



City of Ann Arbor

100 N. Fifth Avenue
Ann Arbor, MI 48104
www.a2gov.org

Council Action

Resolution: R-08-451

File Number: 08-0991

Enactment Number: R-08-451

Resolution Approving Amendment to the Employment Agreement between the City of Ann Arbor and Stephen Postema

WHEREAS, Stephen Postema serves as City Attorney and his employment relationship is governed by an employment agreement between Mr. Postema and the City of Ann Arbor;

WHEREAS, The City Council Administration Committee has completed Mr. Postema's annual performance review and recommends an amendment to his Employment Agreement;

THEREFORE, BE IT RESOLVED, that the Employment Agreement between Stephen Postema and the City of Ann Arbor is amended as follows:

- Mr. Postema shall be paid a one-time lump sum payment equal to 2.75% of his annual salary, on or before December 1, 2008;
- Mr. Postema may, on or before June 30, 2009, and at his exclusive discretion, cash in up to 150 hours of unused vacation, sick, or personal time; and
- Mr. Postema's employment agreement shall include the following language: "Notwithstanding anything in this Agreement, Postema is also entitled to use his time outside of work to engage in outside legal work activities, including teaching, consulting, and mediating, so long as such activities do not conflict in any manner with his full time work as the City Attorney."

BE IT FURTHER RESOLVED, that the Mayor and City Clerk are authorized and directed to execute the amendment to the Employment Agreement with Stephen Postema, and Human Resources Services is directed to make the necessary financial adjustments to implement this amendment.

Submitted by: City Council Administration Committee

At a meeting of the City Council on 10/20/2008, a motion was made by Margie Teall, seconded by Joan Lowenstein, that this Resolution R-08-451 be Approved. The motion passed.



City of Ann Arbor

100 N. Fifth Avenue
Ann Arbor, MI 48104
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Master

File Number: 07-0404

File ID: 07-0404

Type: Resolution

Status: Passed

Version: 2

Reference:

Controlling Body: City Council

File Created Date: 11/05/2007

*** File Name:** 11/5

Final Action: 11/05/2007

Title: Resolution Approving 5th Amendment to the Employment Agreement between the City of Ann Arbor and Stephen Postema

Notes:

Sponsors:

Enactment Date: 11/05/2007

Attachments:

Enactment Number: R-07-560

Drafter/Contact:

Hearing Date:

* Admin/Mgr:

Effective Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	11/05/2007	Approved				Pass

Text of Legislative File 07-0404

Resolution Approving 5th Amendment to the Employment Agreement between the City of Ann Arbor and Stephen Postema

Whereas, City Council appointed Stephen Postema as City Attorney;

Whereas, The City Council Administrative Committee has completed Mr. Postema's annual review and recommends a change to his Employment Agreement; and

Whereas, The amendment will provide:

- A 2.75% merit increase to his base annual salary; effective July 1, 2007
- A one time market increase of 1.25% equaling \$1,746.25 to his base annual salary; effective July 1, 2007
- Increase annual vacation days from 20 to 25 days per year; effective July 1, 2007

RESOLVED, That the Mayor, City Clerk and CFO are authorized and directed to execute the amendment to the 5th Employment Agreement with Stephen Postema.

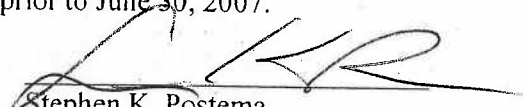
**Submitted by: Councilmembers Easthope, Greden, Rapundalo, Teall and Higgins
As Amended by City Council on November 5, 2007**

EMPLOYMENT AGREEMENT MODIFICATION

**4th Amendment to Employment Agreement
Between the City of Ann Arbor and
Stephen K. Postema ("Agreement") Dated April 3, 2003**

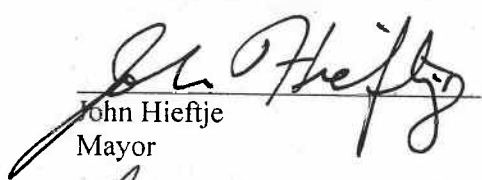
1. Under the Agreement's **Section 3 Vacation**, the City Attorney is entitled to cash in up to 150 hours of accumulated vacation time, at his discretion prior to June 30, 2007.

Dated: _____


Stephen K. Postema

CITY OF ANN ARBOR, a
Michigan municipal corporation

Dated: 3/12/07


John Hieftje
Mayor

Dated: 3/19/07


Jackie Beaudry
City Clerk

R-106-3-06 APPROVED

RESOLUTION TO AMEND THE EMPLOYMENT AGREEMENT BETWEEN THE CITY OF ANN ARBOR AND THE CITY ATTORNEY

Whereas, An Employment Agreement between the City of Ann Arbor and the City Attorney governs the terms and conditions of the City Attorney's employment with the City;

Whereas, The City Council is committed to a fair and equitable compensation system that rewards good job performance and is consistent with compensation paid to comparable positions;

RESOLVED, That the Employment Agreement between the City Attorney and the City of Ann Arbor is amended to include the following statement:

"The City Attorney may, at his discretion, cash-in (and therefore receive equivalent cash compensation based on his annual rate of pay) up to eighty (80) hours of accrued but unused vacation time on or before June 30, 2006."

Councilmember Greden moved, seconded by Councilmember Rapundalo, that the resolution be adopted.

On a voice vote, the Mayor declared the motion carried.

EMPLOYMENT AGREEMENT MODIFICATIONS BETWEEN
THE CITY OF ANN ARBOR AND STEPHEN K. POSTEMA
(AMENDMENT NO. 2)


Amendment to Employment Agreement Between the City of Ann Arbor and
Stephen K. Postema ("Agreement") Dated April 3, 2003.

1. Under the Agreement Section 2.1 Salary, the annual salary of the City Attorney shall be increased by an amount up to 3% of current salary, to be determined by the City Attorney.
2. Under the Agreement Section 2.3, this addition shall be made: As a one-time bonus in recognition of the accomplishments of the City Attorney over the past two years, the City Attorney shall be given 80 hours of vacation to be added to his vacation bank.


These amendments are effective retroactively to April 3, 2005.

All other provisions of the Agreement shall remain the same.

DATED Oct. 18, 2005


Stephen K. Postema
City Attorney

DATED 10/18/05


John Hieftje
Mayor

DATED 10/18/05


Jacqueline Beaudry
City Clerk

Date: October 17, 2005

EMPLOYMENT AGREEMENT MODIFICATION

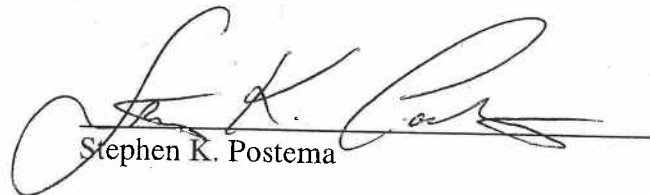
**Amendment to Employment Agreement
Between the City of Ann Arbor and
Stephen K. Postema ("Agreement") Dated April 3, 2003**

1. Under the Agreement's Section 2.1 Salary, the annual salary shall be increased by 3%, which is the amount of \$3,810.00. The annual salary shall be \$130,810.
2. Under the Agreement's Section 2.3, the paid vacation days shall be increased by 2 days. The paid vacation days shall now be twenty-two (22) days.

This amendment is effective retroactively to April 3, 2004.

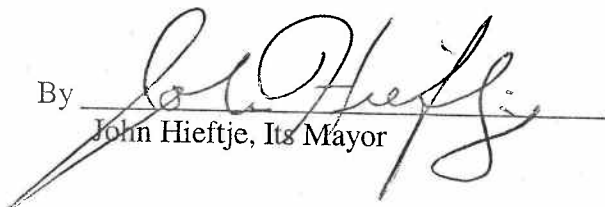
All other provisions of the Agreement shall remain the same.

Dated: Jan 13, 2007

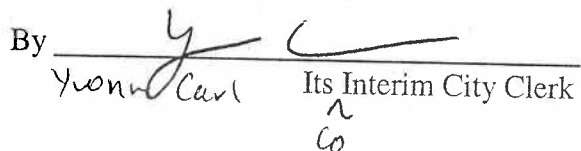

Stephen K. Postema

CITY OF ANN ARBOR, a Michigan
Municipal Corporation

Dated: 9/13/04

By 
John Hieftje, Its Mayor

Dated: 9/14/04

By 
Yvonne Carl
Its Interim City Clerk
Co

EMPLOYMENT AGREEMENT

between

THE CITY OF ANN ARBOR

and

STEPHEN K. POSTEMA

THIS AGREEMENT is between the City of Ann Arbor a municipal corporation chartered under the laws of the State of Michigan (the "City"), and Stephen K. Postema ("Employee").

PRELIMINARY STATEMENT

1. The City is a municipal corporation under the laws of the State of Michigan whose legislative body is the Council and Mayor ("Council"), consisting of eleven members elected pursuant to Chapter 13 of the Charter for the City of Ann Arbor.
2. Under the provisions of Chapter 12 of the Charter of the City of Ann Arbor, the Council appoints a City Attorney who serves at its pleasure as the Attorney and Counsel for the City.
3. Employee has the special expertise, experience and knowledge necessary to perform as the City Attorney and will serve as the head of the legal department.

ARTICLE I
EMPLOYMENT

Section 1.1 Employment. The City and the Employee agree that the terms and conditions of this Agreement shall govern Employee's employment as City Attorney. The Employee, as the City Attorney, shall be an **employee at will** who serves at the pleasure of the Council as provided in the Section 12.4(b) of the City Charter, notwithstanding any personnel regulations, practices, or representations to the contrary.

Section 1.2 Term. The term of employment shall commence on the date specified below and shall then continue until terminated in accordance with the provision of Article IV of this Agreement. The commencement date of the term shall be as specified by the Employee by written notice to the Council, with such notice delivered at least ten (10) days prior to the effective date of commencement; provided, however, that if the term of employment is not commenced by April 7, 2003 and if the City and the Employee have not mutually agreed in writing to extend that date, then the City, by written notice to the Employee, may declare this Agreement null and void and, upon such notice, all rights and obligations of the City and the Employee under this Agreement will be cancelled.

Section 1.3 Best Efforts. During the term of his Agreement, Employee shall devote his best efforts to advance the interests of the City and shall perform his duties to the best of his ability, subject to the instruction, direction, judgment and control of the Council.

Section 1.4 Exclusive Employment. During the term of this Agreement and any extensions, Employee agrees to be employed exclusively by the City.

Section 1.5 Personnel Duties. Except as provided otherwise in this Agreement, Employee shall be subject to the personnel rules of the City of Ann Arbor.

ARTICLE II
COMPENSATION

Section 2.1 Salary. During the first year of this Agreement, the City shall pay Employee at the rate of \$127,000 annually, to be paid in accordance with the standard City personnel practices and procedures. The Council may adjust Employee's salary as it deems appropriate following an evaluation of Employee by Council in accordance with Article V of this Agreement.

Section 2.2 Business Expenses. Employee is authorized to incur such reasonable budgeted travel, cell phone expenses, entertainment and other professional expenses as are necessary in the performance of his duties. The City will reimburse Employee for such expenses in accordance with standard City procedures.

Section 2.3 Vacation. Employee shall be entitled to twenty (20) working days per year as paid vacation leave days, the time of such leave to be determined by the mutual agreement of the parties. Such leave shall be accrued bi-weekly in accordance with standard City personnel practices and procedures. In the first year of employment, Employee may use vacation time prior to actual accrual if necessary.

Section 2.4 Holidays. In addition to the vacation leave specified in Section 2.3, Employee shall be entitled to all legal holidays provided under the City personnel practices and procedures.

Section 2.5 Sick Leave. Employee shall be entitled to sick leave days in accordance with standard City personnel practices and procedures.

Section 2.6 Personal Leave. Employee shall be entitled to personal leave days in accordance with standard City personnel practices and procedures.

Section 2.7 Health Insurance. The City shall provide Employee and his immediate family with comprehensive health insurance, including hospitalization, medical, dental, and major

medical insurance in accordance with and subject to standard City personnel practices and procedures.

Section 2.8 Life Insurance. The City shall provide Employee with term life insurance equal to two times his annual salary, subject to an employee contribution in accordance with standard City personnel practices and procedures.

Section 2.9 Pension Plan. Employee may participate in the Employees Retirement System in accordance with and to the extent authorized by the City's pension ordinance, personnel practices, and procedures.

Section 2.10 Professional Organizations. The City agrees to budget for and pay for professional dues, bar association dues, reasonable travel and subsistence expenses for Employee's participation in professional organizations which are necessary for him to perform his duties as City Attorney, or which will enhance his ability to perform his duties and benefit the City.

Section 2.11 Continuing Legal Education. Employee shall be entitled to reasonable expenses for seminars and professional conferences and the time to participate in these activities.

Section 2.12 Professional Development. Notwithstanding Section 1.4 above, Employee is specifically allowed to serve as a mediator, case evaluator, facilitator, and arbitrator in community disputes (which are not adverse to the City of Ann Arbor) as referred from the Washtenaw County Bar Association, the Dispute Resolution Center, the courts, or from other sources. Such service should not exceed an average of 8 hours per month, not including any vacation time or other personal time used for this purpose, and shall be scheduled in a reasonable manner given other duties.

Section 2.13 Parking. Employee shall receive a parking place at no charge on the City Hall property or in a comparable location in the event of any construction or renovation to the City facilities.

Section 2.14 Car Allowance. Employee shall receive a car allowance calculated at \$330/per month.

Section 2.15 Computer. Employee shall receive a laptop computer for use outside the office.

ARTICLE III

DUTIES

Section 3.1 General Duties. Employee shall be engaged as the City Attorney and as such shall be the Attorney and Counsel for the City. He shall be responsible for management of the Office of the City Attorney, shall have all the duties described in the Charter of the City of Ann Arbor and shall perform such other duties as required by him by Council.

ARTICLE IV

TERMINATION

Section 4.1 Termination. This Agreement, and the appointment of the Employee with the City, may be terminated as follows:

- (a) The Council may terminate this Agreement at any time, with or without cause (as defined below), in accordance with the provisions of Section 12.4(b) of Chapter 12 of the Charter for the City of Ann Arbor.
- (b) The Employee may terminate this Agreement at any time, with or without cause (as defined below), by delivery of written notice to the Council at least ninety (90) days prior to the effective date of termination.
- (c) Unless waived in writing by the Council, this Agreement shall automatically terminate if the Employee is precluded by any mental or physical disability from

performing substantially all of his duties hereunder in competent and professional manner for a continuous period of sixty (60) days, effective as of the last day of such 60-day period.

- (d) This Agreement shall automatically terminate upon the death of the Employee, effective as of the date of death.

Section 4.2 Rights and Duties upon Termination.

Upon termination of this Agreement, the rights and duties of the City and the Employee shall be as follows:

- (a) Upon termination in all circumstances: (i) the Employee shall be entitled to his regular salary and benefits (payable when and as otherwise due) through the effective date of termination and the Employee shall be required to perform all services as herein required through the effective date of termination; (ii) the Employee shall be paid (when and as due) for all accumulated but unused vacation time, sick leave time and personal leave time in accordance with standard City personnel procedures; and (iii) the Employee shall be paid any contributions due to him from the City Retirement Fund in accordance with standard City procedures.
- (b) Upon termination by the City pursuant to Section 4.1(a) , unless the termination was with "cause" (as defined below), the Employee shall be entitled as severance, in addition to his regular salary (when and as otherwise due), for the period of 180 days following the effective date of the termination of this Agreement. Employee shall also be eligible for all benefits during this 180 day period. Such severance shall not be payable by the City if the termination was with "cause."
- (c) Upon termination by the Employee, if the termination was with "cause" (as defined below), then the Employee shall be entitled as severance to his regular salary (payable when and as otherwise due) payment and benefits for the period of 180 days following the effective date of termination. No severance will be payable to the Employee if he terminates this Agreement without "cause."

- (d) Upon termination due to the disability of the Employee, the Employee shall be entitled as severance to his regular salary and benefits (payable when and as otherwise due) for the period following the effective date of termination through the 180th day following the onset of the Employee's disability; provided, however, that if the Employee receives any benefits under any disability insurance policy during such period, then the amount payable by the City to the Employee shall be reduced by the amount of such benefits.

For purposes of this Section 4.2, the City will have "cause" for termination if the Employee is in breach of material obligation specified in this Agreement and fails to remedy such breach within thirty (30) days after written demand by the City; if the Employee is guilty of any material misrepresentation to the City, either in connection with the signing of this Agreement or the performance by the Employee of his duties under this Agreement; if the Employee is guilty of willful misconduct or willful insubordination in the performance of his duties under this Agreement; if the Employee commits any act of moral turpitude; if the Employee is convicted of a felony or of any misdemeanor which reflects negatively upon the City (including, but without limitation, any offense involving drug abuse or sexual misconduct). The Employee will have "cause" for termination if the City breaches any material obligation specified in this Agreement (including, but not limited to, decreasing the salary of the City Attorney position) and fails to remedy such breach within thirty (30) days after written demand. Any party seeking to terminate this Agreement with "cause" shall, in the notice of termination to the other party, state specifically the "cause" for such termination.

Section 4.3 Dispute Resolution. If any dispute arises as to whether the Employee is afflicted with a disability, that dispute will be submitted to and conclusively resolved by a panel of three licensed physicians, the first of whom shall be selected (and compensated) by the Employee, the second of whom shall be selected (and compensated) by the City, and the third of whom shall be selected by the two physicians first selected (and compensated in equal shares by the Employee and the City). If any dispute arises as to whether a party has "cause" for termination of this Agreement, then the City and the Employee may mutually agree to submit that dispute for resolution by a panel of three licensed attorneys, the first of whom shall be selected (and compensated) by the Employee, the second of whom shall be selected (and compensated) by the

City, and the third of whom shall be selected by the two attorneys first selected (and compensated in equal shares) by the employee and the City. In either instance, the determination by the selected panel shall be conclusive and binding upon the City and the Employee and shall not be subject to challenge of appeal.

ARTICLE V
EVALUATION

Section 5.1 General. The Council will review and evaluate the performance of the Employee. The first evaluation should be completed within one year after the anniversary date of the beginning of employment and thereafter annually not later than the anniversary date of the Employee.

The Council and the Employee shall jointly develop specific criteria as soon as possible that will be used by the Council in the evaluation. The criteria may be revised periodically by the Council and the Employee. The results of the evaluation shall be in writing and shall be discussed with the Employee in closed session.

ARTICLE VI
OTHER TERMS AND CONDITIONS

Section 6.1 Indemnification. The City shall defend, save harmless and indemnify Employee against any tort or professional liability claim or demand or any other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as City Attorney. The City may, at its discretion, compromise and settle any claim or suit and pay the amount of any settlement or judgment rendered thereon. Indemnification shall not be provided to the Employee by the City if the claim, demand or other

legal action results from the willful misconduct or willful insubordination of the Employee or if the claim, demand or legal action involves any proceeding where the Employee is the plaintiff or an adverse party to the City. Employee agrees to fully cooperate with the City in its defense of Employee pursuant to this Agreement.

Section 6.2 Miscellaneous Provisions. All provisions of the City Charter and Code, general policies, regulations and rules of the City relating to vacation, sick leave, holiday and other fringe benefits as they now exist or hereafter may be amended, also shall apply to Employee as they would to other employees of the City in addition to the benefits enumerated specifically for the benefit of the Employee as herein provided.

Section 6.3 Transition Issues. Notwithstanding Section 1.4 above, Employee can assist his former law firm and clients in transitioning his cases after the effective date of employment with the City, but only to the extent that such assistance is done after business hours or on personal time (to the extent possible), is done without compensation from his law firm or clients, requires minimal time, and does not involve matters adverse to the City.

ARTICLE VII

CONCLUDING PROVISIONS

Section 7.1 Entire Agreement. This Agreement contains the entire understanding of the parties. There are no oral understandings, terms or conditions, and no party has relied on any representations, express or implied, not contained in this Agreement. This Agreement may be changed on by a written amendment signed by parties. Michigan law shall govern this Agreement.

Section 7.2 Effective Date. This Agreement shall be effective upon its signing by both parties.

Section 7.3 Notices. Any notice permitted or required under this Agreement shall be in writing and shall be deemed delivered when sent to the addressed at the following address (or such other address as may be hereafter specified in writing.):

If to City: CITY OF ANN ARBOR

100 North Fifth Avenue
Ann Arbor, MI 48104

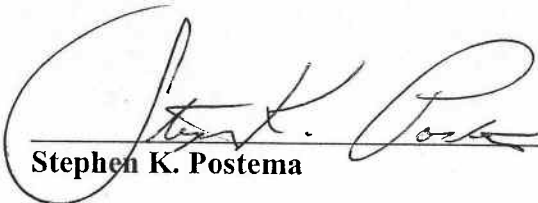
Attention: Mayor

If to Employee: Stephen K. Postema

1017 Woodbridge
Ann Arbor, MI 48104

Any notice delivered by mail shall be by certified mail, return receipt requested, and shall be deemed delivered on the third after confirmed deposit with the U. S. Postal Service. Any notice delivered by courier shall be deemed delivered on the next business day following the date of confirmed delivery. Any notice delivered in person shall be deemed delivered on the date of actual delivery to the addressee.

Dated: 4/2/03

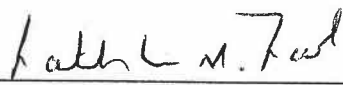

Stephen K. Postema

CITY OF ANN ARBOR, a Michigan
municipal corporation

Dated: 4/3/03

By: 
John Hieftje
Mayor Pro Tem

Dated: 4/3/03

By: 
Kathleen M. Ford
City Clerk



City of Ann Arbor

100 N. Fifth Avenue
Ann Arbor, MI 48104
www.a2gov.org

Master

File Number: 08-0990

File ID: 08-0990

Type: Resolution

Status: Passed

Version: 1

Reference:

Controlling Body: City Council

File Created Date: 10/20/2008

*** File Name:** Employment Agreement for Roger Fraser

Final Action: 10/20/2008

Title: Resolution Approving Amendment to the Employment Agreement between the City of Ann Arbor and Roger Fraser

Notes:

Sponsors:

Enactment Date: 10/20/2008

Attachments:

Enactment Number: R-08-450

Drafter/Contact:

Hearing Date:

* Admin/Mgr:

Effective Date:

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	10/20/2008	Approved				Pass

Text of Legislative File 08-0990

Resolution Approving Amendment to the Employment Agreement between the City of Ann Arbor and Roger Fraser

Whereas, Roger Fraser serves as City Administrator and his employment relationship is governed by an employment agreement between Mr. Fraser and the City of Ann Arbor;

Whereas, The City Council Administration Committee has completed Mr. Fraser's annual performance review and recommends an Amendment to his Employment Agreement;

THEREFORE, BE IT RESOLVED, that the Employment Agreement between Roger Fraser and the City of Ann Arbor is amended as follows:

- Mr. Fraser shall be paid a one-time lump sum payment equal to 2.5% of his annual salary, on or before December 1, 2008;
- Mr. Fraser may, on or before June 30, 2009, and at his exclusive discretion, cash in up to 150 hours of unused vacation, sick, or personal time.

BE IT FURTHER RESOLVED, that the Mayor and City Clerk are authorized and directed to execute the amendment to the Employment Agreement with Roger Fraser, and Human

Resources Services is directed to make the necessary financial adjustments to implement this amendment.

Submitted by: City Council Administration Committee



City of Ann Arbor

100 N. Fifth Avenue
Ann Arbor, MI 48104
www.a2gov.org

Master

File Number: 07-0403

File ID: 07-0403

Type: Resolution

Status: Passed

Version: 2

Reference:

Controlling Body: City Council

File Created Date : 11/05/2007

*** File Name:** 11/5

Final Action: 11/05/2007

Title: Resolution Approving Amendment to the Employment Agreement between the City of Ann Arbor and Roger Fraser

Notes:

Sponsors:

Enactment Date: 11/05/2007

Attachments:

Enactment Number: R-07-559

Drafter/Contact:

Hearing Date:

* Admin/Mgr:

Effective Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	11/05/2007	Approved				Pass

Text of Legislative File 07-0403

Resolution Approving Amendment to the Employment Agreement between the City of Ann Arbor and Roger Fraser

Whereas, City Council appointed Roger Fraser as City Administrator;

Whereas, The City Council Administrative Committee has completed Mr. Fraser's annual review and recommends a change to his Employment Agreement; and

Whereas, The amendment will provide:

- A one time lump sum pay of \$4, 360.62 to be paid in the next pay period;
- Increase annual vacation days from 20 to 25 days per year; effective July 1, 2007;

RESOLVED, That the Mayor, City Clerk and CFO are authorized and directed to execute the amendment to the Employment Agreement with Roger Fraser.

Submitted by: Council members Easthope, Greden, Rapundalo, Teall and Higgins

As Amended by City Council on November 5, 2007

R-40-2-07

RESOLUTION APPROVING AMENDMENT TO
THE EMPLOYMENT AGREEMENT BETWEEN
THE CITY OF ANN ARBOR AND ROGER FRASER

Whereas, City Council appointed Roger Fraser as City Administrator;

Whereas, The City Council Administration Committee has completed Mr. Fraser's annual performance review and recommends an Amendment to his Employment Agreement;

Whereas, The Amendment will provide:

- a one time lump sum payment of \$8,497.48 to be paid in the next pay period following approval of this Resolution;
- **Amend Sec. 7, City Benefit Plans and Programs, para. B, as follows:**
The City will pay for whole life insurance for the Employee in the amount Two (2) times the Employee's annual salary as provided for in Section 4. The City will also pay for long-term disability insurance for the Employee for a premium amount not to exceed Three Hundred Dollars (\$300) per month. Consistent with and as permitted by applicable IRS regulations, these benefits will be structured as pre-tax compensation and, thus, taxable when benefits are actually received. The employee must pay for any additional life insurance or long-term disability insurance benefits.
- The Amendment shall provide that the City Administrator shall participate in the same health care plan, with the same premium sharing and other financial requirements and benefits, as other salaried employees.

Resolved, That the Mayor and City Clerk are authorized and directed to execute the amendment to the Employment Agreement with Roger Fraser.

Submitted by: Councilmembers Higgins, Greden, Easthope, and Teall
Date: February 5, 2007

APPROVED
BY ANN ARBOR CITY COUNCIL

February 5, 2007

CITY CLERK
ANN ARBOR, MI

R-656-12-05**RESOLUTION TO AMEND THE CITY ADMINISTRATOR'S EMPLOYMENT CONTRACT**

Whereas, the City Administrator Evaluation Committee of the Ann Arbor City Council established qualitative criteria to evaluate the overall job performance of the City Administrator;

Whereas, the City Administrator Evaluation Committee solicited comments and input regarding the City Administrator's job performance from every member of the City Council;

Whereas, the City Administrator Evaluation Committee will meet with the City Administrator to discuss all aspects of his job performance and to establish certain job-related goals and objectives for the coming year;

Whereas, the City Administrator has communicated to the Evaluation Committee an appropriate understanding of the progress made in the prior year and sense of perspective of the work yet to be completed;

Whereas, the City Administrator Evaluation Committee, in concert with the City Council, finds the City Administrator has satisfactorily met all performance objectives;

Therefore, be it resolved that the City Administrator's employment contract be amended for fiscal year 2005/2006 as follows: ten (10) days of additional of vacation are granted, which may be cashed in on or before June 30, 2006; the Administrator's car allowance is increased by \$50.00 per month from the current rate of \$350.00 per month; and the base salary is increased by 3%, retroactive to July 1, 2005.

Submitted by: Councilmembers Higgins, Easthope, Greden, Teall, and Roberts
Date: December 19, 2005

APPROVED
BY ANN ARBOR CITY COUNCIL

December 19, 2005

CITY CLERK
ANN ARBOR, MI

R-529-12-04

RESOLUTION TO AMEND THE CONTRACT FOR THE CITY ADMINISTRATOR

Whereas the City Administrator Evaluation Committee of the Ann Arbor City Council has established qualitative criteria to evaluate overall job performance of the City Administrator;

Whereas City Administrator Evaluation Committee has solicited the comments and input regarding City Administrator job performance from every member of the Ann Arbor City Council;

Whereas the City Administrator Evaluation Committee has met with the City Administrator to discuss all aspects of job performance and to establish certain job related goals and objectives for the coming year;

Whereas the City Administrator has communicated to the City Administrator Evaluation Committee an appropriate understanding of the progress made in the prior year and a sense of perspective of the work yet to be completed;

Whereas the City Administrator Evaluation Committee in concert with the Ann Arbor City Council as a whole finds the City Administrator has satisfactorily met or exceeded all performance objectives;

Therefore be it resolved that the City Administrator's employment contract be amended to increase the base salary by 3% retroactive to July 1, 2004.

Councilmembers: Reid, Higgins, Easthope, & Groome

**APPROVED
BY ANN ARBOR CITY COUNCIL**

December 20, 2004

**CITY CLERK
ANN ARBOR, MI**

**EMPLOYMENT AGREEMENT
BETWEEN
THE CITY OF ANN ARBOR
AND
ROGER FRASER**

THIS AGREEMENT, made and entered into this 21st day of February, 2002, between the City of Ann Arbor, a Michigan municipal corporation, hereinafter called the "City," and Roger Fraser, hereinafter called "Employee."

WHEREAS, the City desires to employ the services of Roger Fraser as City Administrator of the City of Ann Arbor, Michigan; and

WHEREAS, Roger Fraser has the expertise, experience and knowledge necessary to be employed as the City Administrator for the City of Ann Arbor; and

WHEREAS, it is the intent of the City to provide certain benefits, a salary, establish certain conditions of employment, and to set forth working conditions for Roger Fraser;

NOW, THEREFORE, in consideration of the mutual employment covenants herein contained, the City and Employee agree as follows:

Section 1 --- Duties

The City hereby agrees to employ Roger Fraser as City Administrator of said City pursuant to Section 5.1 of the Charter of the City of Ann Arbor, Michigan, to perform in a competent and professional manner the duties and responsibilities of City Administrator for the City of Ann Arbor as set forth in the Charter and City Code of the City of Ann Arbor and in applicable laws and regulations, and otherwise as assigned by City Council.

Section 2 --- General Conditions and Terms of Employment

This employment agreement as City Administrator is contingent upon the Employee's acceptance of the appointment, the Employee's approval and acceptance of the terms and conditions of employment as stated in this employment agreement document, approval by City Council of the Employee's appointment to City Administrator and the terms and conditions of the employment agreement, and satisfactory completion of all pre-employment aspects of this appointment, including a physical exam, references checks, and other such assessments as should be deemed necessary by City Council.

- A. EMPLOYMENT-AT-WILL: Subject to the terms and conditions of this employment agreement, and notwithstanding any City personnel regulation or representation to the contrary, the Employee shall be an "employee-at-will" and

nothing in this agreement shall prevent, limit or otherwise interfere with the right of the City Council to terminate the employment of the Employee at any time except as such right to terminate employment is limited within this document.

B. TERMINATION/RESIGNATION:

- (1) At any time during the term of this employment agreement, the Employee may resign from the City Administrator position upon providing to the City Council a written notice 90 or more days prior to the date of resignation. In the event of such voluntary resignation, the Employee will not be entitled to any severance pay.
- (2) If City Council decides to terminate the Employee's employment as City Administrator for any reason other than those enumerated in sub-section (3) below, the Employee will receive severance pay for a twelve (12) month period following the date of termination, calculated on the basis of the annual salary he was receiving on the date of termination as stated in Section 4 or as subsequently changed by agreement of the parties. The City also will pay Employee the accrued leave time, if any, to which the Employee is entitled in accordance with the City's personnel rules, policies and procedures in effect on the date of his termination. Both the severance pay and the payment of accrued leave time will be paid within thirty (30) days after the date of termination or at such other time as is mutually agreed to between the City and the Employee.
- (3) If the City Council terminates the Employee's employment agreement with the City for an act of moral turpitude, willful misconduct, fraud, conviction of a felony charge or a misdemeanor that would reflect negatively on the City, such as, but not limited to, an offense involving drug/alcohol abuse or sexual misconduct, willful insubordination, or for any material breach of the terms and conditions of this agreement, the Employee will not be entitled to any severance pay. Such termination would be effective 30 days after the date of the written notice of termination. Written notice will state the reasons for the termination. If requested by the Employee within 7 days after the notice of termination, a hearing regarding the termination would be held before City Council. The hearing will be held in an open or closed session of City Council as may be required by and in accordance with the Michigan Open Meetings Act. Following the hearing, the City Council, at its discretion, may modify, reverse, or uphold the termination and the grounds for the termination.
- (4) The City Council may terminate the Employee's employment with the City in the event the Employee is unable to perform substantially all City Administrator duties/responsibilities for a period of 60 consecutive days or more because of a medically established mental or physical disability, provided that a determination has been made that such medically

established mental or physical disability will continue for at least 90 additional days. Such termination will be effective 60 days after written notice of termination from City Council, and such notice will also state the reasons for the termination. If requested by the Employee within 7 days after the notice of termination, a hearing regarding the termination will be held before City Council. The hearing will be held in an open or closed session of City Council as may be required by and in accordance with the Michigan Open Meetings Act. Following the hearing, the Council, at its discretion, may modify, reverse, or uphold the termination. The Employee's severance pay, as provided for in sub-section (2) above, will be reduced by the amount of disability benefits payments, or Worker's Compensation benefits, if any, paid by the City. The City reserves the right to have the Employee examined by a City selected physician, at the City's expense, in order to verify the mental or physical disability.

C. EXCLUSIVE EMPLOYMENT

During the term of this employment agreement and any extensions thereof, the Employee agrees to be employed exclusively by the City. However, with prior approval from City Council, the Employee may perform services such as teaching, lecturing, and assisting other governmental agencies, and other professional obligations so long as such activities do not unreasonably interfere with the Employee's City duties/responsibilities.

D. EMPLOYMENT AGREEMENT TERM

- (1) The Employee agrees to begin employment as City Administrator for the City of Ann Arbor on April 8, 2002. The Employee's employment will continue unless the Employee dies or resigns or is terminated as provided for in sub-section 2.B.
- (2) The Employee and the City agree that the Employee may make trips to Ann Arbor as requested by City Council to participate in one or more meetings with City Council and/or City staff prior to April 8, 2002. The City will reimburse the Employee for his reasonable travel, lodging and food expenses for such trips. This includes the ticket change fee and two days of car rental for February 19 and 20, 2002, travel. On such trips the Employee will also be paid a per diem for each day of work for the City in the amount of eight (8) hours of pay @ \$63.94 per hour (annual salary rate from Section 4, below, divided by 2080 hours).

E. LOCATION OF EMPLOYEE'S RESIDENCE

The City desires that the Employee reside within the City of Ann Arbor. Although residency within the City limits cannot be required because of provisions of Michigan law, the Employee agrees that he will relocate to the City

of Ann Arbor or to a place within 20 miles of Ann Arbor on or before October 8, 2002.

Section 3 --- Job Performance Evaluation

City Council will evaluate Employee's job performance annually. City Council will complete the Employee's annual job performance evaluation along with any approved salary adjustment, by no later than April 1st of each year, beginning April 1, 2003, with any revision to the Employee's salary to become effective July 1st of each year.

In consultation with the Employee, City Council will develop the job performance evaluation process and criteria it will use each year. City Council, in its sole discretion, will make the final decision as to what process and criteria it will use.

Section 4 --- Compensation

The City agrees to compensate the Employee initially at an annual base salary of One Hundred Thirty-Three Thousand Dollars (\$133,000), payable in biweekly installments at the same time as other employees of the City are paid.

Any and all revisions to the Employee's annual salary will be based upon the annual job performance evaluation described in Section 3 of this employment agreement.

The City, during the employment term, may not reduce the salary or other financial benefits of Employee in a greater percentage than an applicable across-the-board reduction for all employees of the City.

Section 5 --- Relocation Expenses

The City hereby agrees to provide the following:

- (1) The City will arrange for up to three (3) trip(s) to Ann Arbor for the Employee and his spouse for the purpose of securing a residence. One arranged trip shall be used to return to Minnesota for the closing of the employee's Minnesota residence. The City will reimburse the Employee for his reasonable travel, lodging and food expenses for such trips.
- (2) The City will arrange for temporary lodging for up to sixty (60) days for the Employee, should the Employee begin employment prior to relocation to Ann Arbor. The City shall pay just the lodging costs.
- (3) The City will assume responsibility for reasonable moving expenses associated with moving the Employee, the Employee's spouse, and family belongings to Ann Arbor. Such moving expenses shall include packing, moving, storage costs

for up to 60 (sixty) days, unpacking and insurance costs. The Employee will be responsible for providing the City with at least three (3) moving proposals from reliable moving firms. The Employee may select the moving firm to be used; however, the City will only reimburse the Employee an amount that does not exceed the lowest responsible proposed bid. Employer shall reimburse Employee meal expense for him and his family in route from Blaine, Minnesota to Ann Arbor

Section 6 --- City Vehicle

The Employee, at his option, may use an automobile provided by the City or use his personal vehicle for work-related purposes. Should the Employee decide to utilize his personal vehicle, the City shall pay the Employee a monthly allowance of Three Hundred Fifty Dollars (\$350.00).

If the Employee uses a City vehicle, that use will be subject to taxation as provided under applicable federal and state law, including the Internal Revenue Code and IRS regulations, and the Employee will provide all required documentation to the City.

Section 7 --- City Benefit Plans and Programs

- A. INSURANCE PLANS: The City will provide to the Employee at City expense those Insurance Plans relating to health care, dental, prescription, and vision as provided to Non-Union employees, under the terms and agreements of such individual insurance plans.
- B. The City will pay for whole life insurance for the Employee in an amount two (2) times the Employee's annual salary as provided for in Section 4. The City also will pay for long-term disability insurance for the Employee for a premium amount not to exceed Three Hundred Dollars (\$300) per month. The Employee must pay for any additional life insurance or long-term disability insurance benefits.
- C. The Employee may participate in the City's 457 Employees' Deferred Compensation Plan and Trust and receive City matching funds, and participate in the City's tuition reimbursement plan, funeral leave, Section 125 Flexible Benefit Plan(s), and Employee Assistance Plan on the same terms as Non-Union employees in accordance with applicable laws, regulations, policies and guidelines governing these programs.
- D. Except as explicitly provided in sub-section 7.B., the City reserves the right to alter, modify, or terminate any or all of its Insurance plans and other benefits provided to Non-Union employees during the course of this contract and Employee may not rely on any specific coverage or term of such plans or benefits being maintained by the City solely for Employee's benefit.

- E. PAID SICK LEAVE DAYS: On the date he starts employment, the Employee will be credited with 5 days (40 hours) of sick leave which will be available for immediate use . The Employee will begin accruing at the rate of 12 days annually upon his start date, earned on a pro rata basis each pay period. Except as otherwise explicitly stated in this sub-section, the Employee shall comply with the City's personnel rules, policies and procedures which govern the use of sick leave by Non-Union employees. Except as otherwise explicitly stated in this sub-section, the Employee will be entitled to accrue and be paid for accrued sick leave only as allowed by the City's personnel rules, policies and procedures which govern the accrual of and payment for accrued sick leave by Non-Union employees.
- F. PAID MANAGEMENT LEAVE. Beginning April 8, 2002 and each year thereafter on April 1, the Employee will receive 40 hours of management leave, which he may use in his discretion. Beginning March 31, 2003 and as of March 31st of each year thereafter, the Employee will lose any unused management leave. Unused management leave will never be paid to the Employee and is not included in any of the accruals of leave or payment of leave included in Section 2.B of this employment agreement.
- G. PAID VACATION: On the date he starts employment, the Employee will be credited with 15 days (120 hours) of vacation leave time which will be available for immediate use with proper notification to City Council. The Employee will begin accruing at the rate of 20 days annually upon his start date, earned on a pro rata basis each pay period. Such paid vacation time shall accrue to a maximum annual accrual of forty (40) days (320 hours) in accordance with City personnel rules, policies and procedures applicable to Non-Union City employees. Any vacation hours in excess of 320 hours are deleted as of December 31 of each year. Except as otherwise explicitly stated in this sub-section, the Employee will be entitled to accrue and be paid for accrued vacation leave only as allowed by the City's personnel rules, policies and procedures which govern the accrual of and payment for accrued vacation leave by Non-Union employees.
- H. Computer – Employer shall provide Employee, for use in Employee's residence, an Employer owned and maintained personal computer and related equipment including a printer and a modem connection to the City's computer networks and the Internet.
- I. Except to the extent that they conflict with the provisions of this contract, the Employee will be eligible to participate in any and all future Non-Union employee benefit plans and programs as may be developed.

Section 8 --- Pension Plan

- A. The Employee may exercise the option of becoming a member of the City Employees' Retirement System upon initial employment with the City. If Employee becomes a member of the Employees' Retirement System, Employee shall be entitled to the same contribution level as general employees under Chapter 18 of the Ann Arbor City Code.
- B. If the Employee elects an alternative retirement arrangement into a 457 or 401 plan, the City agrees (i) to take all actions necessary to establish Employee's participation in the plan selected by Employee, and (ii) to deposit annually the sum of \$10,000 into the selected alternative retirement arrangement.
- C. If Employee elects at any time after initial employment to become a member of the City Employees' Retirement System, City payments made under any alternative retirement arrangement entered into by the Employee and the City under this provision of the contract shall cease. It is acknowledged by the parties that election to become a member of the City Retirement System at any date after initial employment requires Employee's payment of the entire cost for prior service with the City of Ann Arbor as determined under the policies of the Employees Retirement System Board of Trustees in effect at the time of the election. Employee acknowledges and agrees that it shall be Employee's responsibility to obtain from the City Employees' Retirement System a copy of the policy in effect at the time of Employee's election and any other information Employee judges necessary to make a fully informed decision on the matter of election. The Employee understands that the amount of the payment of the entire cost for prior service with the City of Ann Arbor which the City Employees' Retirement System would require the Employee to pay may exceed the accumulated amount of the \$10,000 annual payments provided for in sub-section B, including interest, dividends and growth, at the time of such payment.

Section 9 – Professional Development

Employer agrees to budget for and to pay the professional dues, subscriptions, travel and subsistence expenses of Employee for professional participation and travel, meetings and occasions adequate to continue his professional development. Participation can include, but not be limited to the National League of Cities, International City County Management Association, Michigan Municipal League, Michigan City Managers' Association and such other national, regional, state and local governmental and community groups and their committees for which Employee serves as a member, or when participation is beneficial to Employer, as well as associated short courses, institutes and seminars.

Section 10 --- Indemnification

The City shall defend, save harmless and indemnify the Employee against any tort, professional liability claim, or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties/responsibilities as City Administrator, provided the Employee acted both in good faith and within the scope of his duties/responsibilities as City Administrator, and further provided the Employee fully cooperates with the City in its defense of the claim, demand or other legal action. The City may, in its discretion, compromise and settle any claim or suit and pay the amount of any settlement or judgment rendered thereon. Indemnification shall not be provide to the Employee by the City if the Employee is the plaintiff or an adverse party to the City or where the suit or proceeding involves termination or other provisions of this employment agreement.

Section 11 -- Conflict of Interest Prohibitions

It is further understood and agreed that because of the duties of the Employee within and on behalf of the City of Ann Arbor and its citizenry, the Employee shall not, during the term of this Agreement, individually, as a partner, joint venture, officer or shareholder, invest or participate in any business venture conducting business in the corporate limits of the City of Ann Arbor, except for stock ownership in any company whose capital stock is publicly held and regularly traded, without prior approval of the City Council. For and during the term of his employment, Employee further agrees, except for a personal residence or residential property acquired or held for future use as his personal residence, not to invest in any other real estate or property improvements within the corporate limits of the City of Ann Arbor without the prior consent of the City Council.

Section 12 --- General Provisions

The text contained in this employment agreement constitutes the entire employment agreement between the City and the Employee.

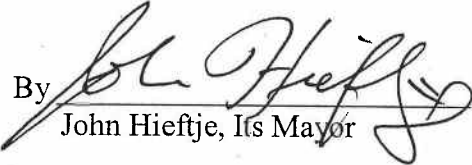
If any provision, or any portion thereof, contained in this employment agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of this employment agreement, or portion thereof, shall be deemed enforceable, shall not be affected, and shall remain in full force and effect.

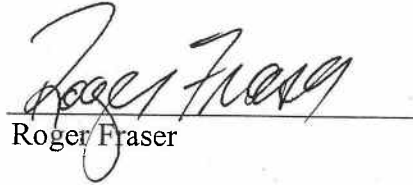
IN WITNESS WHEREOF, the City of Ann Arbor, Michigan, by its Mayor and its City Clerk, and the Employee have signed this employment agreement the day and year stated in the first paragraph.

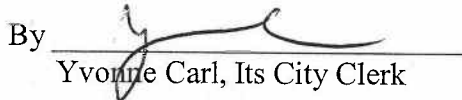
EMPLOYER:

EMPLOYEE:

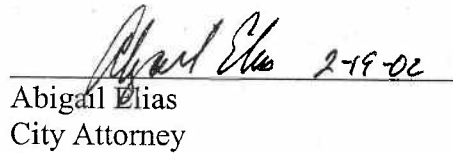
CITY OF ANN ARBOR,
a Michigan municipal corporation

By 
John Hieftje, Its Mayor


Roger Fraser

By 
Yvonne Carl, Its City Clerk

Approved as to Form:

 2-19-02
Abigail Elias
City Attorney