |
| An increase may not be applicable due to "topping out" in salary range, or other factors. Please be sure to check with HR before communication is finalized to employee regarding merit increase. Check the box if HR informs you that an increase is not applicable. | <input type="checkbox"/> Not Applicable                  |

**Mid-year check-in and Ongoing Feedback:**

|  |   |
|--|---|
| <input type="checkbox"/> YES <input type="checkbox"/> NO | A formal mid-year discussion between Manager and Employee to review progress was completed, and it met both parties expectations. |
| <input type="checkbox"/> YES <input type="checkbox"/> NO | Informal ongoing feedback between Manager and Employee took place throughout the year, and it met both parties expectations.      |

|   |                 |
|---|-----------------|
| Employee Signature:  | Date: 2-1- 2012 |
| Manager Signature:   | Date: 2/14 2012 |
| Optional - Department Director's Initials:  | Date:           |

**Clackamas County  
Personnel Action Form – Appointment/Personal Data/Status Changes**

**Action/Reason**

**NEXT REVIEW DATE REACTIVATED  
FY 2012-13**

|                                   |
|-----------------------------------|
| <b>EFFECTIVE DATE</b><br>05/01/12 |
|-----------------------------------|

|                    |                      |
|--------------------|----------------------|
| <b>Employee ID</b> |                      |
| 20245              | Sideras, Scot Arthur |

| Department Name | Department # | Location |
|-----------------|--------------|----------|
| County Counsel  | 0102         |          |

**\*\*\*NOTES/COMMENTS:**

|  |
|--|
| <p>Next Salary Increase Eligibility Date: 11/1/2012</p> <p>Merit Date reactivated for FY 12/13.</p> <p>NRP/NSO merit freeze 07/01/10 – 06/30/12. Lifted effective 07/01/12</p> |
|--|

|  |   |                                    |
|--|---|------------------------------------|
| I hereby certify that the facts as stated are correct. |   |                                    |
| Date: 05/01/12   | Signature of<br>Appointing Authority: _____ | PA PREPARED BY DES<br>Title: _____ |

**DES AUTHORIZATION**

Reviewed by COUNTY\DOROTHYDOT on Thursday, May 03, 2012

## Executive Bonus Compensation Request Form\*\*

Under terms of the Contract of Employment and the Personnel Ordinance of Clackamas County, I authorize the issuance of a performance bonus to the individual employee named below, in an amount sufficient to yield a net bonus payment of \$ 5,000.00.

To the County Payroll Manager: SCOT Sideras  
Please generate a bonus check for SCOT Sideras (20245).  
employee name      employee #

This payment is for exemplary performance during the period of

5/2006  
(mm/yr)

5/2011  
(mm/yr)

and is not to become a part of regular ongoing compensation.

Steve Wheeler

Steve Wheeler, County Administrator

6/16/11

Date

Net Bonus Check represents 4.4 % of Gross Annual Base Salary

Check Issued 6/16/11 by Victoria S. Anderson  
Date      Payroll Manager  
Supervisor

\*\* For Contracted Employees Only-  
Copy to be kept in Employee's Payroll File w/ Copy of Check

Clackamas County  
Personnel Action Form – Appointment/Personal Data/Status Changes

Action/Reason

SUPERVISOR CHANGE

|                                     |
|-------------------------------------|
| <b>EFFECTIVE DATE</b><br>03/01/2011 |
|-------------------------------------|

Employee ID

|       |               |
|-------|---------------|
| 20245 | Sideras, Scot |
|-------|---------------|

| Department Name | Department # | Supervisor's Name & Employee # |
|-----------------|--------------|--------------------------------|
| COUNTY COUNSEL  | 0102         | Stephen Madkour 22961          |

\*\*\*NOTES/COMMENTS:

|  |
|--|
|  |
|--|

I herby certify that the facts as stated are correct.

Date: 3-1-11 Signature of Appointing Authority: Cheryl Cornelison Title: Admin. Asst.

DES AUTHORIZATION

Reviewed by COUNTY\DOROTHYDOT on Monday, March 07, 2011



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CLACKAMAS CO EMPLOYEE SVCS

2011 FEB 17 PM 4:34

OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING  
2051 KAEN ROAD | OREGON CITY, OR 97045

Agnes A. Sowle  
COUNTY COUNSEL

David W. Anderson  
Kimberley A. Ybarra-Cole  
Kathleen Rastetter  
Scot A. Sideras  
Chris Storey  
Scott C. Ciecko  
D. Daniel Chandler  
ASSISTANTS

Annual Performance Appraisal

To: Department of Employee Services  
From: Agnes Sowle  
Subject: Scot A. Sideras, Legal Counsel, Senior, Employee Id #20245  
Date: February 16, 2011

Scot began his employment with Clackamas County as a Legal Counsel, Senior, on May 24, 2006. Mr. Sideras is assigned to the County Development Agency, the County's authorized urban renewal agency, which is a division of the Department of Transportation and Development. Although a member of the Office of County Counsel, office space has been provided for Mr. Sideras at the Development Agency, under the immediate daily supervision of Agency management. During the past year, Scot has continued to provide outstanding service for his clients and has worked on a number of significant projects.

**Scot's major work this year.** As I have only served as Interim County Counsel for a little over three months, I am unable to describe Scot's major work projects. However, I requested and he provided a list of his major accomplishments and I attach that list and incorporate it into this appraisal.

**Comments from Scot's clients.** I solicited input from a number of Scot's clients. The following are excerpts from their responses:

"Scott performs his duties with a level of excellence that I hope will become a trademark of Clackamas County government. This year Scott lead implementation of the BCC's decision to create a Public Safety Task Force, which is intended to ensure that the Sheriff's Office utilizes best practices to minimize the risk of violence against women. This is a politically sensitive, complex project that Scott has lead exceptionally well. Scott has translated board policy guidance into a coherent set of steps. He identified the relevant legal framework, created resolutions and operating documents, oriented Task Force members, charted a course to obtain testimony and complete the project within a prescribed timeframe, and balanced the need to provide relevant information with the need to preserve litigation-related confidentiality. In the process, Scott has earned the trust of participants from all perspectives in this process.

ENT'D MAR 09 2011

P. 503.655.8362 | F. 503.742.5397 | WWW.CLACKAMAS.US

February 16, 2011

Page 2 of 3

In order for the Board of County Commissioners to operate effectively, we need staff who can understand general policy directives, translate them into clear steps, and effectively implement those steps. We need staff who understand the nuances of complicated issues. We need staff who can independently, reliably, and with appropriate speed identify solutions to problems. We need staff who readily incorporate feedback from the Board regarding evolving needs and priorities. We need staff who are smart, listen well, and exercise discretion. I have worked with no one in Clackamas County government who demonstrates all these qualities to a higher degree than Scott. Plus he's funny.

It is a privilege and honor to work with a colleague of Scott's caliber. I offer the highest possible evaluation of his work.”

\*\*\*

- Scot is exemplary in his work for our department, and a highly valued member of our team.
- Scot is dedicated and works towards solutions with a positive attitude.
- Scot brings professional responsibility, expertise, and diligence to his work.
- Scot has assisted us on a number of projects over the past year involving property and right of way acquisitions; development, purchase and sale, and lease agreements; a \$6 million bond sale; incorporation processes, and a ballot measure. In addition, I am aware of special projects he has lead at the request of BCC Administration.
- Scot has always responded to our needs and supported the department.
- I am aware that due to the economy, non represented personnel merit increases have been frozen. Regardless, I recommend that when possible, Scot immediately be awarded a bonus for his excellent work for Clackamas County.

\*\*\*

**Comments from colleagues.** I also requested input from his colleagues and he received the following response:

“Specifically, I would note that Scot:

1. Consistently demonstrates superior legal skills. He is knowledgeable in multiple areas of the law, and brings an effective problem-solving mindset to the issues raised by our clients. His counsel is informed by both his legal acumen and his wise insight into the political, relational, negotiation, and power dynamics present in a situation.
2. Is effective and persuasive in his communication skills, but also an able listener who is patient in allowing clients to express their concerns – often when such concerns are irrelevant to the legal issues at hand.
3. Is a trusted colleague who happily shares his expertise and is willing to put in hard work on mutual projects. He has covered legal issues for me while I was on vacation, and more than ably helped clients continue their work. We frequently consult each other on issues of the day, and I consistently find his comments insightful and helpful.

February 16, 2011  
Page 3 of 3

I have the highest regard and trust in Scot's skills as an attorney and counselor, and would have no hesitation in entrusting complex matters to his hands. He is diligent and consistent in his effort. I frequently note his early arrival and late departure from the office, putting in long hours (including on the weekends or even on planned vacation days) to meet and exceed client expectations.

\*\*\*

"Scot has many years of experience as a lawyer, and his knowledge is a tremendous asset to our office in providing legal advice to our clients. He is unfailingly patient and deliberate in addressing client's legal problems. Overall, his approach generates confidence and respect on the part of our clients, and is much appreciated by me. He has expertise in areas of the law that other in our office have little familiarity with, and thus he is a valuable part of our legal team. His sense of humor is also a stress antidote which I appreciate."

As reflected in the foregoing comments from clients and colleagues, Scot has proven himself to be a competent attorney who performs his work in a professional and conscientious manner. He clearly serves his clients and Clackamas County well.

C: Scot Sideras



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING

2051 KAEN ROAD OREGON CITY, OR 97045

November 16, 2011

From: Scot A. Sideras  
Legal Counsel, Senior

To: Agnes Sowle  
County Counsel

Re: 2010 Performance Appraisal

Agnes Sowle  
Interim County Counsel

David W. Anderson  
Kimberley Ybarra-Cole  
Edward S. McGlone III  
Kathleen Rastetter  
Scot A. Sideras  
Chris Storey  
Scott C. Clecko  
D. Daniel Chandler  
Assistants

Thank you for the invitation to talk about matters relevant to my annual performance evaluation.

I have been involved in as series of important and interesting projects over the past year. The more notable include:

The Oregon Ironworks Streetcar Expansion: This is the County's \$25 million economic development package to make OIW the only American streetcar manufacturer. I have received a Team Excellence award for my participation in the project, which is bringing family wage jobs and assessed value to the County. This task has been especially complicated by the competing demands of the Environmental Protection Agency and the Oregon Department of Transportation- the land has been declared a Superfund site, through which ODOT intends to construct a highway. I am the only attorney working on this project.

Light Rail along McLoughlin: I played an important role in the negotiation of the \$25 million Funding Agreement for bringing light rail down McLoughlin Blvd., especially in terms of maintaining flexibility in the manner the County makes its financial commitment.

The Purchase and Leaseback of Miles Fiberglass: Miles Fiberglass is an important County business that was especially hard-hit by the recession and fall in demand in the recreational vehicle industry. I was instrumental in the County's purchase and leaseback of its property, which enabled this employer to transition into new green energy products and increase its payroll as the County acquired an important parcel for redevelopment.

The Government Camp Incorporation Ballot: I successfully managed taking the question of municipal election from petition to the ballot. This was the first such effort since the incorporation of Damascus.

P. 503.655.8362

F. 503.742.5397

WWW.CLACKAMAS.US

ARRA Bonds and Strategic Investment Zones: Both these measures put the County on a better footing for economic recovery. The ARRA bonds have already been used to their full capacity, and only one other county in Oregon is able to offer a Strategic Investment Zone.

The Ch. 33 Action as to the North Clackamas Revitalization Area: This litigation protected the urban renewal district from a collateral attack that would have jeopardized its ability to collect revenue and issue a bond. I filed this preemptive action and brought it through to resolution.

The Advisory Committee to the Board as to the Best Practices in the Sheriff's Office: This highly controversial Committee, formed in response to the misconduct of deputies, has the responsibility of investigating the practices of the Sheriff's Office and the Department of Employee Services. My role is the demanding task of delivering a product that meets the expectations of the Board. I identified the basis for the Board's authority to establish the Committee, drafted the Resolution, advised the Board on the selection of its members and consultant, and facilitate the meetings of the Committee and its relationship with the Sheriff and the Department of Employee Services.

Other notable assignments include the Blue Heron bankruptcy, the tasks surrounding the Sunrise Corridor transportation project, the RS Davis acquisition, the Lawnfield Road expansion, and the purchases in the Clackamas Industrial Area. It is also noteworthy that billing reports, done for purposes of reporting to the Board, demonstrate that I am especially efficient in my use of time.

Of course it is customary in these matters to discuss future goals and plans. Frankly, I'd like to be the next County Counsel. Short of that, I look forward to continuing to serve the County to the best of my ability. My relationship with the County has been both satisfying and productive. It has been a pleasure to collaborate with the following individuals, who can speak as to the quality of my work and the manner in which it is presented.

Chair Lynn Peterson  
Commissioner Ann Lininger  
Director, Department of Transportation and Development, Cam Gilmour  
Deputy Director, Department of Transportation and Development, Barb Cartmill  
Supervisor, Development Agency, Dan Johnson

If you have any questions I am available at your convenience. I appreciate the interest and support you've shown in my work, and look forward to discussing these matters as may be required.

Respectfully submitted,

Scot A. Sideras

## EMPLOYMENT AGREEMENT

This is an Employment Agreement ("Agreement") between Scot **Arthur Sideras**, ID# 20245, ("Employee") and **Clackamas County** ("Employer") acting by and through the Clackamas County Counsel ("Employer"). The previous Employment Agreement between the parties is hereby rescinded. Effective on the date this Agreement is signed by both parties, it is agreed:

1. **Employment.** Employer agrees to employ Employee as **Legal Counsel, Senior**, until such time as Employee's employment is terminated as provided below.

Employee accepts employment on the following terms and conditions and agrees that during the period of employment substantially all of Employee's professional attention will be devoted to rendering services on Employer's behalf. Employee shall perform such duties as Employer may from time to time assign. Employee will be employed in the unclassified service as defined in Chapter 2.05.030 of the Clackamas County Code, pursuant to this Agreement.

2. **Compensation.** Employee shall receive a salary, payable biweekly, at an annual rate of \$109,585.16, and shall automatically receive any cost-of-living increases granted to other employees in the "Group 1 Management" category or its successor. At the discretion of the Employer, an annual bonus of up to 5% of the annual salary may be awarded. A bonus greater than 5% requires the approval of the Board of County Commissioners.

3. **Performance Reviews.** Employee's performance may be reviewed periodically by the Employer or his designee. The goal is to conduct a performance review after twelve months of service, and each year of service thereafter, or at any earlier time deemed appropriate by the Employer. Employee may request additional performance reviews (but limited to one request in any six-month period). Performance reviews and the determination of future goals and objectives will be summarized in writing and may be revised thereafter as the Employer deems appropriate. Performance reviews do not guarantee a salary increase, but Employee's compensation may from time to time be adjusted to take into account Employee's success in achieving such goals and objectives as well as any changes in the general nature, quality and level of services performed and any other factors the Employer may deem it appropriate to consider.

4. **Automobile.** Employer shall reimburse Employee monthly at Employer's regular mileage rate for any business use of Employee's personal automobile that is authorized by Employer in advance (by policy or otherwise) and is reasonable and necessary to the performance of Employee's business duties. Employee shall maintain accurate records of any business use of Employee's personal automobile and submit such records to justify payment to Employee.

5. **Expenses.** Employer shall pay or reimburse Employee for any reasonable and necessary travel or other business expenses paid or incurred by Employee on Employer's

behalf to the extent that such expenses are authorized by Employer in advance (by policy or otherwise) and are incurred in connection with business duties. Employer may authorize per diem or similar allowance in lieu of requiring an accounting, but Employer may require an acceptable accounting by requesting the same of Employee.

6. **Employee Benefit Plans.** Employee shall be eligible to participate in benefit plans, such as vacations, sick pay, accident and health insurance, life insurance, disability income and wage continuation benefits, and pension/retirement and/or compensation deferral plans as Employer may from time to time adopt on the same basis as other employees in the "Group 1 Management" category or its successor, subject to the following:

a. Any benefit offered to employees in that category may from time to time be modified, superseded or eliminated by Employer, and any such actions shall automatically be binding on Employee. Employer shall give Employee at least 30 days' notice of any such changes.

b. Should Employee decline to continue working under such changed benefit plans, Employee will be considered to have voluntarily terminated employment pursuant to section 8.a.(2).

7. **Disability.**

a. If Employee becomes disabled because of mental or physical impairment and unable to perform Employee's duties and elects to take leave, whether full-time or intermittently, Employee's compensation and benefits shall continue in accordance with Employer's underlying benefit plans, including its leave policies, and applicable law. Once the Employee exhausts such rights to continued compensation or benefits, Employer shall have no obligation to continue compensation and benefits under this Agreement.

b. Employer reserves all rights to request a physical or mental examination of Employee to determine Employee's fitness and competency to perform services on the Employer's behalf. If Employee refuses to submit to such an examination without proffering justifiable medical reason, Employee will be considered to have voluntarily terminated employment under section 8.a. (2).

c. An employee without any expectation of being able to return to work with a reasonable accommodation may be terminated by the Employer. Employee shall not be entitled to compensation or employer-paid benefits after the effective date of termination under this paragraph, but employee shall, if eligible, be entitled to any applicable disability income or retirement benefits.

8. **Termination.** This Agreement and Employee's employment may be terminated as follows:

a. **Termination Without Cause.**

(1) **By Employer.** Employer shall have the right to terminate this Agreement and Employee's employment for any reason without cause upon giving not less than thirty (30) calendar days' written notice (or, in lieu of such notice, by providing for a lump-sum payment to Employee of an amount equal to Employee's regular salary for the 30 calendar days). Employer shall also be required to continue payment of Employee's salary for one-hundred eighty (180) calendar days (one-hundred fifty (150) days if the Employee receives a lump-sum payment in lieu of notice as described above). Employer shall only be required to provide the benefits furnished under Paragraph 6 through the end of the month in which Employee actually ceases to perform work for Employer, except for Employer-provided medical and dental insurance and EAP coverage, which shall be provided for the 150 or 180 calendar days referred to above (including family coverage if so enrolled).

(2) **By Employee.** Employee shall have the right to terminate this Agreement and Employee's employment for any reason without cause upon giving not less than thirty (30) calendar days' written notice. Employee shall be entitled to the salary and any benefits provided under Paragraph 6 for the full 30 calendar days provided, however, that in lieu of accepting such notice, Employer may pay Employee a lump-sum payment of severance pay equal to Employee's regular salary for the 30 calendar days.

b. **Automatic Termination.** This Agreement and Employee's employment shall be automatically terminated upon any one of the following events:

(1) Employee commits any act of fraud, dishonesty, or criminal or other conduct involving moral turpitude, either arising out of the employment relationship or which reflects adversely upon Employer's reputation or interests;

(2) Employee's death or retirement.

Employee shall not be entitled to compensation (including any pay in lieu of notice) or Employer-paid benefits after the effective date of the termination under this paragraph (b), provided, however, that if Employee performed any work prior to the effective date of the termination Employee's salary shall be prorated to that date.

c. **For-Cause Termination.** Employer shall have the right to discipline Employee, including terminating Employee, for cause. Any action taken against Employee for cause shall be subject to the standards and procedures established under the Clackamas County Code for classified employees, except that any appeal of a for cause termination or other disciplinary action shall be heard subject to paragraph 15 of this Agreement and not the appeal procedures of the County Code. If terminated for cause, Employer shall have no obligation under this Agreement to continue Employee's salary and benefits after the date of termination.

9. **Reasonable Suspicion Testing.** Employer may require a drug or alcohol test of Employee where Employer has a reasonable suspicion that Employee may be impaired, intoxicated, or under the influence of a controlled substance or alcohol while performing duties for Employer or while on Employer's premises. "Reasonable suspicion" means behavior, appearance, speech or body odors that provide a reason to believe Employee may be impaired, intoxicated, or under the influence of a controlled substance or alcohol.

10. **Policies, Procedures, Rules and Regulations.** In addition to this Agreement, Employee shall also be required to abide by any other policies, rules, procedures and regulations as may from time to time be adopted, modified, or rescinded by Employer to govern Employee's conduct or the performance of Employee's duties. Employer shall give Employee at least 30 days' notice of any such changes in its existing policies, rules, procedures or regulations that occur after the date of this Agreement. If Employee declines to continue working under such changed policies, rules, procedures or regulations, Employee will be considered to have voluntarily terminated employment pursuant to section 8.a.(2). Such other policies, rules, procedures and regulations shall not contradict or modify any term of this Agreement.

11. **Binding Effect and Assignment.** This Agreement shall be binding upon and inure to the benefit of Employer and Employee and their respective successors, heirs and legal representatives. Neither this Agreement nor any rights hereunder may be assigned without the written consent of the other party.

12. **Entire Agreement and Amendment.** This Agreement contains the entire agreement of the parties. No amendment or variation of the terms and conditions of this Agreement shall be valid unless it is in writing and signed by the parties.

13. **Severability.** In the event that any of the provisions herein shall be held to be invalid or unenforceable, the remaining provisions shall continue to be valid and enforceable.

14. **Constitutional/Statutory/Budgetary Limitations.** This Agreement is subject to all applicable contracting laws of the State of Oregon, is subject to the constitutional debt limitation of Oregon counties, and is contingent upon funds being appropriated for the particular position held by Employee. A termination pursuant to such restrictions shall be considered a termination without cause subject to section 8.a.(1).

15. **Arbitration.** All disputes arising out of this Agreement, including the meaning or effect of any of its provisions, or any aspect of the employment relationship or termination of employment, shall be resolved by final and binding arbitration. In any such dispute and request for arbitration, the parties shall submit a request to the United States Arbitration and Mediation, Inc., Portland, Oregon office, as arbitration administrator, for a list of five arbitrators maintaining their primary residence in Oregon. Upon receiving the list, the parties shall alternately strike one name each, until one name remains on the list, with the Employee striking first. The rules of the arbitration administration shall govern.

In consideration of this agreement to submit to final and binding arbitration, Employer and Employee also waive the right to submit any such dispute to government agencies or the courts. Each party shall bear its own costs and attorney fees in any arbitration proceeding, provided, however, that the arbitrator shall possess the discretion to award attorney fees and/or costs to the prevailing party where provided by statute. Any dispute as to the "prevailing party" shall be resolved by the arbitrator who heard the initial dispute. Employer shall be solely responsible for the arbitrator's fees and any separate arbitration and recording fees.

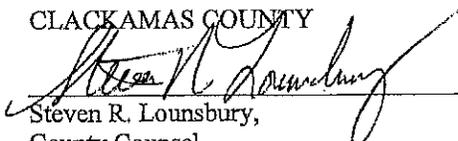
Employee and Employer state that they have carefully read this Agreement, that they have had the opportunity to have it reviewed and explained to them by advisors of their choosing, that they fully understand its final and binding effect, and that they are signing the Agreement voluntarily.

IN WITNESS WHEREOF, this Agreement has been executed by Employer and Employee.

EMPLOYEE

  
\_\_\_\_\_  
Scot Arthur Sideras

CLACKAMAS COUNTY

  
\_\_\_\_\_  
Steven R. Lounsbury,  
County Counsel

Date: 8-26-2010

Date: 9-9-10



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CLACKAMAS CO EMPLOYEE SVCS

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OFFICE OF COUNTY COUNSEL

Public Services Building  
2051 KAEN ROAD | OREGON CITY, OR 97045

Annual Performance Appraisal

Steven R. Lounsbury  
County Counsel

David W. Anderson  
Kimberley Ybarra-Cole  
Edward S. McGlone III  
Kathleen Rastetter  
Scot A. Sideras  
Chris Storey  
Scott C. Clecko  
D. Daniel Chandler  
Assistants

To: Department of Employee Services  
From: Steven R. Lounsbury  
Subject: Scot A. Sideras, Legal Counsel, Senior, Employee ID#20245  
Date: October 31, 2009

During the past year Scot has continued to provide outstanding service for his clients, and has worked on a number of significant projects.

Some of Scot's major accomplishments this year include:

1. The negotiation and purchase of 66 acres of industrial land at a price of \$12,250,000.00, and the accompanying trade of excess land on Highway 212 for a desired property on Otty Rd. Negotiations were contentious and protracted. Document responsibilities included the drafting, revision, and review of Letters of Intent, Purchase and Sale Agreements, Agreements to Trade, Escrow Instructions, Deeds, Affidavits, Tenant Estoppels, and Assignment and Assumption of Leases, often under demanding timelines.
2. The commitment with Oregon Iron Works to locate its streetcar manufacturing facility in Clackamas County in exchange for a \$25,000,000.00 economic development package. Accommodating the requirements of the Environmental Protection Agency and the Oregon Military Department presented a significant complication. Document responsibilities included the drafting of a Statement of Reciprocal Commitment and Ground Lease, an especially complicated task as these documents will provide the basis for the subsequent Disposition and Development Agreement.
3. The revision of the Indebtedness Agreements between the County and the Development Agency so as to fund the formation of new urban renewal districts without the expenditure of hundreds of thousands of dollars from the County's general fund.
4. The monitoring of the General Growth Properties bankruptcy and the tracking of the filing for its implications on the Clackamas Town Center and the Development Agency's \$25,000,000.00 investment.
5. The completion of the intergovernmental agreements necessary to complete the I-205 Light Rail project, and the first work on the agreements to bring light rail to Milwaukie.
6. Participating in a team that took responsibility for condemnation matters in a new direction, resulting in the series of acquisitions essential for the demanding 172<sup>nd</sup> project being completed on time and under budget. It is especially significant that, despite an apparent setback in the *Fisher* case due to a judge's controversial decision, we were nonetheless able to rebound, adopt alternative tactics, and promptly acquire the essential easements from the surprised property owners for approximately two-thirds of the value they had confidently proposed.

7. The oversight of the removal and demolition of houses stored on Highway 212 to ensure compliance with the conditions necessary for the payment of the \$247,500.00 set out as part of the sale and leaseback in conjunction with a complicated right-of-way acquisition for the Sunnyside corridor.

8. Flexibly responding to the needs of cities and other units of local government in transportation and transportation-related projects. The intergovernmental agreement with the Sunrise Water Authority permitted that entity to anticipate subsequent growth in demand without burdening the cost of an important road project. Dangers from falling trees at the Carver Bridge were dealt with by involving the code compliance officer from Happy Valley and anticipating the work necessary for the replacement of the bridge.

9. Protecting the County in disputes between litigants who are diametrically opposed, and yet each of whom sees the County's testimony as essential to proving its case. County employees were subpoenaed by plaintiff and defendant in both the *Windswept Water* and *King v. Norton* cases. In each case the credibility and integrity of the County were enhanced, so much so that in the *King* matter the judge praised the County from the bench.

#### 2009 Legislative session.

Scot provided valuable assistance during the 2009 Legislative Session, which in addition to the usual concerns featured the landmark passage of House Bill 3056 and its groundbreaking compromise package with the overlapping taxing districts, of which Clackamas County was a prime mover. Briefly, this bill brought about significant changes in the way urban renewal plans adopted after the bill will be managed and amended. It modifies many current practices, including the amount of taxes that go to urban renewal agencies and the calculation of the maximum indebtedness amount, which is the ceiling for the principal amount of tax increment proceeds that may be raised over the life of a plan. The bill provides that future plans will deliver all of the increment to the urban renewal agency until certain thresholds are reached, at which point the increments would be divided among the urban renewal agency and the other taxing jurisdictions. A key point involved a formula for determining the maximum indebtedness as a ratio of the total assessed value included in the plan. Scot was instrumental in negotiating final agreement on the Bill, among a number of lobby groups (school boards, special districts, urban renewal agencies, cities, counties, and Assessors), thus enabling the bill to move smoothly through the process. As part of the compromise, a Memorandum of Understanding was circulated among all the participants agreeing not to advocate any other urban renewal reforms for the next 3 sessions. In a note to the Board of County Commissioners our Legislative Affairs Director, Danielle Cowan, expressed her appreciation as follows:

"I just wanted to say how grateful I am to both Barb Cartmill and Scot Sideras for their incredible efforts in bringing this matter to a conclusion....She and Scot worked the numbers and modeling behind the scenes, as well as working with the Special Districts, bond counsels, assessors and even the Department of Revenue. They really did a phenomenal job. And Scot was the white knight who came up with a solution for the last sticking point today that was of primary concern to the assessors. Clearly, without their involvement, this would not have gone the way it has. In the end, we appear to have a new truce with urban renewal and maybe we won't have to deal with it again until after 2017!"

#### Comments from DTD and Development Agency management:

"Scot continues to add value in his work with the Development Agency and DTD. He is a diligent professional, thorough in his research and legal work, and is always willing to help on complex legal and policy matters and in a way we can understand. While I do not have

a dollar figure, I know that his work saves the department and development agency many times the value of his salary in cost avoidance and negotiated agreements involving financial compensation.

Scot is timely and collegial in his work, and is a joy to work with in problem solving situations. He is creative, innovative, and often suggests approaches to settling issues that otherwise would have been difficult to solve. He is a valued member of our team.”

#### Comments from colleagues

- Scot consistently demonstrates superior skills. He is knowledgeable in multiple areas of the law, and brings an effective problem-solving mindset to the issues raised by our clients. His counsel is informed by both his legal acumen and his wise insight into the political, relational, negotiation, and power dynamics present in a situation.
- Is effective and persuasive in his communication skills, and an able listener who is patient in allowing clients to express their concerns – often when such concerns are irrelevant to the legal issues at hand.
- Is a trusted colleague who happily shares his expertise and is willing to put in hard work on mutual projects. He has covered legal issues for me while I was on vacation, and more than ably helped clients continue their work. We frequently consult each other on issues of the day, and I consistently find his comments insightful and helpful.
- I have the highest regard and trust in Scot’s skills as an attorney and counselor, and would have no hesitation in entrusting complex matters to his hands. He is diligent and consistent in his effort. I frequently note his early arrival and late departure from the office, putting in long hours (including on the weekends or even on planned vacation days) to meet and exceed client expectations.
- I enjoy Scot’s sense of humor, and he works very hard. He is always very willing to answer questions.
- Scot has excellent skills as Counsel, and his particular areas of expertise are keenly appreciated because they fill what would otherwise be gaps in our expertise. He is a good communicator and is very helpful whenever he is asked for assistance. The support he gives to our team is outstanding. We are fortunate to have him at the Office of County Counsel.

As reflected above, Scot has provided extraordinary service to the County this past year. He is currently at the top of his salary range (\$107,965.68) and is not eligible for a merit increase, and recent upward revisions of the range are on hold due to the current adverse economic conditions. Although Mr. Gilmour (and I concur) recommends Scot for a bonus award to recognize his exceptional service, such awards have been suspended by the County Administrator due to the economic situation.

cc: Scot Sideras  
Cam Gilmour, Director of Transportation and Development  
Barbara Cartmill, Development Agency Division Manager

This review covers the period from November 1, 2008 to October 31, 2009. The next review will be due October 31, 2010.

EMPLOYMENT AGREEMENT

#20245

This is an Employment Agreement ("Agreement") between **Scot A. Sideras** ("Employee") and **Clackamas County** ("Employer") acting by and through the Clackamas County Counsel ("Employer"). The previous employment agreement between Employee and Employer is hereby rescinded. Effective February 5, 2009 it is agreed:

1. **Employment.** Employer agrees to employ Employee as **Legal Counsel Senior**, until such time as Employee's employment is terminated as provided below. Employee accepts employment on the following terms and conditions and agrees that during the period of employment substantially all of Employee's professional attention will be devoted to rendering services on Employer's behalf. Employee shall perform such duties as Employer may from time to time assign. Employee will be employed in the unclassified service as defined in Chapter 2.05.030 of the Clackamas County Code, pursuant to this Agreement.

2. **Compensation.** Employee shall receive a salary, payable biweekly, at an annual rate of \$107,965.68, and shall automatically receive any cost-of-living increases granted to other employees in the "Group 1 Management" category or its successor. At the discretion of the Employer, an annual bonus may be awarded.

3. **Performance Reviews.** Employee's performance may be reviewed periodically by the County Counsel or his designee. The goal is to conduct a performance review after twelve months of service, and each year of service thereafter, or at any earlier time the County Counsel may deem appropriate. Employee may request additional performance reviews (but limited to one request in any six-month period). Performance reviews and the determination of future goals and objectives will be summarized in writing and may be revised thereafter as the County Counsel deems appropriate. Performance reviews do not guarantee a salary increase, but Employee's compensation may from time to time be adjusted to take into account Employee's success in achieving such goals and objectives as well as any changes in the general nature, quality and level of services performed and any other factors the County Counsel may deem it appropriate to consider.

4. **Automobile.** Employer shall reimburse Employee monthly at Employer's regular mileage rate for any business use of Employee's personal automobile that is authorized by Employer in advance (by policy or otherwise) and is reasonable and necessary to the performance of Employee's business duties. Employee shall maintain accurate records of any business use of Employee's personal automobile and submit such records to justify payment to Employee.

5. **Expenses.** Employer shall pay or reimburse Employee for any reasonable and necessary travel or other business expenses paid or incurred by Employee on Employer's behalf to the extent that such expenses are authorized by Employer in advance (by policy or otherwise) and are incurred in connection with business duties. Employer may authorize per diem or similar allowance in lieu of requiring an accounting, but Employer may require an acceptable accounting by requesting the same of Employee.

6. **Employee Benefit Plans.** Employee shall be eligible to participate in benefit plans, such as vacations, sick pay, accident and health insurance, life insurance, disability income and wage continuation benefits, and pension/retirement and/or compensation deferral plans as Employer may from time to time adopt on the same basis as other employees in the "Group 1 Management" category or its successor, subject to the following:

a. Any benefit offered to employees in that category may from time to time be modified, superseded or eliminated by Employer, and any such actions shall automatically be binding on Employee. Employer shall give Employee at least 30 days' notice of any such changes.

b. Should Employee decline to continue working under such changed benefit plans, Employee will be considered to have voluntarily terminated employment pursuant to section 8.a.(2).

7. **Disability.**

a. If Employee becomes disabled because of mental or physical impairment and unable to perform Employee's duties and elects to take leave, whether full-time or intermittently, Employee's compensation and benefits shall continue in accordance with Employer's underlying benefit plans, including its leave policies, and applicable law. Once the Employee exhausts such rights to continued compensation or benefits, Employer shall have no obligation to continue compensation and benefits under this Agreement.

b. Employer reserves all rights to request a physical or mental examination of Employee to determine Employee's fitness and competency to perform services on the Employer's behalf. If Employee refuses to submit to such an examination without proffering justifiable medical reason, Employee will be considered to have voluntarily terminated employment under section 8.a. (2).

c. An employee without any expectation of being able to return to work with a reasonable accommodation may be terminated by the Employer. Employee shall not be entitled to compensation or employer-paid benefits after the effective date of termination under this paragraph, but employee shall, if eligible, be entitled to any applicable disability income or retirement benefits.

8. **Termination.** This Agreement and Employee's employment may be terminated as follows:

a. **Termination without Cause.**

(1) **By Employer.** Employer shall have the right to terminate this Agreement and Employee's employment for any reason without cause upon giving not less than 30 calendar days' written notice (or, in lieu of such notice, by providing for a lump-sum payment to Employee of an amount equal to Employee's regular salary for the 30 calendar days). Employer shall also be

required to continue payment of Employee's salary for 180 calendar days (150 days if the Employee receives a lump-sum payment in lieu of notice as described above). Employer shall only be required to provide the benefits furnished under Paragraph 6 through the end of the month in which Employee actually ceases to perform work for Employer, except for Employer-provided medical and dental insurance and EAP coverage, which shall be provided for the 150 or 180 calendar days referred to above (including family coverage if so enrolled).

(2) **By Employee.** Employee shall have the right to terminate this Agreement and Employee's employment for any reason without cause upon giving not less than 30 calendar days' written notice. Employee shall be entitled to the salary and any benefits provided under Paragraph 6 for the full 30 calendar days provided, however, that in lieu of accepting such notice, Employer may pay Employee a lump-sum payment of severance pay equal to Employee's regular salary for the 30 calendar days.

b. **Automatic Termination.** This Agreement and Employee's employment shall be automatically terminated upon any one of the following events:

(1) Employee commits any act of fraud, dishonesty, or criminal or other conduct involving moral turpitude, either arising out of the employment relationship or which reflects adversely upon Employer's reputation or interests;

(2) Employee's death or retirement.

Employee shall not be entitled to compensation (including any pay in lieu of notice) or Employer-paid benefits after the effective date of the termination under this paragraph (b), provided, however, that if Employee performed any work prior to the effective date of the termination Employee's salary shall be prorated to that date.

c. **For-Cause Termination.** Employer shall have the right to discipline Employee, including terminating Employee, for cause. Any action taken against Employee for cause shall be subject to the standards and procedures established under the Clackamas County Code for classified employees, except that any appeal of a for cause termination or other disciplinary action shall be heard subject to paragraph 15 of this Agreement and not the appeal procedures of the County Code. If terminated for cause, Employer shall have no obligation under this Agreement to continue Employee's salary and benefits after the date of termination.

9. **Reasonable Suspicion Testing.** Employer may require a drug or alcohol test of Employee where Employer has a reasonable suspicion that Employee may be impaired, intoxicated, or under the influence of a controlled substance or alcohol while performing duties for Employer or while on Employer's premises. "Reasonable suspicion" means that Employee has exhibited behavior, appearance, speech or body odors that provide a reason to believe Employee may be impaired, intoxicated, or under the influence of a controlled substance or alcohol.

10. **Policies, Procedures, Rules and Regulations.** In addition to this Agreement, Employee shall also be required to abide by any other policies, rules, procedures and regulations as may from time to time be adopted, modified, or rescinded by Employer to govern Employee's conduct or the performance of Employee's duties. Employer shall give Employee at least 30 days' notice of any such changes in its existing policies, rules, procedures or regulations that occur after the date of this Agreement. If Employee declines to continue working under such changed policies, rules, procedures or regulations, Employee will be considered to have voluntarily terminated employment pursuant to section 8.a.(2). Such other policies, rules, procedures and regulations shall not contradict or modify any term of this Agreement.

11. **Binding Effect and Assignment.** This Agreement shall be binding upon and inure to the benefit of Employer and Employee and their respective successors, heirs and legal representatives. Neither this Agreement nor any rights hereunder may be assigned without the written consent of the other party.

12. **Entire Agreement and Amendment.** This Agreement contains the entire agreement of the parties. No amendment or variation of the terms and conditions of this Agreement shall be valid unless it is in writing and signed by the parties.

13. **Severability.** In the event that any of the provisions herein shall be held to be invalid or unenforceable, the remaining provisions shall continue to be valid and enforceable.

14. **Constitutional/Statutory/Budgetary Limitations.** This Agreement is subject to all applicable contracting laws of the State of Oregon, is subject to the constitutional debt limitation of Oregon counties, and is contingent upon funds being appropriated for the particular position held by Employee. A termination pursuant to such restrictions shall be considered a termination without cause subject to section 8.a.(1).

15. **Arbitration.** All disputes arising out of this Agreement, including the meaning or effect of any of its provisions, or any aspect of the employment relationship or termination of employment shall be resolved by final and binding arbitration. In any such dispute and request for arbitration, the parties shall submit a request to the United States Arbitration and Mediation, Inc., Portland, Oregon office, as arbitration administrator, for a list of five arbitrators maintaining their primary residence in Oregon. Upon receiving the list, the parties shall alternately strike one name each, until one name remains on the list, with Employee striking first. The rules of the arbitration administrator shall govern.

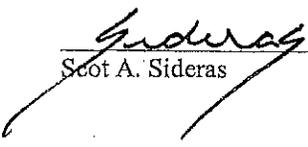
In consideration of this agreement to submit to final and binding arbitration, Employer and Employee also waive the right to submit any such dispute to government agencies or the courts. Each party shall bear its own costs and any attorney fees in any arbitration proceeding. Each party shall also be responsible for one-half of the arbitrator's and any separate arbitration and recording fees, provided, however, that the Employer shall be solely responsible for the arbitrator's fees if Employee is the "prevailing party." Any dispute as to the "prevailing party" shall be resolved by the arbitrator who heard the initial dispute.

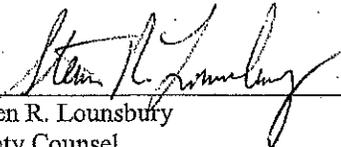
Employee and Employer state that they have carefully read this Agreement, that they have had the opportunity to have it reviewed and explained to them by advisors of their choosing, that they fully understand its final and binding effect, and that they are signing the Agreement voluntarily.

IN WITNESS WHEREOF, this Agreement has been executed by Employer and Employee.

EMPLOYEE

CLACKAMAS COUNTY

  
Scot A. Sideras

  
Steven R. Lounsbury  
County Counsel

Date: \_\_\_\_\_

Date: 2-5-09



Nancy Drury  
Director

DEPARTMENT OF EMPLOYEE SERVICES

PUBLIC SERVICES BUILDING

2051 KAEN ROAD | OREGON CITY, OR 97045

CONFIDENTIAL

TO: Scot Sideras - County Counsel's Office  
FROM: Danielle Wische/Heather Pedersen, Classification & Compensation Manager  
Department of Employee Services - Personnel Division  
DATE: January 22, 2009  
SUBJECT: SALARY GRADE CHANGE RECOMMENDATION

The 2008 Management Benchmark Study included market studies of benchmark classifications performed by Consolidated Personnel Services (CPS), an outside compensation consultant. The Department of Employee Services staff met with Department Directors, Elected Officials, the County Administrator and the Deputy County Administrator to review CPS's final market data and develop appropriate salary grade recommendations for benchmark and non-benchmark classifications within the Management Benchmark Study.

In December 2008, the County Administrator and Department of Employee Services Director presented the results of the 2008 Management Benchmark Study to the Board of County Commissioners (BCC). The BCC approved the recommended salary grade changes effective January 1, 2009 with a budget-neutral implementation.

As approved by the BCC, effective January 1, 2009, your classification's salary grade will change:

|                                  |   |                     |
|----------------------------------|---|---------------------|
|                                  |   | ID# 20245; PC# 2782 |
| <b>FROM</b>                      |   |                     |
| Classification (Job Code):       | Legal Counsel, Senior* (020088)             |                     |
| Salary Grade (Min - Max) Hourly: | NRP 33 (\$38.449162 - \$51.906575)          |                     |
| Hourly Rate:                     | \$51.906575                                 |                     |
| Last Salary Increase:            | November 1, 2008 - Top of Grade             |                     |
| Performance Evaluation Cycle:    | Employment Agreement effective May 24, 2006 |                     |
| Salary Review Cycle:             | May 24                                      |                     |
|                                  | November 1                                  |                     |
| <b>TO</b>                        |   |                     |
| Classification (Job Code):       | Legal Counsel, Senior* (020088)             |                     |
| Salary Grade (Min - Max) Hourly: | NRP 35 (\$42.390162 - \$57.226984)          |                     |
| Hourly Rate:                     | \$51.906575                                 |                     |

This recommendation changes your salary grade. It does not change your classification or your salary review cycle. As part of the budget-neutral implementation, management employees may continue to progress via merit increases through their former salary grade (NRP 33); however, may not receive merit increases beyond the maximum pay rate. Your pay rate is currently at the maximum of NRP 33. While the salary grade assigned to your classification is now NRP 35, your pay rate may not exceed salary grade NRP 33 at this time. This budget-neutral approach has been chosen by the BCC for this fiscal year. Salary discussions will be part of the next budget cycle.

Your performance evaluation cycle is predicated on the effective date of your employment agreement; it may be different than your last salary increase. In general, your last salary review date would drive your next opportunity for a salary increase. Please refer to your employment contract for information on performance evaluation or salary review processes.

If you have any questions, or would like us to review our findings with you, please contact us at extension 8252 or 5484.

c: Employee File  
Steven Lounsbury, County Counsel  
Nancy Drury, DES Director



RECEIVED  
CLACKAMAS CO EMPLOYEE SVCS

2008 OCT 22 PM 2:15

OFFICE OF COUNTY COUNSEL

Public Services Building  
2051 KAEN ROAD | OREGON CITY, OR 97045

Steven R. Lounsbury  
County Counsel

David W. Anderson  
Kimberley Ybarra-Cole  
Edward S. McGlone III  
Kathleen Rastetter  
Scot A. Sideras  
Chris Storey  
Scott C. Clecko  
D. Daniel Chandler  
Assistants

# 20245  
To: Department of Employee Services  
From: Steven R. Lounsbury  
Subject: Scot A. Sideras: Annual Performance Appraisal  
Date: November 2008

Annual Performance Appraisal

During this past year, Scot has continued to provide outstanding service for his clients. Some of his major projects have involved a number of complex real estate transactions, such as his participation in the negotiating and drafting of documents and development agreements for office complexes on Sunnybrook, Monarch hotel, and impending residential developments for Hawthorne Grove. He also played an important role in developing the conceptual agreement with Happy Valley for a library to be built with urban renewal funds. He has also been involved in the bargaining of terms for the construction of a hotel on land owned by the Development Agency, and plans are underway for a development at the site of New Hope Church. Scot assisted in the negotiations of leases for several properties, and provides ongoing advice with regard to other projects. Transfers of properties by way of exchange will also be completed soon, which have and will require Scot's attention as to the interests transferred and revisions to the county zoning ordinance. Scot's has also assisted with the termination process of the Government Camp urban renewal district, and has provided an analysis as to how the maximum indebtedness of an urban renewal plan is calculated.

Scot performed critical work in areas other than urban renewal. For example, he participated as counsel to the SMART Task Force with its valuable conclusions for funding transportation through such mechanisms as local vehicle registration fees. This special county task force—Street Safety, Mobility and Reliability Team (Street SMART)—focused on the issue of current and future county transportation needs, and how they might be met.

Through his work with Engineering, Scot was able to collect approximately \$90,000.00 in transportation system development credits that otherwise would have been lost. On condemnation matters, Scot was able to resolve disputes relating to earlier projects. He also filed resolutions for new undertakings and worked on matters involving utilities using the County's right of way—especially Verizon, which presented remarkable challenges. Intergovernmental agreements with cities as to highways and ODOT as to projects were a reoccurring priority over the year; and the OTIA ODOT Agreement (which will fund the next three years of the County's transportation projects) was especially significant.

In addition to working with ODOT and the cities, Scot performed important tasks with other entities. For example, he collaborated with WES and the City of Milwaukie in bringing sewers to the North Clackamas Revitalization Area. He also worked with Tri Met on Intergovernmental Agreements for the completion of light rail construction along I-205 and on the Funding Agreement for the parking garage now being erected at the Town Center. He also worked on issues related to the new addition to the Community College, which required unique problem solving to accommodate the needs of the College, North Clackamas Parks and Recreation District, the County, and the Development Agency. Other work included

assistance in developing documents necessary to implement the new construction excise tax the County administers on behalf of the school districts, as well as providing invaluable advice and assistance to colleagues related to property tax matters. Recently, there was the unexpected issue of the proposed incorporation of Government Camp, which required Scot to devote special attention to novel problems on very short notice. In other respects, it was a year of closure, with the apparently successful mediation of the longstanding dispute as to the Creekside Apartments that is likely to conclude later this month.

With regard to legislative matters in the 2008 Special Legislative Session, Scot provided an evaluation of a proposal that would have allowed satellite urban renewal districts. Another matter involved the Bureau of Labor and Industries and its expansion of prevailing wage measures.

Comments from Scot's County Counsel colleagues: "Consistently demonstrates superior skills in fulfilling his duties. Is quite knowledgeable in the law, and brings an effective problem-solving mindset to the issues raised by our clients. His counsel is informed by both his legal acumen and his wise insight into the political, relationship, negotiation, and power dynamics present in a situation. He is effective and persuasive in his communication skills, but is also an able listener who is patient in allowing clients to express their concerns – often when such concerns are irrelevant to the legal issues at hand. Is a trusted colleague who happily shares his expertise and is willing to put in hard work on mutual projects. I consistently find his comments insightful and helpful. I have the highest regard and trust in Scot's skills as an attorney and counselor, and would have no hesitation in entrusting complex matters to his hands. He is diligent and consistent in his effort. I frequently note his early arrival and late departure from the office, putting in long hours (including on the weekends or even on planned vacation days) to meet and exceed client expectations. He's funny and smart."

Comments from DTD and Development Agency management: "Scot goes to great lengths to be clear and concise and sure that I understand the situation. I am thoroughly satisfied with Scot's prioritization and resolution of matters. He is very good with channels of communication and keeps me well-informed about where things are at and how they are progressing. He strives to be clear, and makes sure I understand all options. We brainstorm a lot of issues. Scot has always been timely in responding to my requests for assistance with legal matters. He is accessible and keeps me informed about issues he is working on. Scot is very good at addressing all sides of an issue. The quality of his services has been outstanding. I am amazed at his breadth of his legal knowledge. He has been a phenomenal addition to the Development Agency specifically and DTD in general. Scot's explanations reflect his intelligence and discernment of what is critical to address. His recommendations add value and often save money. When the economy picks up I expect his development disposition agreements will be superior and protect the interests of the Agency without compromising the outcome sought with the party the agreement is with. His work is timely. He is punctual, available, and able to juggle multiple tasks. He is able to provide updates with just a moments notice. He is a gem."

Next year should also hold many new challenges for Scot, including the proposed creation of a new urban renewal district, the negotiation of another IGA with Tri Met—this time to bring the trains down McLoughlin Boulevard, and another legislative session in 2009.

Based on Scot's excellent performance, he is eligible for a salary merit increase of 4.2% (to top of salary grade), effective November 1, 2008. Additionally, upon the request of DTD Director Cam Gilmour, I will be recommending that Scot be awarded a bonus for exceptional service.

cc: Scot Sideras  
Cam Gilmour  
Barbara Cartmill

Prepared: 09/05/08

RECEIVED  
CLACKAMAS CO EMPLOYEE SVCS

2008 OCT 22 PM 2:15

Dept ID: 0102  
Department: County Counsel  
Location: CO COUNSEL  
Supervisor: Steven Lounsbury  
**CONTRACT**

## Salary Increase Form (Employment Contract)

Name: Scot Sideras  
Title: Legal Counsel, Senior\*

ID 20245

Effective Date of Employment Contract: 05/24/06

| NRP -  | 33 | Minimum   | Midrange  | Maximum    |
|--------|----|-----------|-----------|------------|
| Hourly |    | 38.449162 | 45.177810 | 51.906575  |
| Annual |    | 79,974.26 | 93,969.85 | 107,965.68 |

Effective: 11/01/08

| Grant                               | Deny                     | Job Code | Salary Plan | Current Salary Grade (Range) | Current Pay Rate | % Granted | New Pay Rate                   |
|-------------------------------------|--------------------------|----------|-------------|------------------------------|------------------|-----------|--------------------------------|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 020088   | NRP         | 33                           | \$49,807.691     | 4.2%      | \$51,906.575<br>(Top of Grade) |
|                                     |                          |          |             | Annual:                      | \$103,600.00     |           | \$107,965.68                   |

*Steven M. Lounsbury*  
Department Director - Signature

10-16-08  
Date

*Steve White*  
County Administrator - Signature

10/17/08  
Date



RECEIVED

NOV 30 2007

DEPARTMENT OF  
EMPLOYEE SERVICES  
OFFICE OF COUNTY COUNSEL

Public Services Building  
2051 KAEN ROAD | OREGON CITY, OR 97045

Steven R. Lounsbury  
County Counsel

David W. Anderson  
Dexter A. Johnson  
Michael E. Judd  
Edward S. McGione III  
Kathleen J. Rastetter  
Scot A. Sideras  
Chris Storey  
Kimberley Ybarra-Cole  
Assistants

Annual Performance Appraisal

To: Department of Employee Services  
From: Steven R. Lounsbury  
Subject: Scot A. Sideras: Annual Performance Appraisal  
Date: November 2007

11/06 - 11/07  
NEXT REV. 11/08  
I.D. # 20245

This is the first annual review for Mr. Sideras, who began his employment with Clackamas County as a Legal Counsel, Senior, on May 24, 2006. Mr. Sideras is assigned to the County Development Agency, the County's authorized urban renewal agency, which is a division of the Department of Transportation and Development. Although a member of the Office of County Counsel, office space has been provided for Mr. Sideras at the Development Agency, under the immediate daily supervision of Agency management.

During this past year, Scot has continued to provide outstanding service for his clients. Some of his major projects have included legislative activities, complicated real estate transactions, right-of-way acquisition/eminent domain matters, Tri-Met and light rail, the development of model documents for the North Clackamas Revitalization Area's housing rehabilitation loan program, and IGAs with municipalities and ODOT. He was recently assigned as legal advisor to the Transportation Funding Alternatives Task Force, a special project mandated by the County Commissioners and of great importance to the County. Scot has also provided coverage for other attorneys, as necessary, including significant coverage for Water Environment Services when Chris Storey was on paternity leave last June.

With regard to legislative work during the 2007 Session, the County's urban renewal program was threatened by bills which would have had, if passed, a detrimental impact on urban renewal district financing. The situation was made especially perilous by the fractionalization of the Association of Redevelopment Agencies (AORA). Scot was able to monitor and respond to the situation, participating in the selection of the appropriate strategy. He also collaborated with Dexter Johnson in co-authoring an excellent written legal opinion as to the unconstitutionality of the proposed statutory changes. This work proved to be a key element in stopping the undesired legislation, and was also done in a manner conducive to the County's position in subsequent sessions; moreover, the fractionalization of AORA was resolved in a manner favorable to the County. To his credit, it should also be noted that Scot holds a seat on AORA's Legislative and Bylaws Committees.

Some of Scot's complex real estate transaction work this past year include: The sale of the former Clackamas Sand and Gravel site, and the sale and leaseback of the Highway 212 headquarters of Emmert International. This \$12,000,000.00 transaction as to industrial and residential property involved complicated questions of due diligence, escrow, SDCs, rights of first refusal, payment terms, and a leaseback to the seller which by its terms calls for Terry Emmert to be off the site by January 1, 2012. Clackamas Town Center: The next step in the Development Agency's participation with this project is in the completion of construction and securing long-term financing. This is a \$200,000,000.00 transaction,

ENT'D JAN 24 2008

and includes the handling of significant estoppels protecting the Development Agency's interest in its Parking Lease, Ground Lease, and Development Agreement. Other major transaction work has involved the lease to *Oregon Iron Works* of the Development Agency's Superfund site. Thus far, progress with the EPA has been made to the point that Oregon Iron Works (an important and innovative Oregon business) has made its application for a conditional use.

Other work this past year characterized as "routine" for the Development Agency, yet still very demanding, includes the drafting of Development Disposition Agreements for a \$15,000,000.00 medical office building, and a \$3,500,000.00 apartment complex. Scot has also written half a dozen Owner Participation and Development Agreements, and Façade Easements, which have continued the Development Agency's positive transformation of Government Camp. Other work has included leases of industrial land, the purchase and sale of residential property, and the resolution of errors in legal descriptions and correcting chain-of-title gaps.

Scot has also become more involved in work involving the acquisition of right-of-way and eminent domain. With the execution of the Option Agreement and Agreement of Purchase and Sale and Public Access Easement, Scot brought to closure the remaining issues arising from the 2003 condemnation of the *Creekside Apartments*, and in the process secured two tax lots of great importance to the North Clackamas Park and Recreation District's plan to protect Mr. Talbert. Four of the last five matters for which the Department of Transportation and Development requested condemnation have now settled on terms very attractive to the County. Scot has also worked diligently to enhance and maintain a positive relationship between County Counsel and the Department of Transportation's right-of-way agent and project engineers.

Scot has successfully handled a demanding workload from a number of clients with competing priorities. Feedback on his performance from the County Administrator and Director of the Development Agency has been positive. I have appreciated the strong sense of professional responsibility, expertise, and diligence Scot brings to his work. He is a pleasure to work with, and is a talented and valuable member of the County Counsel legal team. Based on Scot's excellent performance, concurrent with this review I am authorizing a 5% merit salary increase, effective November 1, 2007.

cc: Scot Sideras  
Barbara Cartmill

Prepared: 11/27/2007

Dept ID: 0102  
Department: County Counsel  
Location: County Counsel

CONTRACT

### Salary Increase Form (Employment Contract)

Name: **SIDERAS, SCOT**  
Title: **LEGAL COUNSEL, SENIOR\***

ID 20245

Effective Date of Employment Contract: 05/24/2006

| NRP -  | Minimum   | Midrange  | Maximum   |
|--------|-----------|-----------|-----------|
| Hourly | 37.041582 | 43.523902 | 50.006334 |
| Annual | 77,046    | 90,529    | 104,013   |

|                             |
|-----------------------------|
| Effective: November 1, 2007 |
|-----------------------------|

| Grant                               | Deny                     | Job Code | Salary Plan | Current Salary Grade (Range) | Current Pay Rate | % Granted | New Pay Rate |
|-------------------------------------|--------------------------|----------|-------------|------------------------------|------------------|-----------|--------------|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 020088   | NRP         | 33                           | \$45.699322      | 5%        | \$47.984288  |
|                                     |                          |          |             | Annual:                      | \$95,054         |           | \$99,807     |

 Department Director - Signature 11-30-07 Date

County Administrator - Signature Date

Prepared: 11/27/2007

Dept ID: 0102  
Department: County Counsel  
Location: County Counsel

CONTRACT

### Salary Increase Form (Employment Contract)

Name: SIDERAS, SCOT  
Title: LEGAL COUNSEL, SENIOR\*

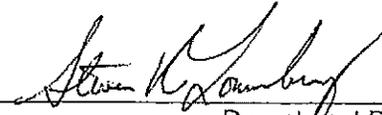
ID 20245

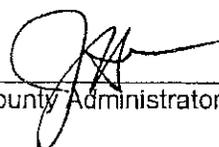
Effective Date of Employment Contract: 05/24/2006

| NRP -  | Minimum   | Midrange  | Maximum   |
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| Hourly | 37.041582 | 43.523902 | 50.006334 |
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Effective: November 1, 2007

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|-------------------------------------|--------------------------|----------|-------------|------------------------------|------------------|-----------|--------------|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 020088   | NRP         | 33                           | \$45.699322      | 5%        | \$47.984288  |
|                                     |                          |          |             | Annual:                      | \$95,054         |           | \$99,807     |


11-30-07  
 Department Director - Signature Date


1-15-2008  
 County Administrator - Signature Date

01-17-08  
12/10



OFFICE OF COUNTY COUNSEL

Public Services Building  
2051 KAEN ROAD | OREGON CITY, OR 97045

Steven R. Lounsbury  
County Counsel

David W. Anderson  
Dexter A. Johnson  
Michael E. Judd  
Edward S. McGlone III  
Kathleen J. Rastetter  
Scot A. Sideras  
Chris Storey  
Kimberley Ybarra-Cole  
Assistants

Annual Performance Appraisal

To: Department of Employee Services  
From: Steven R. Lounsbury *SL*  
Subject: Scot A. Sideras: Annual Performance Appraisal  
Date: November 2007

This is the first annual review for Mr. Sideras, who began his employment with Clackamas County as a Legal Counsel, Senior, on May 24, 2006. Mr. Sideras is assigned to the County Development Agency, the County's authorized urban renewal agency, which is a division of the Department of Transportation and Development. Although a member of the Office of County Counsel, office space has been provided for Mr. Sideras at the Development Agency, under the immediate daily supervision of Agency management.

During this past year, Scot has continued to provide outstanding service for his clients. Some of his major projects have included legislative activities, complicated real estate transactions, right-of-way acquisition/ eminent domain matters, Tri-Met and light rail, the development of model documents for the North Clackamas Revitalization Area's housing rehabilitation loan program, and IGAs with municipalities and ODOT. He was recently assigned as legal advisor to the Transportation Funding Alternatives Task Force, a special project mandated by the County Commissioners and of great importance to the County. Scot has also provided coverage for other attorneys, as necessary, including significant coverage for Water Environment Services when Chris Storey was on paternity leave last June.

With regard to legislative work during the 2007 Session, the County's urban renewal program was threatened by bills which would have had, if passed, a detrimental impact on urban renewal district financing. The situation was made especially perilous by the fractionalization of the Association of Redevelopment Agencies (AORA). Scot was able to monitor and respond to the situation, participating in the selection of the appropriate strategy. He also collaborated with Dexter Johnson in co-authoring an excellent written legal opinion as to the unconstitutionality of the proposed statutory changes. This work proved to be a key element in stopping the undesired legislation, and was also done in a manner conducive to the County's position in subsequent sessions; moreover, the fractionalization of AORA was resolved in a manner favorable to the County. To his credit, it should also be noted that Scot holds a seat on AORA's Legislative and Bylaws Committees.

Some of Scot's complex real estate transaction work this past year include: The sale of the former *Clackamas Sand and Gravel* site, and the sale and leaseback of the Highway 212 headquarters of *Emmert International*. This \$12,000,000.00 transaction as to industrial and residential property involved complicated questions of due diligence, escrow, SDCs, rights of first refusal, payment terms, and a leaseback to the seller which by its terms calls for Terry Emmert to be off the site by January 1, 2012. *Clackamas Town Center*: The next step in the Development Agency's participation with this project is in the completion of construction and securing long-term financing. This is a \$200,000,000.00 transaction,

and includes the handling of significant estoppels protecting the Development Agency's interest in its Parking Lease, Ground Lease, and Development Agreement. Other major transaction work has involved the lease to *Oregon Iron Works* of the Development Agency's Superfund site. Thus far, progress with the EPA has been made to the point that Oregon Iron Works (an important and innovative Oregon business) has made its application for a conditional use.

Other work this past year characterized as "routine" for the Development Agency, yet still very demanding, includes the drafting of Development Disposition Agreements for a \$15,000,000.00 medical office building, and a \$3,500,000.00 apartment complex. Scot has also written half a dozen Owner Participation and Development Agreements, and Façade Easements, which have continued the Development Agency's positive transformation of Government Camp. Other work has included leases of industrial land, the purchase and sale of residential property, and the resolution of errors in legal descriptions and correcting chain-of-title gaps.

Scot has also become more involved in work involving the acquisition of right-of-way and eminent domain. With the execution of the Option Agreement and Agreement of Purchase and Sale and Public Access Easement, Scot brought to closure the remaining issues arising from the 2003 condemnation of the *Creekside Apartments*, and in the process secured two tax lots of great importance to the North Clackamas Park and Recreation District's plan to protect Mt. Talbert. Four of the last five matters for which the Department of Transportation and Development requested condemnation have now settled on terms very attractive to the County. Scot has also worked diligently to enhance and maintain a positive relationship between County Counsel and the Department of Transportation's right-of-way agent and project engineers.

Scot has successfully handled a demanding workload from a number of clients with competing priorities. Feedback on his performance from the County Administrator and Director of the Development Agency has been positive. I have appreciated the strong sense of professional responsibility, expertise, and diligence Scot brings to his work. He is a pleasure to work with, and is a talented and valuable member of the County Counsel legal team. Based on Scot's excellent performance, concurrent with this review I am authorizing a 5% merit salary increase, effective November 1, 2007.

cc: Scot Sideras  
Barbara Cartmill



OFFICE OF COUNTY COUNSEL

Public Services Building  
2051 KAEN ROAD | OREGON CITY, OR 97045

Steven R. Lounsbury  
County Counsel

David W. Anderson  
Dexter A. Johnson  
Michael E. Judd  
Edward S. McGlone III  
Kathleen J. Rastetter  
Scot A. Sideras  
Chris Storey  
Kimberley Ybarra-Cole  
Assistants

Annual Performance Appraisal

To: Department of Employee Services  
From: Steven R. Lounsbury *SL*  
Subject: Scot A. Sideras: Annual Performance Appraisal  
Date: November 2007

#20245

This is the first annual review for Mr. Sideras, who began his employment with Clackamas County as a Legal Counsel, Senior, on May 24, 2006. Mr. Sideras is assigned to the County Development Agency, the County's authorized urban renewal agency, which is a division of the Department of Transportation and Development. Although a member of the Office of County Counsel, office space has been provided for Mr. Sideras at the Development Agency, under the immediate daily supervision of Agency management.

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and includes the handling of significant estoppels protecting the Development Agency's interest in its Parking Lease, Ground Lease, and Development Agreement. Other major transaction work has involved the lease to *Oregon Iron Works* of the Development Agency's Superfund site. Thus far, progress with the EPA has been made to the point that Oregon Iron Works (an important and innovative Oregon business) has made its application for a conditional use.

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cc: Scot Sideras  
Barbara Cartmill

PHOTO ID AUTHORIZATION FORM

Application Date: June 20, 2007

(Check One)

Employee Name: Sideras Scot  
Last First M.I.

Current Employee: Initial Badge

New Employee

Replacement Badge

Name Change

Entire Name Okay  First Name & Last Initial Only

Reinstatement

Transfer

First Name Only

Correction

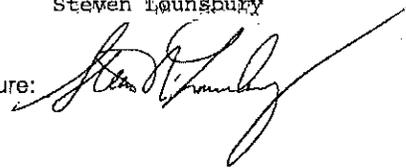
Building Access

Name on badge you wish to be called by if different than above:

Department/Division: County Counsel (Sunnybrook - Dev. Agency)

Supervisor's Name: Steven Lounsbury

Telephone: 503-655-8362

Supervisor's Signature: 

SECURE AREA ACCESS CARD

Full legal name (if different than above):  
DOB:

Authorization for a Secure Area Access Card is granted for the following area(s):

Court Facilities  Supervisor's Initials

Approved by Sheriff's Civil Manager (print & sign):

Jail  Supervisor's Initials

Approved by Sheriff's Jail Manager (print & sign):

-----For Data Entry Use Only-----

Date Card Issued: 6/20/07

Employee ID #: 20245

Notes:

KE

10/5/06

0102  
Department: County Counsel  
Location: CO COUNSEL  
Supervisor: Lounsbury, Steven R  
N

Sideras, Scot Arthur

20245

### Salary Increase Report

|                      |
|----------------------|
| Effective: 11/1/2006 |
|----------------------|

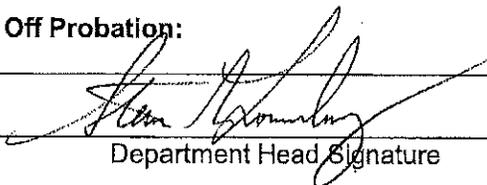
The following is an employee in your department which our records indicate is eligible for a salary increase. Please denote whether or not you wish the employee to receive the salary increase, sign, and return both the **performance appraisal** and the salary increase report to the Personnel Division **OCTOBER 18, 2006**.

Sideras, Scot Arthur

Legal Counsel, Senior\*

| Grant                               | Deny                     | Job Code | Salary Plan | Current Pay Rate | Current Pay Step | Current Salary Grade | PERCENTAGE GRANTED - IF USING A % |
|-------------------------------------|--------------------------|----------|-------------|------------------|------------------|----------------------|-----------------------------------|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 020088   | NRP         | \$42.252176      | 0                | 33                   |                                   |

Date Off Probation:

  
 Department Head Signature 10-18-06  
Date

*For Personnel Use Only*

*Please Do Not Stamp or Write In The Space Below*

|                  |             |
|------------------|-------------|
| Status:          | R           |
| Type:            | F           |
| Employee ID      | 20245       |
| Effective Date:  | 11/1/2006   |
| Grade:           | 33          |
| New Step         |             |
| New Rate:        | \$44.364785 |
| Next Review Date | 11/01/07    |

10/20/06  
11/1/06



**CLACKAMAS  
COUNTY**

**RECEIVED** Office of County Counsel

OCT 27 2006

DEPARTMENT OF  
EMPLOYEE SERVICES

Steven R. Lounsbury  
COUNTY COUNSEL

David W. Anderson  
Susie L. Huva  
Michael E. Judd  
Edward S. McGlone III  
Kimberly A. Ybarra-Cole  
Scot A. Sideras  
Christopher B. Storey  
Assistants

Six-Month Performance Appraisal

To: Department of Employee Services  
From: Steven R. Lounsbury  
Subject: Scot A. Sideras: 6-Month Performance Appraisal  
Date: October 2006

Mr. Sideras began his employment with Clackamas County on May 24, 2006 as a Legal Counsel, Senior. Although a member of the Office of County Counsel, Mr. Sideras is assigned to provide in-house legal representation for the County Development Agency, the County's authorized urban renewal agency. An office has been provided for him at the Development Agency, under the immediate daily supervision of Agency management.

During his first 6-months, Mr. Sideras has attended County Counsel staff meetings, has participated in the presentation of appellate case summaries at the annual ODAA conference, and has maintained lines of communication with this office, its attorneys, and me, by way of telephone, email, and memoranda. I have received positive feedback from attorneys in the office regarding his willingness to offer assistance, advice and expertise on various matters, and have gotten positive feedback from Agency personnel about his performance. I am pleased that Scot has kept me informed about major issues and developments, and note that he has done well tracking and calendaring his time through our time management software program, as well as attending functions after-hours related to issues affecting the Agency. I am confident that Scot works hard to evaluate and understand the numerous and often complicated issues confronting the Agency, and believe that he is approaching his work in a diligent and hard-working manner, striving to represent the interests of his client in the most professionally responsible way possible.

What I would like us to work on during the next review cycle is maintaining a regular meeting schedule so that I can stay fully informed about issues, and so that we can maximize our communication as much as possible under the circumstances. While it is somewhat difficult to monitor performance of a remote employee, the fact that I have received positive feedback from Agency management, the attorneys here in Counsel's office, and from the County Administrator, gives me added confidence that Mr. Sideras is meeting or exceeding expectations.

Based on the foregoing, Mr. Sideras has performed well during his first 6-months with the County. I am pleased that he made the decision to join us, as he has proven to be a valuable member of the organization. I look forward to working more closely with Scot during the next review cycle (twelve months), and am confident that Scot will continue to develop his professional skill, knowledge, and experience in his area of specialty. Concurrent with this review, I am also approving a salary increase.

Cc: Scot Sideras

ENT'D OCT 27 2006

2051 Kaen Road • Oregon City, OR 97045 • (503) 655-8362 • FAX. (503) 742-5397

**New Employee Workshop  
Acknowledgement of Receipt of Information**

Scot Sideras  
(Printed name)

attended New Employee Workshop on 7-5-06  
(Date)

The following information was discussed, and/or I received additional information as handouts or in the participant notebook. **Please make sure you have checked ALL the boxes, both the main header boxes as well as the sub boxes.** If you feel uncertain about checking a box due to not enough information, then please talk to the class facilitator.

**Employee Notebook Received** containing Employee Handbook, NEW & Benefits Information

**Clackamas County Government and People**

**Department of Employee Services – Contact Information**

**Diversity at Clackamas County**

Equal Opportunity/Affirmative Action

Americans with Disabilities Act

**Select County Policies**

Employee Work Rules and Ethical Standards

Harassment Policy & Sexual Harassment Booklet Received

Drug free workplace policy

**Records Management**

E-mail policy

**Recycling/Waste Reduction**

**Homeland Security – Personal and Professional Preparedness**

**Classification Specification and Compensation**

**Personnel Policies and Procedures**

Employment Policy (Location of Personnel Ordinance, Employment Policies and Practices, Collective Bargaining Agreements)

Probation

Performance Evaluations / Salary Increases

Career Advancement / Promotional Opportunities / Transfer Opportunities

Personnel records

**Leaves of Absence (Sick Leave, Holidays, Vacation and Other Leaves)**

**Training Opportunities**

**Employee Recognition Programs**

If I have questions on any of these items in the future, I know I may call the Department of Employee Services at 503.655.8459.

Sideras  
(Signature)

Counsel  
(Department and Location)

(Employee ID# -leave blank, we will fill this in)

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RISK MANAGEMENT MANUAL

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**INITIAL ORIENTATION  
SAFETY AND SECURITY PROCEDURES**

EMPLOYEE Scot Sideras

DEPARTMENT Counsel JOB TITLE Counsel

Instruction has been given on the following:

- Safety culture philosophy
- Risk Management Dept. structure
- Introduction to safety committee structure
- Employee responsibilities regarding on-the-job injury/accident reporting
- Emergency clinic procedures
- General lifting procedures
- General emergency procedures
- Reporting unsafe acts/conditions
- Hazard Communication
- Workers' Compensation process
- Bloodborne Pathogens
- Workplace Violence
- Vehicle Safety

I have been instructed on the procedures listed above, and understand Clackamas County makes every effort to provide a safe work environment. I also agree to help make Clackamas County a safe place to work as **SAFETY IS MY RESPONSIBILITY.**

Employee Signature *Scot Sideras* Date 2-5-06

Trained by *Kathryn Jernstedt* Date \_\_\_\_\_

20245

ATTACHMENT A-1

PHOTO ID AUTHORIZATION FORM

Application Date: 5-24-06

(Check One)

Employee Name: SIDERAS SCOT  
Last First M.I.

Current Employee: Initial Badge

New Employee

Replacement Badge

Name Change

Reinstatement

Transfer

Correction

Building Access

Entire Name Okay

First Name & Last Initial Only

First Name Only

Name on badge you wish to be called by if different than above: \_\_\_\_\_

Department/Division: COUNTY COUNSEL

Supervisor's Name: STEVEN R. LOUNSBURY Telephone: 5391

Supervisor's Signature: [Signature]

SECURE AREA ACCESS CARD

Full legal name (if different than above): \_\_\_\_\_

DOB: \_\_\_\_\_

Authorization for a Secure Area Access Card is granted for the following area(s):

**Court Facilities**  Supervisor's Initials \_\_\_\_\_ Approved by Sheriff's Civil Manager (print & sign):

**Jail**  Supervisor's Initials \_\_\_\_\_ Approved by Sheriff's Jail Manager (print & sign):

-----For Data Entry Use Only-----

Date Card Issued: 6/1/06 Employee ID #: 20245

Notes:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

KL

CLACKAMAS COUNTY APPLICATION SUMMARY

Page 1 of 4.

REPORT RUN DATE : 05/25/2006  
POSTING TITLE : Legal Counsel Sr - Devel Agency  
JOB REQUISITION # : 100238  
APPLICANT ID : A0004256 Sideras, Scot Arthur  
STATUS CODE:  
STATUS REASON:  
DATE OF APPLICATION: 04/03/2006

A0004256  
05/24/06

CONTACT DETAILS

Name : Sideras, Scot Arthur  
Address : 5826 N. Detroit  
Portland, OR 97217 USA  
Telephone : 503/799-0835 Phone type: DAY  
503/289-3948 Phone type: EVE  
E-mail : scotsideras@mac.com Email type: HOME

QUESTIONNAIRE

- \*\* Question : The Immigration & Reform Control Act of 1986 requires employers to verify an individual's identity and authorization to work in the U.S. as a condition of employment. Are you eligible to work in the United States?  
Possible Answers : 0 : No.  
0 : Yes. (Proof of identity and eligibility to work in the US will be required at time of employment.)  
Applicant Answer : Yes. (Proof of identity and eligibility to work in the US will be required at time of employment.)
- \*\* Question : Individuals hired under employment contract will be compensated within the salary range and benefit package described on the job posting dependant on qualifications and experience. Are you willing to accept a salary within the listed range?  
Possible Answers : 0 : No.  
0 : Yes.  
Applicant Answer : Yes.
- \*\* Question : As an adult, have you been convicted of an offense other than a minor traffic violation? (A "Yes" answer does not automatically disqualify you. Convictions are evaluated for each position and are not necessarily disqualifying.)  
Possible Answers : 0 : No.  
0 : Yes. (IMPORTANT! If you answered "Yes" to this question, you need to complete a Clackamas County Criminal Conviction Disclosure Form before your application will be considered complete. See additional instructions after you submit your application.)  
Applicant Answer : No.
- \*\* Question : I understand I must submit a letter of interest and current resume by the close date. Email: jobs@co.clackamas.or.us Fax: 503-742-5468 or US Mail: Employee Services, 2051 Kaen Road, Oregon City, OR 97045. List Job Posting Title on all pages

CLACKAMAS COUNTY APPLICATION SUMMARY

REPORT RUN DATE : 05/25/2006  
POSTING TITLE : Legal Counsel Sr - Devel Agency  
JOB REQUISITION # : 100238  
APPLICANT ID : A0004256 Sideras, Scott Arthur  
STATUS CODE:  
STATUS REASON:  
DATE OF APPLICATION: 04/03/2006  
=====

Possible Answers : 0 : No.  
0 : Yes.  
Applicant Answer : Yes.

\*\* Question : Are you a member in good standing of the OREGON State Bar?  
Possible Answers : 0 : No.  
0 : Yes.  
Applicant Answer : Yes.

\*\* Question : The following best describes my experience with urban renewal and development agency law.  
Possible Answers : 0 : I have no experience.  
0 : I have some experience, but less than one year of experience.  
0 : I have at least 1 year of experience, but less than 3 years of experience.  
1 : I have at least 3 years of experience, but less than 5 years of experience..  
1 : I have 5 or more years of experience.  
Applicant Answer : I have 5 or more years of experience.

CURRENT & PRIOR EMPLOYMENT

REFERENCES

\*\* Name : Jeff Mattson  
Reference Type : Coworker  
Title : Magistrate  
Employer : Oregon Judicial Department  
OK to contact? (Y/N) : Y  
Telephone : 503/986-5650  
City/St/Zip/Country : Salem, OR USA

\*\* Name : Sally Kimsey  
Reference Type : Coworker  
Title : Assistant AG  
Employer : Oregon Judicial Department  
OK to contact? (Y/N) : Y  
Telephone : 503/947-4606  
City/St/Zip/Country : Salem, OR USA

\*\* Name : David Carmichael  
Reference Type : Coworker  
Title : Attorney  
Employer : Oregon Judicial Department

CLACKAMAS COUNTY APPLICATION SUMMARY

Page 3 of 4

REPORT RUN DATE : 05/25/2006  
POSTING TITLE : Legal Counsel Sr - Devel Agency  
JOB REQUISITION # : 100238  
APPLICANT ID : A0004256 Sideras, Scot Arthur  
STATUS CODE:  
STATUS REASON:  
DATE OF APPLICATION: 04/03/2006  
=====

OK to contact? (Y/N) : Y  
Telephone : 541/484-2220  
City/St/Zip/Country : Salem, OR USA

EDUCATION

HIGH SCHOOL / GED  
No High School/GED indicated

COLLEGE / UNIVERSITY  
No College/University indicated

PREFERENCES

HOW DID YOU FIND OUT ABOUT US?

LANGUAGES

| Description            | Speak | Read  | Write |
|------------------------|-------|-------|-------|
| -----                  | ----- | ----- | ----- |
| No response indicated. |       |       |       |

CLACKAMAS COUNTY APPLICATION SUMMARY

REPORT RUN DATE : 05/25/2006  
POSTING TITLE : Legal Counsel Sr - Devel Agency  
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APPLICANT ID : A0004256 Sideras, Scot Arthur  
STATUS CODE:  
STATUS REASON:  
DATE OF APPLICATION: 04/03/2006

=====

\*\*\*\*\* REPORT COMPLETED \*\*\*\*\*  
  
\*\*\*\*\* REPORT COMPLETED \*\*\*\*\*

End of Report

## Clackamas County Personnel Action Form – Appointment/Personal Data Changes

|                    |        |   |  |  |
|--------------------|--------|---|--|--|
| Action Number      |        | <input type="checkbox"/> Name Change Formerly Known As: |  | <input type="checkbox"/> Phone No Change |
| Requisition Number | 100238 | <input type="checkbox"/> Address Change                 |  |  |

*A0004256*

|  |  |                         |  |                |           |                |
|--|--|-------------------------|--|----------------|-----------|----------------|
| Effective Date   |  | Employee ID             |  | First          | M.I.      | Last           |
| 5/24/06  |  | 20245                   |  | Scot           | A         | Sideras        |
| Hour 8:30  |  | Address 5826 N. Detroit |  |                |           |                |
| Hours Per Week 40. FTE %   |  | City Portland           |  | State OR       | ZIP 97217 |                |
| Male <input checked="" type="checkbox"/> Female <input type="checkbox"/>   |  | Social Security Number  |  | Home Phone     |           | Business Phone |
| Date Of Birth / /  |  |                         |  | (503) 799-0835 |           | ( )            |
| Ethnic Information <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Hispanic <input type="checkbox"/> Asian/Pac. Is. <input type="checkbox"/> Am. Ind/Alaskan Nat. |  |                         |  |                |           |                |

|                 |                             |                               |
|-----------------|-----------------------------|-------------------------------|
| Department Name | Location                    | Supervisor's Name             |
| COUNTY COUNSEL  | 2051 Kaen Road, Oregon City | Steven Lounsbury <i>19180</i> |

| Account Code: | Department/Org | Fund | Project | Program | % |
|---------------|----------------|------|---------|---------|---|
|               | 0102           | 100  | 0       |         |   |
|               | 0              | 100  | 0       |         |   |
|               | 0              | 100  | 0       |         |   |

|   |  |   |  |  |  |
|---|--|---|--|--|--|
| <b>Action/Reason</b>                                |  |   |  |  |  |
| <b>New Hire</b> <input checked="" type="checkbox"/> | <b>Rehire</b> <input type="checkbox"/>   | <b>Reinstatement</b> <input type="checkbox"/> | <b>Upper Step Appointment</b> <input type="checkbox"/> |  |  |
| Refill Position <input type="checkbox"/>            | Refill Position <input type="checkbox"/> | Refill Position <input type="checkbox"/>      | <i>Department must attach support documentation</i>    |  |  |
| New Position <input checked="" type="checkbox"/>    | New Position <input type="checkbox"/>    | New Position <input type="checkbox"/>         | <b>Recall From Layoff</b> <input type="checkbox"/>     |  |  |

Approved Bilingual Status  *Department must attach support documentation*

|                              |                             |
|------------------------------|-----------------------------|
| <b>PAYROLL ONLY</b>          |                             |
| PERS Member                  |                             |
| YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| CHECK BACK OF FORM           |                             |
| YES <input type="checkbox"/> | NO <input type="checkbox"/> |

|                              |                             |
|------------------------------|-----------------------------|
| <b>DES ONLY</b>              |                             |
| 1-9                          |                             |
| YES <input type="checkbox"/> | NO <input type="checkbox"/> |
| TYPE OF DOCUMENTS            |                             |

|                     |                           |                                       |                |
|---------------------|---------------------------|---------------------------------------|----------------|
| Status              | Regular - <i>CONTRACT</i> |                                       |                |
| Job Code #          | 020088                    | Position Number                       | 00 <i>2782</i> |
| Title               | Legal Counsel Senior      |                                       |                |
| Sal Admin Plan      | Non - Represented         |                                       |                |
| Grade               | 33                        | Step                                  | Hourly Rate \$ |
| ** Special Step     | N/A                       |                                       |                |
| Next Review Date:   | /01/                      | <input type="checkbox"/> TOP OF RANGE |                |
| Off Probation Date: | / /                       |                                       |                |

I hereby certify that the facts as stated are correct, that funds are available for the action proposed, and no deficit in appropriate budgets will result.

Date 5/22/06 Signature of Appointing Authority *[Signature]* Title County Counsel

Reasons for request and recommendations for action. (Explain fully all actions other than first-step appointment)

**DES AUTHORIZATION** | Date: *05/22/06* | Initials: *[Signature]* | Date: *05-23-06* | Initials: *[Signature]*

**BENEFITS/PAYROLL ONLY:**

## EMPLOYMENT AGREEMENT

This is an Employment Agreement ("Agreement") between **Scott Sideras** ("Employee") and Clackamas County ("Employer") acting by and through the Clackamas County Administrator ("Administrator"). The previous employment agreement between the parties is terminated. It is agreed:

1. **Employment.** Employer agrees to employ Employee as Legal Counsel, Senior, until such time as Employee's employment is terminated as provided below. Employee accepts employment on the following terms and conditions and agrees that during the period of employment substantially all of Employee's professional attention will be devoted to rendering services on Employer's behalf. Employee shall perform such duties as Employer may from time to time assign. Employee will be employed in the unclassified service as defined in Chapter 2.05.030 of the Clackamas County Code, pursuant to this Agreement.
2. **Compensation.** Employee shall receive a salary, payable biweekly, at an annual rate of \$85,741 and shall automatically receive any cost-of-living increases granted to other employees in the "Group 1 Management" category or its successor. At the discretion of the Administrator, an annual bonus of up to 5% of the annual salary may be awarded. A bonus greater than 5% requires the approval of the Board of County Commissioners.
3. **Performance Reviews.** Employee's performance may be reviewed periodically by the Administrator or his designee. The goal is to conduct a performance review after twelve months of service, and each year of service thereafter, or at any earlier time deemed appropriate by the Administrator. Employee may request additional performance reviews (but limited to one request in any six-month period). Performance reviews and the determination of future goals and objectives will be summarized in writing and may be revised thereafter as the Administrator deems appropriate. Performance reviews do not guarantee a salary increase, but Employee's compensation may from time to time be adjusted to take into account Employee's success in achieving such goals and objectives as well as any changes in the general nature, quality and level of services performed and any other factors the Administrator may deem it appropriate to consider.
4. **Automobile.** Employer shall reimburse Employee monthly at Employer's regular mileage rate for any business use of Employee's personal automobile that is authorized by Employer in advance (by policy or otherwise) and is reasonable and necessary to the performance of Employee's business duties. Employee shall maintain accurate records of any business use of Employee's personal automobile and submit such records to justify payment to Employee.
5. **Expenses.** Employer shall pay or reimburse Employee for any reasonable and necessary travel or other business expenses paid or incurred by Employee on Employer's behalf to the extent that such expenses are authorized by Employer in advance (by policy or otherwise) and are incurred in connection with business duties. Employer may authorize per diem or similar allowance in lieu of requiring an accounting, but Employer may require an acceptable accounting by requesting the same of Employee.

6. **Employee Benefit Plans.** Employee shall be eligible to participate in benefit plans, such as vacations, sick pay, accident and health insurance, life insurance, disability income and wage continuation benefits, and pension/retirement and/or compensation deferral plans as Employer may from time to time adopt on the same basis as other employees in the "Group 1 Management" category or its successor, subject to the following:

a. Any benefit offered to employees in that category may from time to time be modified, superseded or eliminated by Employer, and any such actions shall automatically be binding on Employee. Employer shall give Employee at least 30 days' notice of any such changes.

b. Should Employee decline to continue working under such changed benefit plans, Employee will be considered to have voluntarily terminated employment pursuant to section 8.a.(2).

7. **Disability.**

a. If Employee becomes disabled because of mental or physical impairment and unable to perform Employee's duties and elects to take leave, whether full-time or intermittently, Employee's compensation and benefits shall continue in accordance with Employer's underlying benefit plans, including its leave policies, and applicable law. Once the Employee exhausts such rights to continued compensation or benefits, Employer shall have no obligation to continue compensation and benefits under this Agreement.

b. Employer reserves all rights to request a physical or mental examination of Employee to determine Employee's fitness and competency to perform services on the Employer's behalf. If Employee refuses to submit to such an examination without proffering justifiable medical reason, Employee will be considered to have voluntarily terminated employment under section 8.a. (2).

c. An employee without any expectation of being able to return to work with a reasonable accommodation may be terminated by the Employer. Employee shall not be entitled to compensation or employer-paid benefits after the effective date of termination under this paragraph, but employee shall, if eligible, be entitled to any applicable disability income or retirement benefits.

8. **Termination.** This Agreement and Employee's employment may be terminated as follows:

a. **Voluntary Termination.**

(1) **By Employer.** Employer shall have the right to terminate this Agreement and Employee's employment for any reason without cause upon giving not less than 30 calendar days' written notice (or, in lieu of such notice, by providing for a lump-sum payment to Employee of an amount equal to Employee's regular salary for the 30 calendar days). Employer shall also be

required to continue payment of Employee's salary for 180 calendar days (150 days if the Employee receives a lump-sum payment in lieu of notice as described above). Employer shall only be required to provide the benefits furnished under Paragraph 6 through the end of the month in which Employee actually ceases to perform work for Employer, except for Employer-provided medical and dental insurance and EAP coverage, which shall be provided for the 150 or 180 calendar days referred to above (including family coverage if so enrolled).

(2) **By Employee.** Employee shall have the right to terminate this Agreement and Employee's employment for any reason without cause upon giving not less than 30 calendar days' written notice. Employee shall be entitled to the salary and any benefits provided under Paragraph 6 for the full 30 calendar days provided, however, that in lieu of accepting such notice, Employer may pay Employee a lump-sum payment of severance pay equal to Employee's regular salary for the 30 calendar days.

b. **Automatic Termination.** This Agreement and Employee's employment shall be automatically terminated upon any one of the following events:

(1) Employee commits any act of fraud, dishonesty, or criminal or other conduct involving moral turpitude, either arising out of the employment relationship or which reflects adversely upon Employer's reputation or interests;

(2) Employee's death or retirement.

Employee shall not be entitled to compensation (including any pay in lieu of notice) or Employer-paid benefits after the effective date of the termination under this paragraph (b), provided, however, that if Employee performed any work prior to the effective date of the termination Employee's salary shall be prorated to that date.

c. **For-Cause Termination.** Employer shall have the right to discipline Employee, including terminating Employee, for cause. Any action taken against Employee for cause shall be subject to the standards and procedures established under the Clackamas County Code for classified employees, except that any appeal of a for cause termination or other disciplinary action shall be heard subject to paragraph 15 of this Agreement and not the appeal procedures of the County Code. If terminated for cause, Employer shall have no obligation under this Agreement to continue Employee's salary and benefits after the date of termination.

9. **Reasonable Suspicion Testing.** Employer may require a drug or alcohol test of Employee where Employer has a reasonable suspicion that Employee may be impaired, intoxicated, or under the influence of a controlled substance or alcohol while performing duties for Employer or while on Employer's premises. "Reasonable suspicion" means that Employee has exhibited behavior, appearance, speech or body odors that provide a reason to believe Employee may be impaired, intoxicated, or under the influence of a controlled substance or alcohol.

10. **Policies, Procedures, Rules and Regulations.** In addition to this Agreement, Employee shall also be required to abide by any other policies, rules, procedures and regulations as may from time to time be adopted, modified, or rescinded by Employer to govern Employee's conduct or the performance of Employee's duties. Employer shall give Employee at least 30 days' notice of any such changes in its existing policies, rules, procedures or regulations that occur after the date of this Agreement. If Employee declines to continue working under such changed policies, rules, procedures or regulations, Employee will be considered to have voluntarily terminated employment pursuant to section 8.a.(2). Such other policies, rules, procedures and regulations shall not contradict or modify any term of this Agreement.

11. **Binding Effect and Assignment.** This Agreement shall be binding upon and inure to the benefit of Employer and Employee and their respective successors, heirs and legal representatives. Neither this Agreement nor any rights hereunder may be assigned without the written consent of the other party.

12. **Entire Agreement and Amendment.** This Agreement contains the entire agreement of the parties. No amendment or variation of the terms and conditions of this Agreement shall be valid unless it is in writing and signed by the parties.

13. **Severability.** In the event that any of the provisions herein shall be held to be invalid or unenforceable, the remaining provisions shall continue to be valid and enforceable.

14. **Constitutional/Statutory/Budgetary Limitations.** This Agreement is subject to all applicable contracting laws of the State of Oregon, is subject to the constitutional debt limitation of Oregon counties, and is contingent upon funds being appropriated for the particular position held by Employee. A termination pursuant to such restrictions shall be considered a voluntary termination subject to section 8.a.(1).

15. **Arbitration.** All disputes arising out of this Agreement, including the meaning or effect of any of its provisions, or any aspect of the employment relationship or termination of employment shall be resolved by final and binding arbitration. In any such dispute and request for arbitration, the parties shall submit a request to the United States Arbitration and Mediation, Inc., Portland, Oregon office, as arbitration administrator, for a list of five arbitrators maintaining their primary residence in Oregon. Upon receiving the list, the parties shall alternately strike one name each, until one name remains on the list, with Employee striking first. The rules of the arbitration administrator shall govern.

In consideration of this agreement to submit to final and binding arbitration, Employer and Employee also waive the right to submit any such dispute to government agencies or the courts. Each party shall bear its own costs and any attorney fees in any arbitration proceeding. Each party shall also be responsible for one-half of the arbitrator's and any separate arbitration and recording fees, provided, however, that the Employer shall be solely responsible for the arbitrator's fees if Employee is the "prevailing party." Any dispute as to the "prevailing party" shall be resolved by the arbitrator who heard the initial dispute.

Employee and Employer state that they have carefully read this Agreement, that they have had the opportunity to have it reviewed and explained to them by advisors of their choosing, that they fully understand its final and binding effect, and that they are signing the Agreement voluntarily.

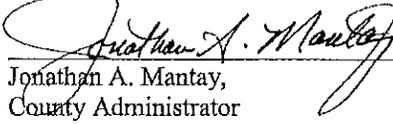
IN WITNESS WHEREOF, this Agreement has been executed by Employer and Employee.

EMPLOYEE

  
\_\_\_\_\_  
Scott Sideras

Date: May 10, '06

CLACKAMAS COUNTY

  
\_\_\_\_\_  
Jonathan A. Mantay,  
County Administrator

Date: 5/17/2006

**Madkour, Stephen**

---

**From:** Madkour, Stephen  
**Sent:** Monday, February 25, 2013 6:00 PM  
**To:** BCC - All Commissioners

Commissioners, Oregon lawyers are obligated by law and the rules of professional responsibility to report attorney misconduct. Consequently, I am obligated to report the conduct of one of the attorneys formerly with this office. Please contact me if you have any questions.

**Stephen L. Madkour | County Counsel**  
CLACKAMAS COUNTY  
2051 KAEN ROAD | SUITE 460  
OREGON CITY, OR 97045  
PH 503.655.8362 | FX 503.742.5397  
[smadkour@clackamas.us](mailto:smadkour@clackamas.us)  
[www.clackamas.us](http://www.clackamas.us)



**OFFICE OF COUNTY COUNSEL**

**PUBLIC SERVICES BUILDING**

**2051 KAEN ROAD OREGON CITY, OR 97045**

February 27, 2013

Helen M. Hirschbiel  
Oregon State Bar  
16037 SW Upper Boones Ferry Road  
PO Box 231935  
Tigard, OR 97281

**Stephen L. Madkour**  
County Counsel

**David W. Anderson**  
**Kimberley Ybarra**  
**Kathleen Rastetter**  
**Chris Storey**  
**Scott C. Ciecko**  
**Alexander Gordon**  
**Rhett C. Tatum**  
Assistants

Re: Scot Sideras

Dear Ms. Hirschbiel:

You will recall that I spoke with you previously about a matter in my office. Scot Sideras was an Assistant County Counsel for Clackamas County until February 7, 2013. As an Assistant County Counsel he was assigned to the Department of Transportation and Development where his practice area was generally focused on advising the agencies and individuals within that department. Mr. Sideras was not assigned tasks that concern the organization of County Administration, labor or employment-related matters.

I am providing you with documents that I have reason to believe were prepared by Mr. Sideras and detail a plan by Mr. Sideras to replace the Clackamas County Administrator, who is the County's Chief Executive Officer. In this undertaking, Mr. Sideras was not acting on the direction, knowledge, or advice of County Counsel, or that from the County Administrator.

I believe that Mr. Sideras used his official position and the information he gained by virtue of that position, and used that information for his own personal gain and to the impairment and prejudice of a current client. I submit that this conduct exceeded the bounds of the Oregon Rules of Professional Conduct.

Please contact me with any questions.

Sincerely,

Stephen L. Madkour  
County Counsel

Enc.

RECEIVED

FEB 20 2013

OREGON GOVERNMENT ETHICS COMMISSION

# Oregon Government Ethics Commission

## COMPLAINT FORM

Case No. \_\_\_\_\_  
*(assigned by commission)*

See page two of form for important information

*(please type or print clearly)*

1. Identify the public official(s) you believe may be involved in the alleged violation: *(If you are alleging that more than one person may have violated the law, you must provide complete information for each individual. You may attach additional sheets if necessary.)*

Name: Scott Sideras

Address: 5826 N Detroit

Portland OR 97217

Public Position: Former Assistant County Counsel

Telephone: *(work)* \_\_\_\_\_ *(home)* 503-799-0835  
*(include area code)* *(email)* scotsideras@mac.com

2. Describe in detail the circumstances, incidents or events that lead you to believe a violation has occurred. Provide information that would answer such questions as who, what, how, where and when. Enclose any supporting documents, minutes, recordings, statements, news clippings, etc. The information you provide must support your belief that a violation occurred and the named official was responsible. *(You may attach additional sheets if necessary)*

Scot Sideras was an Assistant County Counsel for Clackamas County until February 7, 2013. As an Assistant County Counsel he was assigned to the Department of Transportation and Development where his practice area was generally focused on advising the agencies and individuals within that department. Mr. Sideras was not assigned tasks that concern the organization of County Administration, labor or employment-related matters.

I am providing you with documents that I have reason to believe were prepared by Mr. Sideras and detail a plan by Mr. Sideras to replace the Clackamas County Administrator, who is the County's Chief Executive Officer. In this undertaking, Mr. Sideras was not acting on the direction, knowledge, or advice of County Council, or that from the County Administrator.

I believe that Mr. Sideras used his official position and the information he gained by virtue of that position, and used that information for his own personal gain and to the impairment and prejudice of a current client. Mr. Sideras used his position as Clackamas County Assistant County Counsel to further his own self interest for personal, professional and pecuniary gain. He utilized information obtained through the course of his employment in the Office of County Counsel to the disadvantage of county officials. Doing so, he also utilized county resources in an improper manner.

I understand that upon receipt of this complaint, the public official subject to this complaint will be notified of the nature of the complaint, my identity and will be provided copies of this complaint and any enclosures.

Signature: \_\_\_\_\_

Date: February 27, 2013

Printed Name: Stephen Madkour, Clackamas County Counsel

Mailing Address: 2051 Kaen Road

Oregon City, OR 97045

Telephone: (work) 503/655-8362 (home) 503/970-3998  
*(include area code)* *(email) smadkour@clackamas.us*

**IMPORTANT**

The jurisdiction of the OGEC is limited to the following areas:

- Use of public office for financial gain (*ORS Chapter 244*)
- Conflict of interest (*ORS Chapter 244*)
- Statements of Economic Interest (*Chapter 244*)
- Executive session provisions of Public Meetings law (*ORS 192.660*)
- Lobbying regulation law (*ORS Chapter 171.725 - 171.785; 171.992*)  
*(Statutes can be viewed on our web site at [www.oregon.gov/ogec](http://www.oregon.gov/ogec))*

If you have questions about this form, your complaint or the jurisdiction of the OGEC, it is suggested that you call 503-378-5105 to discuss the issue briefly with a staff investigator before you file.

Please complete all sections of the form. **Complaints will not be accepted without a signature.**

You will receive verification of receipt of your complaint and will be given any further instructions by return mail. The public official subject to this complaint will be notified of the nature of the complaint, your identity and will be provided with copies of this complaint and any enclosures.

The OGEC is required by law to conduct the preliminary review confidentially. The OGEC will make no public disclosure or comment related to this matter other than to acknowledge that a complaint is pending if an inquiry is made. The confidentiality requirement applies only to OGEC personnel. The ability of any other persons to publicly comment about this matter is not affected. At the conclusion of the preliminary review, all information concerning this matter will become available to the public.

Submit your form to: Oregon Government Ethics Commission  
3218 Pringle Rd SE, Suite 220  
Salem, OR 97302-1544

Telephone: 503-378-5105



# Oregon

John A. Kitzhaber, MD, Governor

## Government Ethics Commission

3218 Pringle Rd SE Ste 220

Salem, OR 97302-1544

503-378-5105

E-mail: [ogec.mail@state.or.us](mailto:ogec.mail@state.or.us)

Web Site: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

March 4, 2013

Scott Sideras  
5826 N Detroit  
Portland, OR 97217

Re: Scott Sideras  
Case No. 13-115EAI

Dear Mr. Sideras:

You were previously notified that the Oregon Government Ethics Commission (Commission) has received a complaint from Stephen Madkour regarding you.

The Commission's jurisdiction is very specific and relates to matters involving Oregon Lobby Regulation laws pursuant to ORS 171.725, executive session provisions of Oregon Public Meetings law pursuant to ORS 192.660, and Oregon Government Ethics law, which prohibits the use of public office for personal gain pursuant to ORS Chapter 244.

The information provided in the complaint is insufficient for the Commission to take action at this time. Additional information has been requested from the complainant to enable Commission staff to determine if official action can be taken. No action is required of you unless further notified. Please feel free to contact this office if you have questions.

Sincerely,

Ronald A. Bersin  
Executive Director

ethicsNCS



**BOARD OF COUNTY COMMISSIONERS**

**PUBLIC SERVICES BUILDING  
2051 KAEN ROAD | OREGON CITY, OR 97045**

March 5, 2013

Troy J. Wood  
Assistant General Counsel  
Oregon State Bar  
P.O. Box 231935  
Tigard, OR 97281-1935

Via Facsimile: 503-684-1366

Mr. Wood:

I understand that a bar complaint has been filed against Scot Sideras, a former assistant County Counsel, and that supporting information from county files has been provided to the bar.

Clackamas County has not consented to the disclosure of information related to the complaint, and I request that the complaint and all supporting materials be returned to the County. This will allow the Board of Commissioners to consider whether to consent to the release of the information.

Sincerely

John Ludlow  
Chair, Clackamas County Board of Commissioners

cc: Steve Wheeler, County Administrator  
Stephen Madkour, County Counsel

## Madkour, Stephen

---

**From:** Madkour, Stephen  
**Sent:** Tuesday, March 05, 2013 1:48 PM  
**To:** Heider, Tim; Schmidt, Gary  
**Subject:** FW: Sideras

**From:** Troy Wood [mailto:[twood@osbar.org](mailto:twood@osbar.org)]  
**Sent:** Tuesday, March 05, 2013 10:39 AM  
**To:** Madkour, Stephen  
**Subject:** RE: Sideras

Stephen:

I regret to inform you that since this case has been referred to disciplinary counsel, it cannot be withdrawn. The documents that were sent with your complaint are a public record and cannot be withdrawn either. Even this e-mail must be a part of the file. Please let me know if I can answer any further questions. Thank you

Oregon  Bar

**Troy J. Wood**  
*Assistant General Counsel &  
Client Assistance Office Attorney*

PO Box 231935  
Tigard, OR 97281-1935  
503-431-6366  
[twood@osbar.org](mailto:twood@osbar.org)

**From:** Madkour, Stephen [mailto:[SMadkour@co.clackamas.or.us](mailto:SMadkour@co.clackamas.or.us)]  
**Sent:** Tuesday, March 05, 2013 9:30 AM  
**To:** Troy Wood  
**Subject:** Sideras

Troy, I got a copy of your letter today and understand that it went to disciplinary counsel. I spoke with Lyn Haines this morning and she stated that it has not been assigned yet. There is a question from this end whether I was authorized to disclose the documents that I attached to the letter. Is there a way to remedy that? Can I withdraw the attachments or the complaint in its entirety?  
Thanks.

**Stephen L. Madkour | County Counsel**  
CLACKAMAS COUNTY  
2051 KAEN ROAD | SUITE 400  
OREGON CITY, OR 97045  
PH 503.655.8382 | FX 503.742.5397  
[smadkour@clackamas.us](mailto:smadkour@clackamas.us)  
[www.clackamas.us](http://www.clackamas.us)

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Spam

Not spam

Forget previous vote

August 12, 2014

Stephen L. Madkour  
Clackamas County Counsel  
2051 Kaen Rd.  
Oregon City, OR 97045

COPY

Re: Scot A. Sideras (Stephen L. Madkour)

Dear Mr. Madkour:

I have taken over from Martha M. Hicks the investigation of the matter you brought to the Bar's attention regarding the conduct of Scot A. Sideras. I have reviewed the materials you have provided and the materials provided by attorney David J. Elkanich on behalf of Mr. Sideras, including a recently sent letter dated July 31, 2014 (a copy of which is enclosed). For the reasons discussed below, I conclude that there is no probable cause to believe that Mr. Sideras committed misconduct in violation of the Oregon Rules of Professional Conduct or ORS Chapter 9.

Summary of Your Complaint

According to your complaint, Mr. Sideras, who was employed as an assistant county attorney, used his position and information obtained by virtue of his position for his own personal gain and to the impairment and prejudice of a current client. In support of your complaint, you provided materials that you identified as handwritten notes authored by Mr. Sideras and a copy of a resume enumerating Mr. Sideras's experience and qualifications, as well as an email between Mr. Sideras and John Ludlow transmitting Mr. Sideras's resume.

In your initial communication, you focused on the fact that Mr. Sideras was acting outside the scope of his assigned duties by putting together notes that appeared to be a roadmap detailing how the county administrator could be replaced. You also contended that, assuming that this information was shared with John Ludlow and Tootie Smith prior to their officially taking office in their respective positions, Mr. Sideras provided information protected by RPC 1.6 without client consent.

Summary of Mr. Sideras's Response

Mr. Sideras denied that his communications with Mr. Ludlow and Ms. Smith violated any rule of professional conduct. He asserted that his client was Clackamas County and that there was nothing unethical about responding to a request for legal advice from a person who was elected to a position of authority in the county prior to taking office. Similarly, there was

Letter to Stephen L. Madkour  
August 12, 2014  
Page 2

nothing unethical about providing the requested advice, and maintaining confidentiality about the advice given at the request of the person who sought the advice.

Ethics Analysis

An assistant county attorney's client is determined with reference to RPC 1.13, which provides in pertinent part:

- (a) A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.

Mr. Sideras's client was Clackamas County – not the then County Administrator, Steve Wheeler, nor the County Counsel. The handwritten pages provided as a part of the complaint have been identified as Mr. Sideras's "continuing notes as to the topics of discussion with Chair Ludlow and Commissioner Smith." In Mr. Elkanich's most recent letter, he clarifies that Mr. Sideras took notes as Mr. Ludlow made statements and asked questions, and that additional notes were taken over the course of subsequent meetings and telephone calls. There is no indication that the information contained in Mr. Sideras's notes was imparted by Mr. Sideras to anyone other than Mr. Ludlow and Ms. Smith. The only other documentation provided was a copy of Mr. Sideras's resume and of an email transmitting the resume to Mr. Ludlow. Mr. Sideras's resume would not qualify as information protected by RPC 1.6.

The communications between Mr. Ludlow and Mr. Sideras, and among Mr. Ludlow, Ms. Smith, and Mr. Sideras, took place after Mr. Ludlow and Ms. Smith each were elected to offices that placed them in positions in which they could reasonably expect to have the ability to seek and obtain guidance from an assistant county attorney for Clackamas County in connection with their anticipated responsibilities upon taking office. No information has been provided that indicates that either Mr. Ludlow or Ms. Smith sought individual legal advice from Mr. Sideras. Whether Mr. Sideras could assert a lawyer-client privilege with regard to his communications with Mr. Ludlow and Ms. Smith is irrelevant because he neither disclosed the communications nor was he asked to do so.<sup>1</sup>

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<sup>1</sup> In his response, Mr. Sideras cites *Humphries v. Chicarelli*, 20120 WL 5930437 (S.D. Ohio 2012), and *Ezell v. Darr*, 20120 WL 123374 (M.D.Ga. 2012), as authority for the application of attorney-client privilege to communications with persons who have been elected to an office but not yet sworn into office. The fact that neither case clearly stands for that proposition is immaterial. [The July 31, 2014, letter cites an unpublished Sixth Circuit opinion that discusses whether the attorney-client privilege as to elected officials' communications with counsel in executive session is waived by the presence of members-elect, which is a separate question from whether an attorney-client privilege exists between members-elect and lawyers for the public entity they will serve on.] Mr. Sideras's ability to communicate with newly-elected county commissioners is not predicated solely upon whether those communications can be protected by attorney-client privilege.

Letter to Stephen L. Madkour

August 12, 2014

Page 3

There is no indication in the materials that you provided or in the responses received from Mr. Elkanich that Mr. Ludlow was seeking legal advice in order to violate a legal obligation to the county, or to engage in a violation of law which reasonably might be imputed to the county. Nor was Mr. Ludlow's acting upon the advice received likely to result in substantial injury to the county. These are the only types of conduct that would have triggered reporting obligations under RPC 1.13(b), if such conduct had occurred at a point in time in which Mr. Ludlow could have acted upon the advice given in his official capacity. To the contrary, it would appear that, by seeking advice from an assistant county attorney presumably familiar with whatever statutory or other governing law pertained to the county's employment of a county administrator, Mr. Ludlow was seeking to ensure that appropriate legal requirements were met.

Absent circumstances that trigger the requirements of RPC 1.13(b), whether Mr. Sideras had any obligations *as an employee* to report his interactions with Mr. Ludlow and Ms. Smith to his immediate supervisor – particularly in the face of a direction from Mr. Ludlow that their communications remain confidential – is a question not answered by the rules of professional conduct.

Because the advice Mr. Ludlow sought pertained to his role as the newly-elected chair of the Clackamas County Board of Commissioners – a position of authority within the governing body of Mr. Sideras's client, the county – RPC 2.3 is inapplicable.

Finally, there is no evidence that the information reflected in the notes Mr. Sideras took was used to the disadvantage of the county.

After review and consideration of the materials submitted and pursuant to Oregon State Bar Rule of Procedure 2.6(b), this matter is dismissed.

I hope we have been of assistance in obtaining Mr. Sideras's response to your concerns. Thank you for bringing them to our attention.

Very truly yours,



Dawn M. Evans  
Disciplinary Counsel  
Extension 319

DME:de

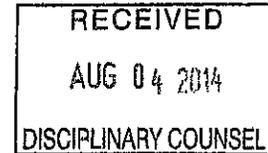
Enclosure

cc: David J. Elkanich, Holland & Knight, 111 SW Fifth Avenue, 2300 Bancorp Tower,  
Portland, OR 97204

# Holland & Knight

111 S.W. Fifth Avenue | 2300 U.S. Bancorp Tower | Portland, OR 97204 | T 503.243.2300 | F 503.241.8014  
Holland & Knight LLP | www.hklaw.com

David J. Elkanich  
(503) 517-2928  
david.elkanich@hklaw.com



July 31, 2014

*Via E-mail (mhicks@osbar.org)*  
*Via First Class Mail*

Martha Hicks  
Assistant Disciplinary Counsel  
Oregon State Bar  
16037 SW Upper Boones Ferry Road  
PO Box 231935  
Tigard, Oregon 97281-1935

Re: Scot A. Sideras (Stephen L. Madkour)

Dear Ms. Hicks:

I am writing on behalf of Mr. Sideras to provide you additional information regarding the complaint filed by Mr. Madkour. We continue to strongly believe that Mr. Sideras did not violate the ethics rules and that this matter should be promptly dismissed. As you will recall, the complaint was filed in this matter back in early 2013 -- well over a year ago -- and the Bar still has not decided how to proceed. I want to stress to the Bar that this matter is incredibly important to Mr. Sideras and the Bar's delay has caused him frustration, among other real and tangible effects. Mr. Sideras would like some resolution and to put this matter behind him.

### *Issue Presented*

In our calls on May 14, and July 29, 2014, you questioned whether it was proper for Mr. Sideras to have provided information to members-elect Ludlow and Smith after they were elected by the public to the Board of Commissioners but before they were sworn into their respective positions. You raised ORS 204.020, which provides the date on which an elected officer's term commences. As I understand it, you have asked whether there was a conflict of interest in Mr. Sideras giving information to the members-elect relating to their impending job duties when there was then a current Board of Commissioners. The answer to this from an ethical and practical perspective is unequivocally "no".

Martha Hicks  
July 31, 2014  
Page 2

In this letter and our last letters, we have provided you authority that supports our position that Mr. Sideras was entitled to provide information relating to the County to the members-elect before they were sworn into office. Our search has been thorough and we have yet to find any authority that supports the Bar's theory that it is a violation of RPC 1.6(a) for County counsel to share County information with members-elect before being sworn into office consent. If you have any authority for such a position, or any authority that contradicts our position to which you would like a response, please let me know and we would be happy to respond.

*Argument: Mr. Sideras was entitled to share communications with the members-elect.*

I would like to first refer you to our May 10, 2013 correspondence which provides a detailed explanation as to why Mr. Sideras' communications with the members-elect were proper and ethical, and we incorporate those arguments into this letter. The notes from your call with Mr. Madkour reflect that he now relies on ORS 204.020 as the basis to argue the communications were improper but such reliance is misplaced. ORS 204.020 provides only that: "(1) [t]he term of office of each officer elected pursuant to ORS 204.005 commences on the first Monday of January next following election to office." The statute, however, is only definitive as to when a commissioner's term commences; the statute does not say anything about when an attorney-client relationship begins or when the members-elect become county representatives.

As we previously explained, a commissioner is effectively "hired" when he or she is elected by the public to be their representative. Here, Chair Ludlow and Commissioner Smith were elected in November and, although they did not begin their first day of work until January 1, they still needed to be brought up to speed so that they could hit the ground running. The communications were made to the members-elect in their representative capacity (as opposed to any individual capacity), were related to County business and their authority to take certain employment actions upon being sworn in to office. It would be surprising to conclude that the client -- Clackamas County -- wouldn't want these conversations to continue because these are exactly the types of conversations that need to take place to prepare elected officials for office and are critical to ensuring a smooth transition.

Further, Oregon law acknowledges that members-elect serve in representative capacities. For example, consider the following statutes:

- ORS 171.725 provides:
  - (10) "Public agency" means a *commission*, board, agency or other governmental body.
  - (11) "Public official" means any member or *member-elect* of any *public agency* and any member of the staff or an employee of the public agency.

- ORS 676.175 provides:

(8)(a) Notwithstanding subsection (1) of this section, it is not disclosure to the public for a board to permit other public officials and members of the press to attend executive sessions where information obtained as part of an investigation is discussed. Public officials and members of the press attending such executive sessions shall not disclose information obtained as part of an investigation to any other member of the public.

(b) For purposes of this subsection, "public official" means a member or *member-elect*, or any member of the staff or an employee, of a public entity as defined by ORS 676.177.
- ORS 171.023 [Resignation of member-elect] provides: Any person who receives a certificate of election as a member of the Legislative Assembly is at liberty to resign the office, though the person may not have entered upon the execution of its duties or taken the requisite oath of office.
- ORS 171.130: (1) At any time in advance of any regular or special session of the Legislative Assembly fixed by the Legislative Counsel Committee, or at any time in advance of a special session as may be fixed by joint rules of both houses of the Legislative Assembly, the following may file a proposed legislative measure with the Legislative Counsel:

(a) Members who will serve in the session and *members-elect*.
- ORS 260.076(6) As used in this section:

(a) "Legislative official" means any member or *member-elect* of the Legislative Assembly.

(Emphasis added.) These statutes demonstrate that it was reasonable for Mr. Sideras to believe that the Chair-elect and the Commissioner-elect were client representatives with whom he could share client information under RPC 1.6(a). It is important to remember that Mr. Sideras' *client* here was Clackamas County -- not the Board of County Commissioners, any particular Commissioner or elected official, or Mr. Madkour. Although the terms of Chair Ludlow and Commissioner Smith may not have officially begun until the January following their November election, there should be little question that they had been elected and were a part of the County government. Their swearing in was impending and they discussed matters that the incoming

Martha Hicks  
July 31, 2014  
Page 4

Chair and Commissioner would address once they took office. Accordingly, Mr. Sideras was entitled to provide this information to them under RPC 1.6(a).<sup>1</sup>

I cited a couple cases in the May letter, which upheld the attorney-client privilege as applied to recently elected officers who had not yet been sworn into office. For example, in *Humphries v. Chicarelli*, 2012 WL 5930437 (S.D. Ohio 2012), the Court held that communications with city council members-elect were protected by the attorney-client privilege because they were "analogous to agents of the City." A recent case also is on point. In *Humphries v. Chicarelli*, 554 Fed.Appx. 401 (6th Cir. Feb. 6, 2014) (unpublished), a question arose regarding whether the attorney-client privilege applied to communications at the City Council's executive session because members-elect were present who had not yet been sworn into office. The Court stated:

Nevertheless, Green and others attended the City Council's executive session because of their roles as Council members-elect, *who would shortly thereafter be required to address the issues discussed during that meeting*. Under the circumstances of this case, the members-elect were covered by the attorney-client privilege, and their presence during the executive session to receive legal advice in their capacities as members-elect whose swearing into office was imminent did not waive that privilege.

*Chicarelli*, 554 Fed.Appx. at 402 (emphasis added). Here, the communications between Mr. Sideras and the members-elect occurred during the short less than two month time period between election and swearing in, and Mr. Sideras responded to questions that related to county business and upon which the members-elect would act when they were sworn into office.

In our recent call you noted that there were still Commission members that were serving their term when Mr. Sideras spoke with Chair Ludlow and Commissioner Smith and you implied that his advice to Chair Ludlow and Commissioner Smith would be adverse to the Commissioners whose seats they were replacing. First, the Commission members were not Mr. Sideras' clients; the County was his client and the County can have multiple client representatives. Second, there is no evidence other than Mr. Madkour's self-serving comments that the communications with Chair Ludlow and Commissioner Smith regarding the mechanism and means to remove Mr. Wheeler as County Administrator were somehow adverse to the then-current Commission members. There is no evidence that the then-Chair or Commission members were considering whether to retain or terminate Mr. Wheeler or that they had told Mr. Sideras not to provide information to the members-elect. The communications with the members-elect were to be used only in their official duties; and it is unclear how discussing possible future actions, which would only be taken by elected officials once they were sworn into office, could be adverse to current

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<sup>1</sup> A review of additional authority is sparse, which I assume is because of the generally-accepted practice to recognize an elected official who is not yet sworn in as a county representative. See, for example, Santa Clara Ordinance No. NS-19.42, which defines "County Official" as including "persons who have been elected to a County office but have not yet been sworn in to office" ([http://www.sccgov.org/sites/bos/cob/Lobbyist-Filings/Documents/Ordinance\\_No.\\_NS-19.42.pdf](http://www.sccgov.org/sites/bos/cob/Lobbyist-Filings/Documents/Ordinance_No._NS-19.42.pdf)).

Commission members, who are not individuals clients, won't be in office when (if ever) the advice is acted upon, and won't be affected in any way.<sup>2</sup> This point is only stronger when one considers that there was nothing that the then current Board (or Mr. Madkour) could have done to prevent the members-elect from taking office.

Even assuming arguendo that the members-elect were not yet part of the client (even they had been elected by the people and were awaiting being sworn into office), Mr. Sideras still was entitled to provide them information relating to County business because the disclosure was impliedly authorized to carry out the representation and because it was permitted by client consent. First, as noted above, elected officials need to hit the ground running when they are sworn into office and it makes sense practically that they receive advice and information from counsel before they are sworn into office. Indeed, the failure to advise incoming elected officials may prevent them from competently and diligently performing their duties.

Second, Mr. Sideras believed he had consent to speak with the members-elect. ORS 204.020 is definitive only as to when the term of office commences; it is not preclusive as to when a duly elected officer may receive client information. Mr. Sideras met with the members-elect after the Clerk had certified the election and it was the longstanding policy of Clackamas County to meet with incoming Commissioners to provide candid information. Mr. Sideras recalls this occurred as to at least the last three Commissioner elections, and certainly as to the election at issue here. I understand that Mr. Madkour himself met with both Chair Ludlow and Commissioner Smith prior to their taking the oath of office.

Third, the members-elect are prospective client representatives, who are entitled to protection under RPC 1.18. That is, since they were prospective client representatives, and entities can only act through client representatives, Mr. Sideras was entitled to provide them information relating to the representative of the client.

*Mr. Sideras' Notes*

In our May call, you also asked about the lines on the pages of Mr. Sideras' notes. Mr. Sideras went to his first meeting with Chair Ludlow in response to his telephone call. Chair Ludlow made statements and asked questions and Mr. Sideras took notes. There were subsequent meetings and telephone calls; over time this caused the creation of the notes at issue. The left hand boxes show the specific tasks, goals, and concerns that emerged during these discussions with the Chair. The lines to the right look at the means to accomplish those ends or the points that must be addressed.

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<sup>2</sup> In your call with Mr. Madkour, your notes indicate that Mr. Wheeler "left on his own terms." This is not entirely accurate. Although it is true that Mr. Wheeler resigned in February 2013, that only occurred after a series of discussions between him and the Board.

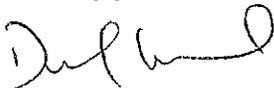
Martha Hicks  
July 31, 2014  
Page 6

*Madkour's Violation of RPC 1.6*

I wanted to inquire again whether you have conducted any investigation into Mr. Madkour's violation of RPC 1.6 in providing information relating to the representation of a client to the Bar without client consent.<sup>3</sup> See, e.g., OSB Formal Op. No. 2005-95 (noting client consent required to report if information is protected by RPC 1.6).

As you will recall, Chair Ludlow confirmed in a March 5 letter to the Bar that "Clackamas County has not consented to the disclosure of information related to the complaint" and Mr. Madkour conceded in his March 5, 2013 email that "[t]here is a question from this end whether I was authorized to disclose the documents that I attached to the letter." Thus, notwithstanding what the Bar does with the complaint against Mr. Sideras, there appears irrefutable proof that Mr. Madkour violated RPC 1.6(a) when he filed the complaint against Mr. Sideras without client consent. Indeed, it is one of the great ironies in this case that, in complaining that Mr. Sideras revealed information to a non-client without client consent, Mr. Madkour is the one who committed the rule violation. Mr. Sideras' communications were protected by privilege and made to members-elect in order to further the goals of his client, whereas Mr. Madkour's communications were made publicly and without client consent.

Sincerely yours,



David J. Elkanich

DJE:jlk

cc: Client

---

<sup>3</sup> This is a particularly important point because Mr. Madkour's February 25 email to the Board of Commissioners misrepresents the law relating to his duty to report. Cf. Oregon RPC 8.4(a)(3). In the email, Mr. Madkour states that "Oregon lawyers are obligated by law and the rules of professional responsibility to report attorney misconduct. Consequently, I am obligated to report the conduct of one of the attorneys formerly with this office." Although Mr. Madkour asks them to "contact me if you have any questions," he does not inform them that the information is specifically protected by RPC 1.6(a) and he can only file the complaint upon receiving client consent.

# HINSHAW

& CULBERTSON LLP

RECEIVED

APR - 8 2013

DISCIPLINARY COUNSEL

April 5, 2013

**VIA E-MAIL AND REGULAR MAIL**

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Re: Scot A. Sideras (Stephen L. Madkour)

Dear Ms. Hicks:

This firm represents Mr. Sideras with regard to the complaint filed by Mr. Madkour. I am in possession of your March 8, 2013 letter to Mr. Sideras. Thank you for the opportunity to provide a response. Your letter indicates that Mr. Madkour's concerns may implicate the provisions of RPC 1.6(a), RPC 1.7(a), and RPC 1.8(b). We firmly believe that Mr. Sideras did not violate any of the rules and we urge the Bar to promptly dismiss this matter.

As a preliminary matter, I understand that the complaint was filed by Mr. Madkour in his personal capacity, and not by Clackamas County (the "County") or its Board of County Commissioners (the "Board"). This is significant because Mr. Madkour was not Mr. Sideras' client - Mr. Sideras' client was the County, who acts through the Board. The March 5, 2013 letter from John Ludlow, Chair of the Board, indicated that Mr. Madkour filed the complaint and released information protected by RPC 1.6(a) without County approval. Mr. Madkour also noted in his March 5, 2013 email to the Bar that there was a question whether he was authorized to disclose the documents that he attached in his letter to the Bar. Accordingly, Mr. Sideras feels compelled to protect information relating to the representation of the County under Oregon RPC 1.6(a) and will only disclose information reasonably necessary to provide a basic response. If you feel the information included herein is inadequate, please let me know and we will do our best to cooperate.

Summary

Mr. Sideras did not violate RPC 1.6(a), RPC 1.7(a) or RPC 1.8(b). Mr. Madkour alleges that Mr. Sideras used his official position and the information he gained by virtue of that position "to the impairment and prejudice of a current client." And further, that Mr. Sideras acted without the approval, knowledge or direction of the County Counsel (Mr. Madkour) or the County Administrator (Mr. Wheeler). Mr. Madkour likened the County Administrator to the County's

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Ms. Martha M. Hicks  
April 5, 2013  
Page 2

Chief Executive Officer, and implies that he is the "client" for whom Mr. Sideras acted as an Assistant County Counsel. Mr. Madkour, however, is incorrect and his letter reflects a fundamental misunderstanding of the relationships of the parties.

As Assistant County Counsel working in the Office of Clackamas County Counsel, Mr. Sideras represented *the County* -- not the County Administrator or the County Council -- and had done so for six years prior to his termination. Although Mr. Sideras generally was assigned to the Department of Transportation, his tasks were not so discrete; he had advised the former Chair and the Commissioners on various matters over the years. It was in that role that Mr. Sideras was asked to provide the County legal advice regarding the means and mechanisms by which the Board may remove a County Administrator and how to proceed with a replacement. Such advice was fully within the scope of his employment.

The only person that could have been prejudiced and/or impaired by Mr. Sideras' advice was the County Administrator -- but, contrary to Mr. Madkour's contention, the County Administrator was not Mr. Sideras' current client. With this understanding, it is unclear how Mr. Sideras' conduct could implicate RPC 1.6(a) since there is no indication that Mr. Sideras disclosed confidential client information to anyone but the County. Finally, Mr. Sideras only provided information about his qualifications to the Chair and the Commissioner when asked for the information; he did not orchestrate any grand scheme to take over the County Administrator's position, he simply provided legal advice and other information to the County upon request.

#### Factual Background

The Board is elected by the public and has the power to directly terminate or appoint only two county employees -- the County Administrator (formerly Steve Wheeler) and the County Counsel (currently Stephen Madkour). Chair Ludlow asked Mr. Sideras to provide the County legal advice regarding the mechanism and means to remove Mr. Wheeler as County Administrator. Mr. Sideras subsequently met with Chair Ludlow and Commissioner Tootie Smith. Over the course of that meeting, and subsequent communications, Mr. Sideras responded to questions put to him by Chair Ludlow and Commissioner Smith on behalf of the County. The outcome of this was a series of discussions between the Board and Mr. Wheeler that culminated in the public announcement of Mr. Wheeler's resignation on February 25, 2013.

Mr. Madkour's allegation that Mr. Sideras "was not assigned tasks that concern the organization of County Administration, labor or employment related matters" is incorrect in two important respects. First, Mr. Madkour did not have the exclusive ability to assign tasks to Mr. Sideras. The prior Chair had previously expressly cautioned Mr. Madkour that the Chair and Commissioners were to have an unrestricted ability to contact Mr. Sideras directly and receive from Mr. Sideras, if the elected officials requested, a confidential dialogue on such topics as they may choose. As a result, Mr. Sideras was routinely assigned matters of extraordinary importance to the county. Representative examples include the determination of the best practices of the Sheriff's office; dealing with citizen initiatives on the subject of the Sellwood Bridge, urban renewal, and light rail; bond financing; the renegotiation of agreements with TriMet; the criminal conduct of an employee in the Clerk's Office; and a series of economic development incentives and county acquisitions with individual values on the order of \$25 million.

Ms. Martha M. Hicks  
April 5, 2013  
Page 3

Second, while Mr. Sideras was not assigned the routine tasks of County Administration, labor, and employment, Mr. Sideras had previously advised the Board on extraordinary instances related to these subjects. Indeed, Mr. Sideras specifically advised former Chair Peterson as to the manner and means of securing the resignation and finding a replacement for the previous County Administrator, Jonathan Mantay, providing materials, advice, and assistance similar to that at issue here.

The following additional points are relevant with respect to the documents included with Mr. Madkour's February 27 letter to the Bar:

1. The plan to replace the County Administrator was prepared by Mr. Sideras at the specific request of Chair Ludlow and Commissioner Smith, the respective supervisors of Wheeler and Madkour, according to their specific and repeated request that it be kept confidential from those individuals. The first four unnumbered pages attached to the February 27, 2013 letter set out Sideras' continuing notes as to the topics of discussions with Chair Ludlow and Commissioner Smith.

2. The fifth through ninth unnumbered pages of the February 27, 2013 letter consist of materials provided to Chair Ludlow by Mr. Sideras in response to the Chair's specific request that Sideras supply more particulars as to his background. The five pages at issue were adapted from materials that Sideras had on hand from a previous application for a new position within the county. The tenth page consists of Mr. Sideras' notes prepared in response to Chair Ludlow and Commissioner Smith's questions as to whether Sideras could serve as an interim County Administrator following the departure of Mr. Wheeler.

3. The last two of the unnumbered pages consist of organization charts. Both were prepared by Mr. Sideras at the specific request of Chair Ludlow and Commissioner Smith.

#### Ethics Analysis Under the Oregon RPCs

Mr. Sideras did not violate the Oregon Rules of Professional Conduct when he advised Chair Ludlow and Commissioner Smith regarding the mechanism and means by which to remove Mr. Wheeler as County Administrator. Mr. Sideras' one and only client was the County, who acts through the Board. Mr. Sideras lawfully and properly advised his only client with respect to its legal questions.

The identification of the attorney's client is the threshold issue for each of the three rules at issue. Oregon RPC 1.13(a) provides that "A lawyer who represents an entity, such as a corporation or partnership, generally represents that entity only and not its employees, shareholders, or owners." In Oregon, the rule is that County Counsel has only one client – the County. Under Oregon RPC 1.13(a), the entity approach applies to governmental representation, "and the client is the governmental entity and not its constituent members." *The Ethical Oregon Lawyer* §5.5 (OSB CLE 2006 Rev.). The fact that Mr. Wheeler was a county employee did not transform him into Mr. Sideras' client. See OSB Formal Ethics Op No 2005-67 (stating: "[t]he fact that County Counsel may, in the course of representing County, speak to County employees about County matters, does not transform these employees into County Counsel's clients").

Mr. Sideras' client was Clackamas County, acting by and through its elected body, the Board of County Commissioners. Chair Ludlow and Commissioner Smith, by virtue of their positions were the highest level of authority in the organization, and as such were qualified to have their requests for legal advice as to the terms and conditions of Mr. Wheeler's appointment and the manner by which he may be removed from office answered candidly and insightfully. Their requests for information as to Mr. Wheeler's rights under his contract and how the county might be restructured are exactly the sort of legitimate query that elected officers often present to their counsels. For Mr. Sideras to not supply the requested information would have been incompatible with his responsibilities as counsel to the Board of County Commissioners.

The point at issue therefore is not whether Mr. Sideras took actions without Mr. Wheeler's approval because Mr. Wheeler was not his client. County Counsels are expected and required to take actions adverse to county employees all the time. The only issue is whether Mr. Sideras owed the duty of an attorney to Mr. Wheeler. The commentary in this area and the decisions of other jurisdictions reinforce Oregon's conclusion that a municipal attorney owes his or her duty to the organization and not its individual members. To hold otherwise would produce a daunting result. County government is filled with all manner of disagreements, and an important role of the county attorney is to give advice to the board of county commissioners regarding these disputes and the disputants. *Cf. Handverger v. City of Winooski*, 38 A.3d 1158 (Vt. 2011) (holding that city attorney was obligated to represent only the city's interests, rather than those of city manager).<sup>1</sup>

Moreover, Mr. Sideras properly complied with the Chair and the Commissioner's request not to disclose their discussions to Mr. Madkour. Pursuant to Oregon RPC 1.6(a), Mr. Sideras had an obligation to protect information relating to the representation of the County. The client representatives asked him not to disclose that information with another attorney within the same "firm" (i.e., the Office of County Counsel), and thus Mr. Sideras was obligated to respect his client's directions. *See The Ethical Oregon Lawyer* § 6.5 (stating "a lawyer may discuss a client's affairs with others in the same firm unless the client directs otherwise").<sup>2</sup>

The remaining point is the allegation that Mr. Sideras put his personal gain above the interest of this client. While this falls with the conclusion that Mr. Wheeler was not his client, it is worth observing that Mr. Sideras in fact did nothing but what attorneys routinely do without fear of violating the Rules of Professional Conduct. In one instance he responded to his employer's request for a statement of his talents, skills, and abilities, and in another he responded to his employer's request for how he might perform in a new role if such an interim position were

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<sup>1</sup> *See Ward v. Superior Court*, 70 Cal.App.3d 23, 138 Cal.Rptr. 532, 537 (1977) (explaining that county counsel's only client was county despite county charter's requirement that county counsel represent county officers acting in their official capacity).

<sup>2</sup> *See also* Geoffrey C. Hazard, W. William Hodes, and Peter R. Jarvis, *The Law of Lawyering* § 17.3 (2004-2 Supp.) (stating that "A lawyer has an obligation to preserve *the organization's* confidences, not those of individuals with the organization" and that "it is simply incorrect to think of the officers, for example, as co-equals of the entity") (emphasis in original).

Ms. Martha M. Hicks  
April 5, 2013  
Page 5

offered. There is no suggestion in the RPCs or other authority that such behavior is anything other than appropriate.

Summary

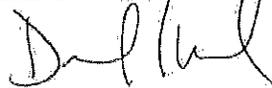
We firmly believe that Mr. Sideras' conduct complied with the Oregon Rules of Professional Conduct. Mr. Sideras has been a member of the Oregon State Bar for over 33 years and has no history of discipline. He does, however, have a long and distinguished career. Prior to working with the Office of County Counsel, he spent 15 years with the Oregon Department of Revenue, as their Chief Hearing Officer and Hearing Officer, where he conducted administrative law proceedings, participated in the highest level of agency decision-making, and advised managers and decision makers. Mr. Sideras subsequently spent nine years as Presiding Magistrate of the Oregon Tax Court, where he managed magistrate attorneys, implemented a mediation program and worked with the Oregon legislature on judicial procedures, court expansion, budgets and revisions to the Oregon Tax Code.

In this complaint, Mr. Madkour alleges that Mr. Sideras was obligated to act on the direction, knowledge or advice of County Counsel or the County Administrator; but his assumption confuses the fundamental question here regarding the identity of the client. Neither the Oregon RPCs nor Oregon's Formal Opinions support the conclusion that County Counsel has an attorney-client relationship with a county employee (such as the County Administrator). On the other hand, the rule in Oregon is that County Counsel's obligation is to the County acting by and through its elected officials. Mr. Sideras, in giving accurate legal advice to Chair Ludlow and Commissioner Smith, responsibly met his obligation to his client.

We urge the Bar to promptly dismiss this complaint. Please let me know if you need any additional information.

Very truly yours,

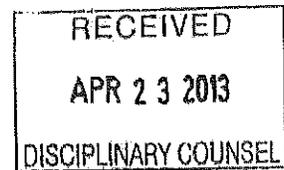
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DJE:  
Enclosures

cc: Client



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April 19, 2013

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Re: Scot A. Sideras (Stephen L. Madkour)

Dear Ms. Hicks:

Thank you for the opportunity to respond in this matter. Mr. Sideras' counsel focuses on actions in February, 2013, subsequent to the Chair and Commissioner assuming their duties as commissioners. This appears to be central to the defense since after being seated the Chair and Commissioner were representatives of the County.

The concerns addressed by me correctly relate to conduct that took place before the Chair and Commissioner took their positions as Commissioners on January 7, 2013. See ORS 204.020(1). Sideras' actions began after the election in November and continued up January 7, 2013.

Before they were seated the Chair and Commissioner elect were strangers to Mr. Sideras' relationship with the County, his client. They were not representatives of the County, Mr. Sideras' client. The Chair and Commissioner elect were not yet sworn in, thus Sideras was not acting on behalf of his "client" the County because they did not yet hold those positions and could not direct him, as part of the Board, to act. For the same reason, Sideras' disclosures were not "to a client."

By undertaking these efforts, Sideras is offering a non-client, the Chair elect, an evaluation of Mr. Wheeler, who is, at a minimum a representative of the client. I submit that RPC 2.3 is applicable here in that it specifically addresses a lawyer's duties when making an evaluation of a matter affecting a client for use by someone other than the client.

Page 2

Despite his beliefs or perceptions, Sideras was not assigned or responsible for employment or labor law related matters. In fact, he has no training or experience in employment or labor law. Moreover, he has never been charged with applying and construing the counties' employment contracts. Thus, he was acting outside of his assigned responsibilities when he gave legal advice to persons not yet acting on behalf of the county. The examples he provides in the letter are further evidence that he took it upon himself to insert himself into matters beyond his assigned role.

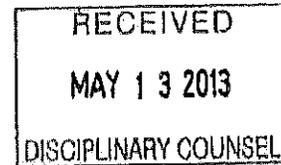
Please contact me with any additional questions. Thank you.

Sincerely,



Stephen L. Madkour  
County Counsel

Enc.



May 10, 2013

VIA E-MAIL AND REGULAR MAIL

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Re: Scot A. Sideras (Stephen L. Madkour)

Dear Ms. Hicks:

Thank you for forwarding me a copy of Mr. Madkour's April 19, 2013 letter. Thank you also for allowing the additional time to provide this response. Mr. Madkour's letter appears to allege three primary points: (1) Mr. Sideras should not have communicated with Chair-elect Ludlow and Commissioner-elect Smith about County business *after* they were elected but *before* they were sworn into office; (2) any such disclosures to the Chair and Commissioner were made in violation of Oregon RPC 2.3; and (3) Mr. Sideras advised the County on labor and employment matters that were allegedly outside his assigned role as Assistant County Counsel. As explained below, none of these contentions have merit and this Complaint should promptly be dismissed.

Before we provide a substantive response, however, we would like to address one issue. In our April 5, 2013 letter, we noted that this complaint was filed by Mr. Madkour in his personal capacity, and not by the County, who was Mr. Sideras' former client. We also noted that it appeared from Chair Ludlow's letter to the Bar that Mr. Madkour filed this complaint without County approval; and Mr. Madkour acknowledged there was a question whether he was permitted to disclose certain documents to the Bar. Rather than demonstrate he had consent to reveal information relating to the representation of the County either in his original complaint or in his April 19 letter, he includes a February 25, 2013 email he sent to the Board of Commissioners in which he notified the Board he "was obligated by law and the rules of professional responsibility to report lawyer misconduct." I assume that email was included to attempt to demonstrate that he discussed his filing a bar complaint against Mr. Sideras with the Board before doing so – but that email is not an accurate statement of his responsibilities.

RPC 8.3(a) only requires a lawyer to report misconduct when it raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects. What's more troubling, however, is that Mr. Madkour doesn't realize that any alleged misconduct he learns about in the course of representing a client is "information relating to the representation of a

Ms. Martha M. Hicks  
May 10, 2013  
Page 2

client" and protected under RPC 1.6. See RPC 8.3(c). Thus, Mr. Madkour was required to obtain client consent to file the bar complaint and it is obvious he did not do so. Although it should go without saying, the irony here is that although Mr. Madkour complains that Mr. Sideras revealed information relating to the representation of the County to non-clients, Mr. Madkour is actually the one that disclosed personal client information to a non-client [the Bar] without client consent.

Consistent with our last response, and particularly in light of the County's position, Mr. Sideras feels compelled to protect information relating to the representation of the County under Oregon RPC 1.6(a) and will only disclose information reasonably necessary to provide a basic response. If you feel the information included herein (or previously provided) is inadequate, please let me know and we will do our best to cooperate.

1. Mr. Sideras' communications with the newly-elected Chair and Commissioner were proper and ethical.

Mr. Madkour's recent correspondence moves the target of his original complaint. He now appears to argue that even if Mr. Sideras only represented the County (and not the County Administrator or Mr. Madkour himself) in his capacity as Assistant County Counsel, Mr. Sideras still acted improperly because the Chair and Commissioner were not client representatives entitled to speak to County Counsel until after they were sworn into office in January. If that were so, Mr. Madkour would be guilty of the same ethics violations he accuses Mr. Sideras since it is my understanding that Mr. Madkour met with Chair Ludlow and Commissioner Smith prior to their swearing in to discuss otherwise confidential matters, such as the County's relationship with TriMet. Nonetheless, Mr. Madkour's fine-line distinction is one that runs afoul of common-sense and available case law.

Simply put, newly elected officials need to speak with county counsel to get up to speed and be ready to hit the ground running when they are sworn into office two months after election. Newly-elected commissioners are "hired" by the public on the day they win their election; at that point, they are agents of the County and any communications with county counsel that are related to their position or County business would be protected by the attorney-client privilege and county counsel's duty of confidentiality under Oregon RPC 1.6.<sup>1</sup> See, e.g., *Humphries v. Chicarelli*, 2012 WL 5930437 (S.D. Ohio 2012) (the Court held that communications at Executive Session with city counsel members-elect were protected by the attorney-client privilege because they were "analogous to agents of the City").

As agents of the County, any communications between Mr. Sideras and Chair Ludlow and Commissioner Smith after their election and before their swearing in were made in a corporate, representative capacity (as opposed to an individual capacity) and were related to County business and their authority to take certain employment actions upon being sworn in. These types of conversations happen every year when newly-elected officials prepare to take office and

<sup>1</sup> It is particularly relevant that there was nothing that Mr. Madkour, the County Administrator or any commissioner could have done to stop Chair Ludlow or Commissioner Smith from being sworn in.

Ms. Martha M. Hicks  
May 10, 2013  
Page 3

are critical to ensuring a competent, well-organized and efficient transition. *See, e.g., Ezell v. Darr*, 2012 WL 123374 (M.D.Ga. 2012) (noting that the attorney-client privilege may apply to communications with the sheriff-elect regarding employment decisions that were made as part of the city attorney's representation of the sheriff's office).

The fact that privilege would apply to these communications is further support that the communications were permissible. One consideration in determining whether the attorney-client privilege applies is whether the communications were intended to be disclosed to the public. Here, there is no indication the communications with the newly-elected (or newly-"hired") Chair and Commissioner were intended to be publicly disclosed. On the contrary, these were private communications on behalf, and for the benefit, of the County, and were related to future employment decisions. Compare, for example, OSB Formal Ethics Op. 2005-80, which indicates that "[c]ommunications by Corporate Counsel with a former corporate employee about the subject of that former employee's employment are subject to lawyer-client privilege." If communications with the County's former employees would be protected when relevant to the employee's employment, it would defy logic to assert that the privilege does not apply to communications between county counsel and employees who have been "hired" [elected] by the public but whose "start-date" [swearing in] hasn't occurred yet.<sup>2</sup>

The Oregon RPCs are based on the ABA Model Rules, and comment [14] to the Scope of the ABA Model Rules indicates that the Rules "are rules of reason. They should be interpreted with reference to the purposes of legal representation and of the law itself." An interpretation of the RPCs consistent with Mr. Madkour's suggestion would frustrate both the purpose of legal representation and the law itself. Mr. Sideras' one and only client was the County – he did not represent either the Chair or the Commissioner on an individual basis; and the County only acts through its duly-elected Board of Commissioners. Mr. Sideras' communications with newly-elected commissioners of that Board after their election and before their swearing in were made as part of his representation of the client and perfectly permissible and protected by the attorney-client privilege. Indeed, these frank communications should be encouraged in order to allow county counsel to best represent the client.<sup>3</sup>

2. Oregon RPC 2.3 does not apply to Mr. Sideras' conduct.

Mr. Madkour argues that any disclosures to the Chair after he was elected and before he was sworn in violate Oregon RPC 2.3; that rule, however, does not apply.<sup>4</sup> First, Mr. Sideras did not

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<sup>2</sup> Consider also *In re Coordinated Pretrial Proceedings in Petroleum Products Antitrust Litigation*, 658 F.2d 1355 (9th Cir. 1981), where the attorney-client privilege was extended to ex-employee communications on the belief that the privilege's rationale – that such persons "may possess the relevant information needed by corporate counsel to advise the client" and should be encouraged to communicate openly – is as applicable to past employees as it is to current employees.

<sup>3</sup> *Cf. State ex rel OHSU v. Haas*, 325 Or 492, 500, 942 P2d 261 (1997) (purpose of lawyer-client privilege "is to encourage full and frank communication between attorneys and their clients and thereby promote broader public interests in the observance of law and administration of justice" (quoting *Upjohn Co. v. United States*, 449 U.S. 383, 389 (1981))).

<sup>4</sup> Oregon RPC 2.3 provides, in part: (a) A lawyer may provide an evaluation of a matter affecting a client for the

provide an evaluation of the client (the County) to be used by a non-client; rather, Mr. Sideras was asked to provide the County legal advice regarding the means and mechanisms by which the Board may remove a County Administrator and how to proceed with a replacement. Such advice was fully within the scope of his employment because it was provided to the newly-elected Chair and Commissioner to be used in their official capacity on behalf of the client (the County).

Second, assuming arguendo there was an evaluation of the client, only the client can determine that any evaluation provided by Mr. Sideras affected "the clients' interests materially and adversely." Here, Mr. Sideras provided advice regarding how the Board may remove Mr. Wheeler, the County Administrator. The outcome was a series of discussions between the Board and Mr. Wheeler that culminated in the public announcement of Mr. Wheeler's resignation on February 25, 2013. Since the client followed the legal advice provided by Mr. Sideras, his advice could not have affected the client's interests materially and adversely.

3. Mr. Sideras properly advised the County with respect to the mechanism and means to remove the County Administrator.

In Mr. Madkour's final paragraph, he appears to take issue with Mr. Sideras being asked to provide the County legal advice regarding the mechanism and means by which to remove Mr. Wheeler as County Administrator. Our last letter fully discussed how Mr. Sideras' actions here were within the scope of his employment and noted that although Mr. Sideras generally was assigned to the Department of Transportation, his tasks were not so discrete; he had advised the former Chair and the Commissioners on various matters over the years.

Mr. Madkour's assertion that Mr. Sideras does not have experience in employment law is just wrong. Mr. Sideras spent five years as Chief Hearings Officer for the Department of Revenue, during which he received training from the Department of Administrative Services staff, Department of Justice attorneys, and participated in disciplinary hearings. For ten years, Mr. Sideras was Presiding Magistrate of the Oregon Tax Court and worked with the Oregon Judicial Department's counsels on employment issues. Mr. Sideras has initiated steps in the disciplinary process and participated in employment matter hearings. And as noted in our last letter, Mr. Sideras also specifically advised a former Chair as to the replacement of a County Administrator.

The simple fact here is that from time to time the client (the County), acting through its duly-elected Board, asked Mr. Sideras for legal advice on matters outside the Department of Transportation. Mr. Sideras was suited to answer those requests due to his experience in general and with the County – he joined the County in 2006, many years before Mr. Madkour joined in mid-March 2012. And even if Mr. Madkour may not have liked it, there was nothing improper with Mr. Sideras providing that advice. Mr. Madkour may choose to terminate an assistant county counsel who provides advice to the County outside of his assigned Department (as he did

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use of someone other than the client if the lawyer reasonably believes that making the evaluation is compatible with other aspects of the lawyer's relationship with the client; (b) When the lawyer knows or reasonably should know that the evaluation is likely to affect the client's interests materially and adversely, the lawyer shall not provide the evaluation unless the client gives informed consent.

Ms. Martha M. Hicks  
May 10, 2013  
Page 5

here with Mr. Sideras) but it cannot be unethical to have given the advice to the client upon the client's request.

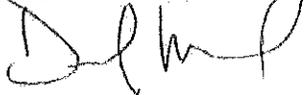
Conclusion

We firmly believe that Mr. Sideras' conduct did not violate the RPCs and we ask you to promptly dismiss this complaint. Mr. Sideras was permitted to communicate with Chair Ludlow and Commissioner Smith regarding County business after their election and prior to being sworn in; any other result would defeat the purpose of the attorney-client relationship and the privilege attached thereto. Mr. Madkour's complaint feels like retaliation against Mr. Sideras because he provided advice to the County on how to replace the County Administrator, or perhaps because the Board asked Mr. Sideras for advice directly and asked it not be shared with Mr. Madkour due to trust issues. Either way, we ask the Bar to put an end to this matter.

Please let me know if you need any additional information.

Very truly yours,

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DJE:  
Enclosures

cc: Client