

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.

COPY

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

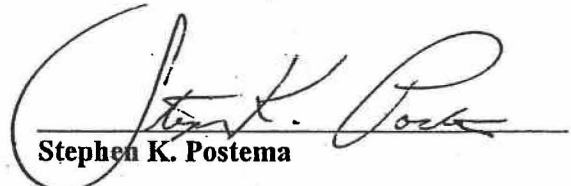
100 North Fifth Avenue
Ann Arbor, MI 48104

Attention: Mayor

If to Employee: Stephen K. Postema

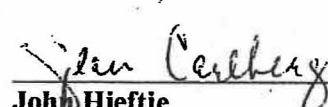
Any notice delivered by mail shall be by certified mail, return receipt requested, and shall be deemed delivered on the third after confirmed deposit with the U. S. Postal Service. Any notice delivered by courier shall be deemed delivered on the next business day following the date of confirmed delivery.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

Dated: 4/2/03

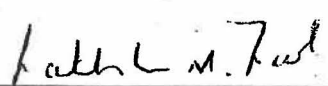

Stephen K. Postema

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
[http://a2gov.legistar.com/
Calendar.aspx](http://a2gov.legistar.com/Calendar.aspx)

Council Action

Resolution: R-09-444

File Number: 09-1102

Enactment Number: R-09-444

Resolution to Amend the City Attorney's Employment Contract

Whereas, the City Council Administration Committee established qualitative criteria to evaluate the overall job performance of the City Attorney; and

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

THEREFORE, BE IT RESOLVED, that the City Attorney's employment contract be amended for fiscal year 2010 as follows: the City Attorney may, at his discretion on or before June 30, 2010, cash-in up to 120 hours of accumulated paid time off.

Submitted by: Councilmembers Greden, Higgins, Rapundalo, Teall, and Mayor Hieftje

At a meeting of the City Council on 11/5/2009, a motion was made by Leigh Greden, seconded by Christopher Taylor, that this Resolution R-09-444 be Approved. The motion passed.



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
www.a2gov.org

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.

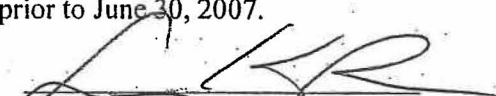
Submitted by: Councilmembers Easthope, Greden, Rapundalo, Teall and Higgins
As Amended by City Council on November 5, 2007

EMPLOYMENT AGREEMENT MODIFICATION

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

I. 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)

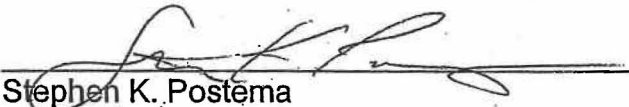
Amendment to Employment Agreement Between the City of Ann Arbor and
Stephen K. Postema ("Agreement") Dated April 3, 2003;

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.

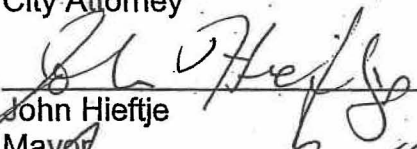
These amendments are effective retroactively to April 3, 2005.

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

