

RESOLUTION NO. 1660

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FIFE,
PIERCE COUNTY, WASHINGTON AUTHORIZING THE MAYOR
TO EXECUTE A FIRST AMENDMENT TO THE EMPLOYMENT
AGREEMENT WITH SUBIR MUKERJEE REGARDING THE CITY
MANAGER POSITION

WHEREAS, Subir Mukerjee was appointed to the position of City Manager, effective January 13, 2015, and the City and Mr. Mukerjee executed a document dated January 13, 2015 that is entitled "Employment Agreement between City of Fife and Subir Mukerjee Regarding City Manager Position"; and

WHEREAS, RCW 35A.13.050 allows the City Council to waive the statutory requirement that a City Manager reside within the City limits; and

WHEREAS, the City's general policy is to require the City Manager to become a City resident within a reasonable period of time after his appointment as City Manager, unless there are compelling reasons to waive that requirement; and

WHEREAS, there are two primary reasons the Council has historically sought to have the City Manager live in, or within close proximity to the City; 1) to assure that there is adequate and appropriate leadership in time of emergency; and 2) to assure that the City Manager, as the City's chief administrative officer has a high level of involvement or participation in community events; and

WHEREAS, this requires a case by case analysis, and is an exercise of the sole discretion of the majority of the Council at the time that it determines how those two criteria can be met; and

WHEREAS, the City Council finds that Mr. Mukerjee has made a compelling case to waive the residency requirement for the following reasons:

1. Mr. Mukerjee, prior to becoming a Fife employee, worked for several years as a city employee with a nearby city. During his time with that city, he was actively engaged in important community events occurring both in the evening, early morning and on weekends, even though Mr. Mukerjee lived in Olympia. Mr. Mukerjee has years of familiarity with the local civic groups and the political leaders in the community.

2. Mr. Mukerjee was first hired by the City in early 2014 to serve as the deputy City Manager. In that capacity Mr. Mukerjee, once again, showed that he would be actively engaged in City events, as he did with his prior city employer, even though he resided in Olympia.

3. When the former City Manager resigned, Mr. Mukerjee was appointed to the position of interim City Manager. Once again, Mr. Mukerjee showed that he intended to continue his involvement in local civic and City events, even though he resided in Olympia.

4. Mr. Mukerjee has continued to be engaged in the community since his appointment as the City Manager, attending early morning meetings, night meetings, and special events on weekends, and has thus shown over the years that the location of his residence will have no impact, one way or the other, on his continued significant involvement in community events. His years of involvement in Fife and the surrounding community has created valuable ties into the community fabric that are not impacted by his place of residence.

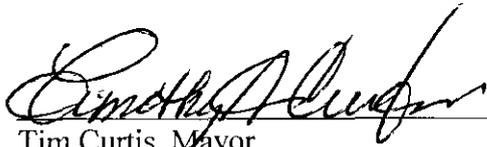
5. The City's emergency management code (FMC Chapter 2.68) provides for an alternative person within the City government to proclaim the existence of a disaster or other calamity in the absence of the City Manager, and the alternative personnel currently employed by the City have years of experience with the City and are well qualified to serve in case he is unable to return to the City in time to make the emergency declaration.

and

WHEREAS, based upon the above reasons, the Council finds that the residency requirement should be waived for Mr. Mukerjee, in accordance with the terms set forth in the attached First Amendment to Employment Agreement between City of Fife and Subir Mukerjee; now, therefore

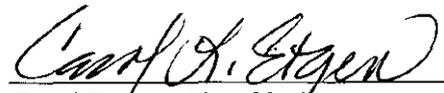
BE IT RESOLVED that the City Council hereby authorizes the Mayor, on behalf of the City of Fife, to execute the First Amendment to Employment Agreement between City of Fife and Subir Mukerjee regarding City Manager Position, attached hereto as Exhibit A.

ADOPTED by the City Council at an open public meeting held on the 14th day of April, 2015.



Tim Curtis, Mayor

Attest:



Carol Etgen, City Clerk

FIRST AMENDMENT
TO
EMPLOYMENT AGREEMENT
BETWEEN
CITY OF FIFE AND SUBIR MUKERJEE
REGARDING CITY MANAGER POSITION

1. Date and Parties. This document (“First Amendment”), for reference purposes only, is dated the ___ day of April, 2015, and is entered into between the City of Fife, a Washington municipal corporation (“City”) and Subir Mukerjee, (“Mr. Mukerjee”).

2. Background and Purpose.

2.1 Mr. Mukerjee was appointed to the position of City Manager on January 13, 2015, and the City and Mr. Mukerjee executed a document dated January 13, 2015 that is entitled “Employment Agreement between City of Fife and Subir Mukerjee Regarding City Manager Position”, said agreement being referred to herein as the “Agreement”. This First Amendment is intended to modify Agreement paragraph 5.4.

2.2 R.C.W. 35A.13.050 allows the City Council to waive the requirement that a City Manager reside within the City limits. The City’s general policy is to require the City Manager to become a City resident within a reasonable period of time after his appointment as City Manager, unless there are compelling reasons to waive that requirement. In Mr. Mukerjee’s case, this requirement was waived so long as by June 30, 2015 he changed his principal place of residence to a location in Pierce County no more than ten travel miles from the Fife City limits. This limited waiver is set forth in Agreement paragraph 5.4.

2.3 There are two primary reasons the Council has historically sought to have the City Manager live in, or within close proximity to the City; 1) to assure that there is adequate and appropriate leadership in time of emergency; and 2) to assure that the City Manager, as the City’s chief administrative officer has a high level of involvement or participation in community events. This requires a case by case analysis, and is an exercise of the sole discretion of the majority of the Council at the time that it determines how those two criteria can be met. Mr. Mukerjee has requested that he be allowed to continue to reside in Olympia and has asked the City Council to now waive the residency requirement. The City Council finds that Mr. Mukerjee has made a compelling case to waive the residency requirement for the following reasons:

2.3.1 Mr. Mukerjee, prior to becoming a Fife employee, worked for several years as a city employee with a nearby city. During his time with that city, he was actively engaged in important community events occurring both in the evening, early morning and on weekends, even though Mr. Mukerjee lived in Olympia. Mr. Mukerjee has years of familiarity with the local civic groups and the political leaders in the community.

2.3.2 Mr. Mukerjee was first hired by the City in early 2014 to serve as the deputy City Manager. In that capacity Mr. Mukerjee, once again, showed that he would be actively engaged in City events, as he did with his prior city employer, even though he resided in Olympia.

2.3.3 When the former City Manager resigned, Mr. Mukerjee was appointed to the position of interim City Manager. Once again, Mr. Mukerjee showed that he intended to continue his involvement in local civic and City events, even though he resided in Olympia.

2.3.4 Mr. Mukerjee has continued to be engaged in the community since his appointment as the City Manager, attending early morning meetings, night meetings, and special events on weekends, and has thus shown over the years that the location of his residence will have no impact, one way or the other, on his continued significant involvement in community events. His years of involvement in Fife and the surrounding community has created valuable ties into the community fabric that are not impacted by his place of residence.

2.3.5 The City's emergency management code (FMC Chapter 2.68) provides for an alternative person within the City government to proclaim the existence of a disaster or other calamity in the absence of the City Manager, and the alternative personnel currently employed by the City have years of experience with the City and are well qualified to serve in case he is unable to return to the City in time to make the emergency declaration.

2.4 Based upon the above reasons, the Council finds that so long as those conditions exist the residency requirement should be waived for Mr. Mukerjee.

3. Amendment to Agreement Paragraph 5.4. Agreement paragraph 5.4 is hereby deleted in its entirety, and replaced with the following language

5.4 The City Manager is required by state law to live within the corporate limits of the City, unless the City Council waives the requirement. The City waives the residency requirement so long as the following criteria are met: 1) the City continues to have senior personnel in the City that have the necessary training and experience to serve as acting City Manager in times of emergency should the City Manager be unavailable; and 2) Mr. Mukerjee remains involved in community activities in the same manner as he has been over the previous years, without regards to whether the events occur prior to or after normal work hours, or on weekends. Should either of these two criteria fail to be met then the City Council, may, by appropriate resolution and at least one hundred eighty (180) days' notice, require Mr. Mukerjee to reside in Pierce County not more than ten driving miles of the Fife City limits.

4. Confirmation of Agreement Terms. Except as modified herein, the Agreement terms remain in full force and effect. This First Amendment, and the Agreement are now an integrated document. In case of a conflict between the terms of the Agreement and the terms of the First Amendment, the terms of the First Amendment shall control.

5. Mayor Authorization to Sign. On April 14, 2015, at a regularly scheduled open public meeting, the City Council authorized the Mayor to sign this First Amendment.

6. Review by Legal Counsel. Mr. Mukerjee 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. Mukerjee. 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 of 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: _____
Tim Curtis, Mayor

By: _____
Subir Mukerjee

Approved as to form for the City

By: _____
Loren D. Combs, City Attorney