

RESOLUTION NO. 1503

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON AUTHORIZING THE MAYOR TO EXECUTE A THIRD AMENDMENT TO THE EMPLOYMENT AGREEMENT WITH DAVID K. ZABELL

WHEREAS, Mr. David K. Zabell serves as the City Manager pursuant to the terms of an agreement entitled "Employment Agreement between City of Fife and David K. Zabell regarding City Manager Position"; and

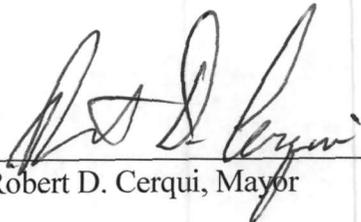
WHEREAS, Mr. Zabell's employment agreement allows for annual merit and cost of living increases to his compensation package; and

WHEREAS, Mr. Zabell has asked the City Council to amend the Agreement to eliminate any increase in his compensation for calendar year 2013; and

WHEREAS, the Council finds that given the current economy Mr. Zabell's offer for 2013 should be accepted; now, therefore

BE IT RESOLVED that the Council authorizes the Mayor, on behalf of the City of Fife, to execute the Third Amendment to Employment Agreement with Dave Zabell attached hereto as Exhibit A.

ADOPTED by the City Council at an open public meeting held on the 9th day of October, 2012.



Robert D. Cerqui, Mayor

Attest:



Carol Etgen, City Clerk

THIRD AMENDMENT
TO
EMPLOYMENT AGREEMENT
BETWEEN
CITY OF FIFE AND DAVID K. ZABELL
REGARDING CITY MANAGER POSITION

1. Dated and Parties. This document ("Third Amendment"), for reference purposes only, is dated the ___ day of October, 2012, and is entered into between the City of Fife, a Washington municipal corporation ("City") and David K. Zabell, ("Mr. Zabell").

2. Background and Purpose.

2.1 Mr. Zabell was appointed to the position of City Manager, effective January 10, 2011.

2.2 The City and Mr. Zabell executed a document dated December 14, 2010 that is entitled "Employment Agreement between City of Fife and David K. Zabell regarding City Manager Position", said agreement being referred to herein as the "Agreement".

2.3 The Agreement has been amended twice before, first to reflect a modification in Mr. Zabell's salary and to change how one of his retirement benefits was paid, and second to change the place of residence provision.

2.3 Agreement paragraph 6.4 provides that in recognition of accomplishments and excellent performance, a merit wage increase, and or/bonus may be granted as the city Council determines, in its sole discretion, as appropriate.

2.4 Agreement paragraph 6.6 provides that unless the City Council determines otherwise, Mr. Zabell shall receive a cost of living adjustment to his annual salary, at the same time and in the same percentage as is given to all other department directors.

2.5 Mr. Zabell has notified the City Council that as the leader of the City's administration he believes it is appropriate, at a time where the City Council is having to consider other budget cuts and revenue increases in order to maintain an acceptable level of service to the residents and businesses in Fife, that he should sacrifice any compensation increases he might otherwise be contractually entitled to in calendar year 2013.

3. Amendment to Agreement Paragraph 6.4. Agreement paragraph 6.4 is hereby amended, effective immediately, to read as follows:

6.4 In recognition of accomplishments and excellent performance, a merit wage increase, and/or bonus may be granted to Mr. Zabell at any time in such amount as the City Council determines, in its sole discretion, is appropriate. Provided, Mr. Zabell has offered and the City Council has agreed that Mr. Zabell shall receive no merit wage increase or bonus for the year 2013.

4. Amendment to Agreement Paragraph 6.6. Agreement paragraph 6.6 is hereby amended, effective immediately, to read as follows:

6.6 Unless the City Council determines otherwise, Mr. Zabell shall receive a cost of living adjustment to his annual salary, at the same time and in the same percentage as is given to all other departments. Provided, Mr. Zabell has offered and the City Council has agreed that Mr. Zabell shall not receive a cost of living adjustment to his annual salary for the year 2013.

5. Confirmation of Agreement Terms. The Third Amendment terms are deemed modifications to the Agreement terms, and, except as modified herein and in the First Amendment and Second Agreement, the Agreement, as drafted, shall remain in full force and effect and its terms are incorporated herein. In case of a conflict between the terms of the Agreement and this Third Amendment, the terms of the Third Amendment shall control.

6. Mayor Authorization to Sign. On October __, 2012, at a regularly scheduled open public meeting, the City Council authorized the Mayor to sign this document.

7. Review by Legal Counsel. Mr. Zabell represents and acknowledges that he has read this document in its entirety and has had ample time to consider it before signing. He further represents and acknowledges that it is his understanding that this document has been reviewed and approved by the City Attorney on behalf of the city only, and not on behalf of Mr. Zabell. By virtue of this passage, he further acknowledges that he has been advised that he has the right to consult independent counsel concerning this document, and that by signing this document he acknowledges that he has afforded himself the opportunity to do so, or hereby expressly waives his right to have the document reviewed by independent legal counsel, and agrees to the terms hereof by signing the same.

CITY OF FIFE

By: _____
Robert D. Cerqui, Mayor

By: _____
David K. Zabell

Approved as to form:

By: _____
Loren D. Combs, City Attorney

Third Amendment to Employment Agreement
Between City of Fife and David K. Zabell
Regarding City Manager Position
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City Zabell