



MEMORANDUM

TO: Mayor and Council

FROM: Joya Hayes, Human Resources and Civil Service Director *JA*

DATE: December 6, 2017

SUBJECT: Response for CIUR 1875/Council Resolution 20170323-054 regarding City of Austin Efforts to Address Gender Disparities

The purpose of this memorandum is to provide the recommendations from the Commission for Women and the Human Rights Commission regarding resolution 20170323-054.

On March 23, 2017, City Council passed the resolution calling for the Commission for Women and the Human Rights Commission to be provided a list of City efforts and to research practices that have not been documented and addressed by the City to examine whether those practices are being used within the City. The Commissions were further instructed to provide recommendations for modifying City policies or practices to eliminate disparate impacts.

City staff from all departments worked to gather efforts the City has undertaken to address gender disparities, and this list was provided to the Commissions. The Commissions then took that information and passed the attached recommendations that have been uploaded into the Boards and Commissions Information Center utility.

Both Commissions recommended that the city halt the practice of asking for outside applicant salary history by removing the question from the hiring application. They further request the City confer with a hired consultant on preventing any gender imbalances. Lastly the recommendations address inserting certain criteria before selecting names for streets, public buildings, statues, memorials, public parks, park facilities and features.

The Human Resources Department will have discussions with the the City Manager's Office on potential impacts. Additionally, HR staff will provide the recommendations to the Consultant that is compiling information for the annual Gender equity report for their consideration.

Both commissions continue to discuss long term items, including implementation of the principles underlying the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). These principals are to eliminate any distinction, exclusion, or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of marital status, on the basis of equality between men and women, of human rights or fundamental freedom in the political,

economic, social, cultural, civil, or any other field. We will bring forward any other items related to this as the commissions make recommendations.

If you have any questions, please feel free to contact me.

Attachments:

Austin Commission for Women Recommendation 20171011-05a

Austin Commission for Women Recommendation 20171011-05b

Austin Commission for Women Recommendation 20171108-04b

Human Rights Commission Recommendation No. 201701023-001a

Human Rights Commission Recommendation No. 201701023-001b

cc: Elaine Hart, Interim City Manager
Mark Washington, Assistant City Manager



AUSTIN COMMISSION FOR WOMEN RECOMMENDATION 20171011-05a

Date of Approval: October 11, 2017

Subject: Equity in Naming of Public Symbols

Motioned By: Commissioner Ana DeFrates

Seconded By: Commissioner Flannery Bope

Recommendation

The Commission recommends inserting criteria for naming of new public symbols to require gender and racial equity and actions to remediate existing naming inequities.

Description of Recommendation to Council

Full text of recommendation and rationale follows this cover sheet

Vote

For: Chair Tober, Vice Chair Athar-Jogee, Commissioner Powers, Commissioner DeFrates, Commissioner Bope, Commissioner Gamble, and Commissioner Austen

Against: 0

Abstain: 0

Absent: Commissioner Cuba-Lewis, Commissioner Barrios, Commissioner Lewis, and Commissioner Thigpen

Attest

Mary Aversa,
Staff Liaison, Austin Commission for Women



BOARD/COMMISSION RECOMMENDATION
AUSTIN COMMISSION FOR WOMEN RECOMMENDATION 20171011-05a
Women's Equity in Austin: Equity in Naming of Public Symbols

WHEREAS, the Commission for Women ("Commission") of the City of Austin ("City") serves as an advisory body to the City Council ("Council") and city manager concerning the needs and problems of women in the Austin area and shall recommend programs designed to alleviate any inequities that may confront women in social, economic and vocational pursuits. The Commission shall develop goals and coordinate research for planning, programming, and action relating to opportunities, needs, problems, and contributions of women in the city; and

WHEREAS, on March 23, 2017 the Council passed Resolution No. 20170323-054 ("Resolution"), calling upon the Commission for Women, in collaboration with the City's Human Rights Commission, to research the City's previous efforts to address gender disparities in the City as well as research other potential practices that have not been documented or addressed by the City which have an unintended disparate impact on women but are commonly used by common governmental entities comparable to the City, examine whether those practices are being used within the City, and if so, determine their nature and scope, and develop recommendations for modifying City policies or practices to eliminate those disparate impacts; and

WHEREAS, the Resolution further called upon for the Commission for Women and Human Rights Commission to separate their recommendations into long-term and short-term items; and

WHEREAS, with regard to short-term items, the Resolution called upon the Commission for Women and Human Rights Commission to offer recommendations concerning steps to study

disparities in Austin between streets named after men and those named after women, and appropriate measures to eliminate those disparities; and

WHEREAS, the Commission for Women is aware of a 2015 study of seven world metros (London, Paris, San Francisco, Mumbai, New Delhi, Channai and Bangalore), found that, controlling for gender-neutral names, only 27.9% of streets named for persons were named for women (see article at <https://www.citylab.com/equity/2015/11/mapping-the-sexism-of-city-street-names/414094/>); and

WHEREAS, the Street Name Database does not itself indicate whether a given street was named after a natural person and many streets that appear likely to have been named after natural persons do not include that person's first name, making determination of their gender impossible without conducting additional research of that street name's history; and

WHEREAS, Equal Visibility Everywhere, a Washington D.C.-based nonprofit dedicated to achieving gender parity in the symbols and icons of the United States, has noted gender imbalances exist nationwide in not only street names, but in building names, statuary, monuments and memorials, public holidays, parades and festivals, as well as in stamps and currency, in museum exhibits and in the media; and

WHEREAS, women's history is full of scientists, writers, artists, activists and politicians, and women who have made positive contributions to society and deserve more widespread recognition for their work; and

WHEREAS, the predominance of public symbols that are laudatory of exclusively male achievements are understood and perceived by America's schoolchildren in ways that contribute to boys' confidence and diminish girls' confidence; and

WHEREAS, the lack of public symbols recognizing the societal contributions of persons of color, particularly women of color, presents a similar problem, which is made worse when a

public authority fails to adapt the contextualization of existing public symbols devoted to persons who may have caused or perpetuated racial harms to the modern age; and

WHEREAS, according to data maintained on the City's Demographics Data Library website, whites now make up 47.1% of the City's population (see http://www.austintexas.gov/sites/default/files/files/Planning/Demographics/Age_by_Race_2014.pdf); and

WHEREAS upon information and belief, the City's public symbols that are named after natural persons represent a significantly larger percentage of white persons than persons of color, particularly women of color; and

WHEREAS, as regards new street names, the City's Street Naming Guidelines are posted on the City's website and available for review at https://www.austintexas.gov/sites/default/files/files/Planning/Applications_Forms/street-naming-standards.pdf ("Street Naming Guidelines"); and

WHEREAS, the Street Naming Guidelines do not list gender equity or racial equity in street naming as among the criteria in the selection of new names for the Street Name Database; and

WHEREAS, the procedure for the naming or renaming of City parks, park facilities or features set forth at §14-1-37 through 39 of the City Code does not list gender or racial equity in its naming criteria, nor upon information and belief, do gender or racial equity play any formal role in the naming or renaming of City statues, memorials, libraries, public schools, or public buildings; and

NOW, THEREFORE, BE IT RESOLVED, that the Council and the City Manager's Office take all appropriate steps to immediately insert, in those criteria used by the City to select names for streets, public buildings, statues, memorials, public parks, park facilities and features, libraries and public schools, a requirement that, going forward, gender and racial equity shall be

required, meaning that, for any new streets, public buildings, statues, memorials, public parks, park facilities and features, libraries and public schools, named after natural persons, the half of them shall be named after women and at least half shall be named after persons of color; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that, after equitable proactive policies have been put in place, Council may again call upon the Commission for Women to offer recommendations in connection with studying the extent of naming inequities and remedial measures to address them.

Date of Approval: October 11, 2017



AUSTIN COMMISSION FOR WOMEN RECOMMENDATION 20171011-05b

Date of Approval: October 11, 2017

Subject: Prohibiting Employment Inquiries Regarding Prior Salary

Motioned By: Commissioner Flannery Bope

Seconded By: Commissioner Rebecca Austen

Recommendation

The Commission recommends halting practices that institute or amplify gender pay imbalance at the City of Austin.

Description of Recommendation to Council

Full text of recommendation and rationale follows this cover sheet

Vote

For: Chair Tober, Vice Chair Athar-Jogee, Commissioner Powers, Commissioner DeFrates, Commissioner Bope, Commissioner Gamble, and Commissioner Austen

Against: 0

Abstain: 0

Absent: Commissioner Cuba-Lewis, Commissioner Barrios, Commissioner Lewis, and Commissioner Thigpen

Attest:

Mary Aversa,
Staff Liaison, Austin Commission for Women



BOARD/COMMISSION RECOMMENDATION

AUSTIN COMMISSION FOR WOMEN RECOMMENDATION 20171011-05b

Women's Equity in Austin: Prohibiting Employment Inquiries Regarding Prior Salary

WHEREAS, the Commission for Women ("Commission") of the City of Austin ("City") serves as an advisory body to the City Council ("Council") and city manager concerning the needs and problems of women in the Austin area and shall recommend programs designed to alleviate any inequities that may confront women in social, economic and vocational pursuits. The Commission shall develop goals and coordinate research for planning, programming, and action relating to opportunities, needs, problems, and contributions of women in the city; and

WHEREAS, on March 23, 2017 the Council passed Resolution No. 20170323-054 ("Resolution"), calling upon the Commission for Women, in collaboration with the City's Human Rights Commission, to research the City's previous efforts to address gender disparities in the City as well as research other potential practices that have not been documented or addressed by the City which have an unintended disparate impact on women but are commonly used by common governmental entities comparable to the City, examine whether those practices are being used within the City, and if so, determine their nature and scope, and develop recommendations for modifying City policies or practices to eliminate those disparate impacts; and

WHEREAS, the Resolution further called upon for the Commission for Women and Human Rights Commission to separate their recommendations into long-term and short-term items; and

WHEREAS, with regard to short-term items, the Resolution called upon the Commission for Women and Human Rights Commission to offer recommendations concerning steps to review City practices with regard to requesting previous salary data for City job applicants and appropriate measures to eliminate those practices ("Prior Salary Inquires") and;

WHEREAS, the Commission for Women and Human Rights Commission are aware of research indicating that, controlling for personal demographics, occupation, college major, hours worked and location, women get paid 6.6 percent less than men in their very first jobs (“Gender Pay Imbalance”), and that an entity’s knowledge of a job applicant’s self-reported lower salary history (e.g. honest responses to Prior Salary Inquiries) will lead to subsequent job offers at rates that correspond to the (lower) prior salary, such that the cumulative effect over the course of women’s lifetimes amplifies initial and subsequent Gender Pay Imbalances¹; and

WHEREAS, the effects of Gender Pay Imbalances are detrimental to women’s well-being, specifically impairing their ability to repay student debt, limiting their options for housing, clothing and feeding themselves and, if applicable, their children (especially in the case of single mothers), saving for their children’s college education (especially in the case of single mothers) and increasing the likelihood (if married and earning less than their husbands) that, upon reaching parenthood, the woman will be the parent to take time away from the workforce or reduce working hours, which further widens the gap between men’s and women’s future earnings and, over the long-run, contributes to a poverty rate among elderly women that is twice that of elderly men²; and

WHEREAS, the City, which currently ranks number 9 on Forbes’ list of Best U.S. Employers, seeks to serve as a model of pay equity among employers, public and private, nationwide; and

1

□ Christianne Corbett and Catherine Hill, *Graduating to a Pay Gap; the Earnings of Women and Men One Year After College Graduation*, American Association of University Women Study (2013), available online at <https://www.aauw.org/files/2013/02/graduating-to-a-pay-gap-the-earnings-of-women-and-men-one-year-after-college-graduation.pdf>. See also Todd Thorsteinson, *Initiating Salary Discussions With an Extreme Request: Anchoring Effects on Initial Salary Offers*, 1 J. of Applied Psychology, 41(7)(2011). See also Association for Psychological Science article discussing anchoring theory and salary negotiations and Massachusetts law banning the practice of asking for prior salary history, available online at <https://www.psychologicalscience.org/news/minds-business/how-cracking-the-right-joke-benefits-salary-negotiations.html>.

2

□ Corbett and Hill, *supra* note 1 at p. 5.

WHEREAS, regarding Prior Salary Inquiries, consultation with City staff revealed that that practice, as relates to outside applicants (“Outside Applicants”) for City jobs can be eliminated by:

(a) removing that question in the hiring application on the City’s e-career applicant tracking system which currently asks Outside Applicants to provide their prior salary history (“Salary History”) (which, upon information and belief, is the same application used for the all sworn, unsworn and civil service jobs, but not for temporary/seasonal jobs, which do not use written application forms); and

(b) instructing the City’s hiring managers not to inquire about the applicant’s Salary History during the interview process; and

WHEREAS, consultation with City staff revealed that, while internal applicants (“Internal Applicants”) for City jobs are not necessarily subject to explicit Prior Salary Inquiries, the City’s pay policy procedures (“City Pay Policy”) mandate that Internal Applicants’ Salary History is nonetheless considered in connection with any type of job transfer as Salary History is one of the factors that will determine the recommended base salary to be offered in connection with that transfer (see City Pay Policy document entitled Human Services Department Establishing Base Pay attached at Exhibit A); and

WHEREAS, the City Pay Policy mandates a 5% minimum salary increase in the event of promotion and classification to a higher pay grade, a 5% minimum salary decrease in the event of demotion, voluntary reassignment, and classification changes to a lower salary grade; and

WHEREAS, the City Pay Policy contains prohibitions against increasing salary in cases of lateral transfer or reassignment and in situations where employees return to the same job after retirement; and

WHEREAS, the City Pay Policy contains permitted exceptions to the above rules concerning recommended base salary; and

WHEREAS, consultation with City staff revealed that, in May of 2017, the City put forward a request for proposals (“RFP”) for Actuarial Services and Employee Benefits Consulting (“Contract”) that would, according to its scope of work (“Scope of Work”), include review of the City Pay Policy, including its current classification and pay grade methodology as part of the update or development of a new Citywide pay plan (“New Pay Plan”) (see Scope of Work at https://assets.austintexas.gov/financeonline/downloads/vc_files/RFP_5800_RWS0503/RFP_5800_RWS0503_0500_v1.pdf); and

WHEREAS, that Scope of Work calls for the selected contractor to undertake an equity study of the City’s compensation structure to determine whether employee pay is affected by gender as opposed to other performance, experience or expertise, factors; and

WHEREAS, that Scope of Work called upon the selected contractor to offer specific recommendations to promote pay equity; and

WHEREAS, consultation with City staff revealed that City personnel believe that development of the New Pay Plan will include an assessment of any Gender Pay Imbalance among City employees and will specifically examine whether the current Pay Policy’s explicit consideration of Salary History serves to amplify Gender Pay Imbalances (as research suggests occurs in the private sector) and, if so, explore alternate pay practices that would not do so which would be incorporated in the New Pay Plan; and

WHEREAS, upon information and belief, the City awarded the Contract to Arthur J. Gallagher & Co. (“Gallagher”) and the work is supposed to start on October 1, 2017 and conclude on or around September 30, 2018;

NOW, THEREFORE, BE IT RESOLVED, that the City Manager and Council immediately halt the practice of soliciting Outside Applicants’ Salary History, which could be accomplished, upon information and belief, by removing that question in the hiring application

on the City's e-career applicant tracking system which currently asks Outside Applicants to provide their Salary History and instructing the City's hiring managers not to inquire about the applicant's Salary History during the interview process; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Manager and Council immediately confer with Gallagher to consider any other interim measures the City could implement aimed at preventing and addressing Gender Pay Imbalance among City employees, including but not limited to the immediate cessation of consideration of salary history in connection with determining recommended base pay; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Manager and Council immediately confer with Gallagher to verify that development of the New Pay Plan includes assessment of any Gender Pay Imbalance among City employees and that the work to be performed under the Contract will specifically examine whether the current Pay Policy's explicit consideration of job applicants' Salary History in connection with the determination of recommended base pay to be offered to a successful job candidate serves to amplify Gender Pay Imbalances (as research suggests occurs in the private sector); and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Manager and Council instruct Gallagher that any New Pay Plan should not include any policies or practices that serve to amplify Gender Pay Imbalances, but rather include policies and practices, including but not limited to a merit-based system of determining compensation adjustments, that serve to remedy such imbalances; and

NOW, THEREFORE, BE IT RESOLVED, that Council may wish to provide the Commission for Women and Human Rights Commission with additional requests relating to Gender Pay Imbalance at some future date when the New Pay Plan has been further developed.

Date of Approval: October 11, 2017



AUSTIN COMMISSION FOR WOMEN RECOMMENDATION 20171108-04b

Date of Approval: November 8th, 2017

Subject: Women's Equity in Austin

Motioned By: Commissioner Rossana Barrios

Seconded By: Commissioner Rebecca Austen

Recommendation

Seven point recommendation in response to Council Resolution 20170323-054.

Description of Recommendation to Council

Details and rationale follow this cover sheet

Vote 7-0

For: Commissioners Cuba Lewis, Barrios, DeFrates, Bope, Gamble, Tober, and Austen

Against:

Abstain:

Absent: Commissioners Powers, Lewis, Thigpen, and Athar-Jogee

Attest:

Mary Clavessa



BOARD/COMMISSION RECOMMENDATION
Austin Commission for Women
Recommendation 20171108-004b Women's Equity in Austin

WHEREAS, the Commission for Women (“Commission”) of the City of Austin (“City”) serves as an advisory body to the City Council (“Council”) and city manager concerning the needs and problems of women in the Austin area and shall recommend programs designed to alleviate any inequities that may confront women in social, economic and vocational pursuits. The Commission shall develop goals and coordinate research for planning, programming, and action relating to opportunities, needs, problems, and contributions of women in the city; and

WHEREAS, on March 23, 2017 the Council passed Resolution No. 20170323-054 (“Resolution”), calling upon the Commission for Women, in collaboration with the City’s Human Rights Commission, to research the City’s previous efforts to address gender disparities in the City as well as research other potential practices that have not been documented or addressed by the City which have an unintended disparate impact on women but are commonly used by common governmental entities comparable to the City, examine whether those practices are being used within the City, and if so, determine their nature and scope, and develop recommendations for modifying City policies or practices to eliminate those disparate impacts; and

WHEREAS, the Resolution further called upon for the Commission for Women and Human Rights Commission to separate their recommendations into long-term and short-term items; and

WHEREAS, on October 11, 2017, the Commission for Women passed recommendations 20171011-05a Women’s Equity in Austin: Equity in Naming of Public Symbols, and 20171011-05b Women’s Equity in Austin: Prohibiting Employment Inquiries Regarding Prior Salary, to address short-term items; and

WHEREAS, in order to assist the Commission for Women and Human Rights Commission in preparing recommendations for long-term items, on August 24, 2017, the City's Human Resources Department provided the Commission for Women and Human Rights Commission with a memorandum ("Memorandum") summarizing the City's efforts to address gender disparities in the City; and

WHEREAS, that Memorandum identified several City policies aimed at promoting women's health, promoting City procurement opportunities for women-owned businesses, eliminating sex-based discrimination in City employment, promoting women's leadership opportunities for City employees, and publicly-available programming aimed at promoting women's participation in a wide variety of economic, scientific, civic and cultural endeavors; and

WHEREAS, that Memorandum did not identify any program or policy with a broader aim of investigating and addressing City laws, policies and practices that create an unintended disparate impact on women, who make up approximately half of Austin's population; and

WHEREAS, the Commission for Women and Human Rights Commission determined that there is one City department, the Equity Office, that employs an Equity Assessment Tool and equity lens to investigate and addresses City laws, policies and practices that create an unintended disparate impact on racial minorities; and

WHEREAS, per the Chief Equity Officer in a response dated October 25, 2017, the Equity Assessment Tool leads with race, as it is the primary predictor of access, outcomes, and opportunities for all quality of life indicators; by focusing on racial equity, the Tool introduces a framework that can be applied to additional marginalized social identities which intersect with racial identity including age, religion, gender identity, sexual orientation, and ability; the current version of the Tool requires data to be disaggregated only by race; the questions in the Tool could be reworked to request information disaggregated by gender with an intersection of race, with minimal to no cost to execute; and

WHEREAS, in the State of Iowa, both race and gender are examined to determine the impact of State policies and programs; specifically, every application for a grant from a state

agency must complete a Minority Impact Statement to outline any unique impact of proposed policies or programs on women, people with disabilities and people of color; and

WHEREAS, income from women's employment is essential to the overall economic status and growth in Austin, yet females in Austin earn less than males, many women work in professions with lower wages, and higher rates of single mothers live in poverty; per the American Community Survey (ACS) Profile Report: 2015¹, Austin had a total population of 887,061, of which 439,246 were female (49.5%); the median earnings overall were \$28,685 for females and \$35,759 for males; median earnings for female full-time, year-round workers was \$41,576 compared to male full-time, year-round workers at \$47,436; among full-time, year round workers, higher percentages of women earned below \$65,000 compared to men, and higher percentages of men earned above \$75,000 and \$100,000; men held higher percentages of jobs in occupations such as management, business and finance, computer, engineering and science, legal, sales, protective services, food preparation, buildings and grounds maintenance, construction, maintenance and repair services, production, transportation and materials moving, compared with women in occupations such as community and social services, education, health practitioners and technicians, health care support, personal care and services, office and administrative support; among the population 16 years and over, 354,150 were females, of which 66.7% were in the labor force, 66.6% in the civilian labor force; of 351,195 total households, 36.9% were married-couple families, 11% were female householder with no husband present, and 4.4% were male householder with no wife present; among families whose income in the past 12 months was below the poverty level, 30.6% were families with female householder, no husband present, 40.6% were female householder with related children under 18 and 45.9% were female householder with related children under 5, compared with overall families at 12.4%, 19.3% under 18 and 15.3% under 5 respectively, or married couple families at 6.6%, 10.2% under 18 and 6.4% under 5 respectively; 11.4% of the total civilian labor force 16 years and over were living below the poverty level, with employed males at 8.9% and employed females at 10.8%, unemployed males at 33.7% and unemployed females at 42.1%; and

WHEREAS, as of August 2016, as cited in the Austin Chronicle², citywide, 68% of workers were male, 32% were female; in management, women held 27% of positions, whereas men held 73%; men accounted for 60% of the executive positions; and

¹ <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=CF>

²

WHEREAS, upon information and belief, the Convention on the Elimination of Discrimination Against Women (“CEDAW”) which was referenced in the Resolution, has yet to be adopted by the City of Austin; and

WHEREAS, as of October 2017, a CEDAW Ordinance has been adopted in the cities of San Francisco, CA, Los Angeles, CA, Miami-Dade County, FL, Pittsburgh, PA, Cincinnati, OH, Berkeley, CA and Honolulu, HI; twenty-two other cities have passed a CEDAW Resolution; over two dozen cities are exploring a possible CEDAW Ordinance or Resolution, including Denver, CO, Boston, MA, New York City, NY, Portland, OR, Philadelphia, PA, and Washington DC; and

WHEREAS, three requirements have been identified as the minimum needed for successful implementation of CEDAW as follows:

1. Gender analysis – This tool analyzes workforce, services, and the city budget in order to integrate gender considerations into the daily operations of local agencies, and to institutionalize new ways of thinking about equitable distribution of government resources. The report includes other demographic characteristics linked to gender such as race, disability, immigration status, and sexual orientation.
2. Oversight body – Crucial to the implementation of programming and policies is having community and government leaders oversee the implementation of action plans.
3. Funding – Municipalities should allocate between \$0.10 and \$0.25 per woman resident to implement program and policy reforms as outlined by CEDAW; and

WHEREAS, if the City of Austin were to adopt a version of CEDAW as a local ordinance (reference the City of San Francisco CEDAW Ordinance in Exhibit A), it would commit itself to integrating gender equity principles into all of its operations, including policy, program and decision-making, which would, at a minimum, require that the Equity Office (or similar office) be empowered to employ an equity tool and equity lens to investigate and addresses City laws, policies and practices that create an unintended disparate impact on women; and

WHEREAS, as concerns gender pay equity, research indicates that, controlling for personal demographics, occupation, college major, hours worked and location, women get paid

Mary Tuma, *The Boys Club*, The Austin Chronicle <https://www.austinchronicle.com/news/2016-08-12/the-boys-club/>

6.6 percent less than men in their very first jobs (“Gender Pay Imbalance”), and that an entity’s knowledge of a job applicant’s self-reported lower salary history (e.g. honest responses to Prior Salary Inquiries) will lead to subsequent job offers at rates that correspond to the (lower) prior salary, such that the cumulative effect over the course of women’s lifetimes amplifies initial and subsequent Gender Pay Imbalances³; and

WHEREAS, other cities and states, including Philadelphia, New York and Massachusetts, in order to promote gender pay equity, have enacted human rights codes and ordinances that prohibit private employers from inquiring about job applicants’ prior salary histories; and

WHEREAS, as concerns gender pay equity, women’s career advancement, and women’s, families’ and children’s wellbeing, research⁴ indicates that paid family and medical leave allows workers to avoid having to choose between caring for their families and keeping their jobs, improves financial security for many disadvantaged groups that cannot afford to take unpaid leave, can help children get a strong start in life, improves business productivity by boosting employee morale and making it easier to retain skilled workers, supports economic growth, and can reduce reliance on public assistance. Furthermore, paid leave can help to close the gender pay gap by increasing women’s attachment to the labor force and raising their long term earnings trajectories, of particular importance as more families depend on women’s earnings; and

WHEREAS, other cities and states, specifically, San Francisco, the District of Columbia, New York, Rhode Island, New Jersey, California, and Seattle, have enacted human rights codes and ordinances requiring private employers to provide paid family leave to their employees; and

3

Christianne Corbett and Catherine Hill, *Graduating to a Pay Gap; the Earnings of Women and Men One Year After College Graduation*, American Association of University Women Study (2013), available online at <https://www.aauw.org/files/2013/02/graduating-to-a-pay-gap-the-earnings-of-women-and-men-one-year-after-college-graduation.pdf>. See also Todd Thorsteinson, *Initiating Salary Discussions With an Extreme Request: Anchoring Effects on Initial Salary Offers*, 1 J. of Applied Psychology, 41(7)(2011). See also Association for Psychological Science article discussing anchoring theory and salary negotiations and Massachusetts law banning the practice of asking for prior salary history, available online at <https://www.psychologicalscience.org/news/minds-business/how-cracking-the-right-joke-benefits-salary-negotiations.html>.

4

The Economic Benefits of Paid Leave: Fact Sheet, Joint Economic Committee, United States Congress, available online at https://www.jec.senate.gov/public/_cache/files/646d2340-dcd4-4614-ada9-be5b1c3f445c/jec-fact-sheet---economic-benefits-of-paid-leave.pdf

WHEREAS, other cities including San Francisco and New York City have enacted human rights codes and ordinances prohibiting private employers from discriminating against employees based on their caregiving status and/or requiring reasonable accommodation to employees to accomplish caregiving tasks so long as they are otherwise able to perform their jobs and the requested accommodation does not impose an undue hardship on the employer; and

WHEREAS, as further concerns gender pay equity, women's career advancement, and women's, families' and children's wellbeing, women are more likely to be victims of domestic violence, sexual abuse and stalking and more likely therefore, to be fired, evicted, or otherwise discriminated against by employers and landlords based on their history of domestic violence, sexual abuse, and/or stalking; and

WHEREAS, other cities and states, specifically, Philadelphia, New York City, California, Connecticut, Illinois, New York, Oregon and Rhode Island, have enacted human rights codes and ordinances prohibiting private employers and landlords from engaging in discrimination against victims of domestic violence, sexual abuse and/or stalking; and

WHEREAS, as concerns women's wellbeing and the integrity of the City as an equal enforcer of the laws, the APD DNA Lab closure in 2016 resulted in a substantial backlog of unprocessed forensic evidence; in response, the Commission for Women submitted Recommendation 20160810-003A to fund additional DNA analysts and a supervisor to fully staff the forensics lab, and to fund a private lab to process 500 backlogged sexual assault examination evidence kits, in order to be operating without a backlog in 3-4 years from October 1, 2016; this recommendation resulted in corrective action by the APD. Further, the Commission for Women submitted recommendation 20170809-003b to (1) include the SAFE Alliance or another organization representing sexual assault survivors to be a voting member of the working group addressing issues associated with the DNA Lab, to (2a) fund training for counselors to work with sexual assault clients, and (2b) fully staff the crisis response counselors positions which are currently open, and hire additional staff to meet the needs of the increasing population requiring support; and

WHEREAS, compensation and promotion systems based on time worked and seniority can create an unintended disparate impact on women, who may enter the workforce at lower pay and leave the workforce for extended periods for childbearing and caregiving of children or elder

parents, compared with merit-based systems which incent and reward employees for performance, providing a more level playing field for women and men regardless of time on the job; and

WHEREAS, training for employees and management to address sexism, racism and implicit bias can raise awareness and remediate issues that impact both women and men in the workplace;

NOW, THEREFORE, BE IT RESOLVED,

- Council immediately act to integrate gender equity principles into all of its operations, including policy, program and decision-making, which would, at a minimum, require that the Equity Office (or similar office) be empowered and supported to employ an equity tool and equity lens to investigate and addresses City laws, policies and practices that create an unintended disparate impact on women; and
- Implement changes to the existing Equity Assessment Tool to provide information on gender as well as race; and
- Pursue adoption of an ordinance implementing CEDAW principles into the Code of the City of Austin; and
- Consider changes to the City of Austin compensation systems in order to pay and promote employees based on merit rather than time worked and seniority; and
- Fulfill the remaining recommendations with regard to the City's response to sexual assault survivors and handling of the rape kit backlog; and
- Educate City employees, managers and executives on sexism, racism and implicit bias; incentivize leaders to complete such training; and provide implicit bias training to private employers through ACC or other education institutions; and
- Examine and develop long-term solutions for other issues that impact women, including domestic violence, caretaker status, lactation, and family leave.

Date of Approval: November 8th, 2017

Record of the vote: The motion passed 7-0. For: Commissioners Cuba Lewis, Barrios, DeFrates, Bope, Gamble, Tober, and Austen

Absent: Commissioners Powers, Lewis, Thigpen, and Athar-Jogee

Attest:



Exhibit A

CITY AND COUNTY OF SAN FRANCISCO MUNICIPAL CODE ADMINISTRATIVE CODE

CHAPTER 12K: LOCAL IMPLEMENTATION OF THE UNITED NATIONS CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

[Sec. 12K.1. Findings.](#)

[Sec. 12K.2. Definitions.](#)

[Sec. 12K.3. Local Principles of CEDAW.](#)

[Sec. 12K.4. Implementation of the Principles of CEDAW in San Francisco.](#)

[Sec. 12K.5. CEDAW Task Force.](#)

[Sec. 12K.6. Summary of CEDAW.](#)

SEC. 12K.1. FINDINGS.

The Board of Supervisors of the City and County of San Francisco hereby finds and declares as follows:

(a) The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), an international human rights treaty, provides a universal definition of discrimination against women and brings attention to a whole range of issues concerning women's human rights. Countries that ratify CEDAW are mandated to condemn all forms of discrimination against women and girls and to ensure equality for women and girls in the civil, political, economic, social and cultural arenas. The United Nations General Assembly adopted CEDAW in 1979 and President Carter signed the treaty on behalf of the United States in 1980, but the United States Senate has not yet ratified CEDAW.

(b) On October 30, 1997, a consortium of community organizations, the Commission on the Status of Women, the Human Rights Commission and Board of Supervisors President Barbara Kaufman held a hearing on the local implications of CEDAW. The testimony at the hearing demonstrated that women and girls continue to face discrimination in the areas of economic development and employment, violence against women and girls, and health care. On November 10, 1997, the Board of Supervisors adopted Resolution No. 1021-97, supporting the local implementation of the underlying principles of CEDAW and urging the United States Senate to ratify CEDAW. On November 17, 1997, Mayor Willie Brown approved Resolution No. 1021-97.

(c) There is a continued need for the City and County of San Francisco to protect the human rights of women and girls by addressing discrimination, including violence, against them and to implement, locally, the principles of CEDAW. Adherence to the principles of CEDAW on the local level will especially promote equal access to and equity in health care, employment, economic development and educational opportunities for women and girls and will also address the continuing and critical problems of violence against women and girls. There is a need to analyze the operations of City departments, policies and programs to identify discrimination in, but not limited to, employment practices, budget allocation and the provision of direct and indirect services and, if identified, to remedy that discrimination. In addition, there is a need to work toward implementing the principles of CEDAW in the private sector.

(d) There is a need to strengthen effective national and local mechanisms, institutions and procedures and to provide adequate resources, commitment and authority to: (1) advise on the impact of all government policies on women and girls; (2) monitor the situation of women comprehensively; and (3) help formulate new policies and effectively carry out strategies and measures to eliminate discrimination. The Commission on the Status of Women shall be designated as the implementing and monitoring agency of CEDAW in the City and County of San Francisco.

(e) In April 1998, the City and County of San Francisco originally enacted this ordinance implementing the principles underlying CEDAW. In 1998, City officials and community representatives formed a CEDAW Task Force. In 1999, the CEDAW Task Force and the Commission on the Status of Women developed "Guidelines for a Gender Analysis," a set of guidelines to assist City departments in implementing the local principles of CEDAW. In 1999, two City departments used the Guidelines to analyze their departments. The resulting report, "A Gender Analysis: Implementing the Convention on the Elimination of All Forms of Discrimination against Women" (November 1999) demonstrated a continuing need to work on elimination of discrimination against women. The Report further revealed that discrimination based on gender is interconnected and often overlaps with discrimination based on race and other criteria.

(f) The Report called on the City and County of San Francisco and its departments to:

- (1) Increase education in human rights with a gender perspective;
- (2) Expand the collection of data disaggregated by gender, race and other traits; and

(3) Create a more fair and equitable workplace by increasing effective recruitment efforts for a diverse workforce, providing meaningful family friendly policies to retain employees and increasing professional development and training opportunities for all employees.

The Report revealed the need to analyze policies, procedures and programs on a Citywide, in addition to, department level. Both the Report and the department human rights trainings revealed the need to consider the intersection of gender and race in particular recognizing the unique experiences of women of color.

(Added by Ord. 128-98, App. 4/13/98; amended by Ord. 325-00, File No. 001920, App. 12/28/2000)

SEC. 12K.2. DEFINITIONS.

As used in this Article, the following words and phrases shall have the meanings indicated herein:

- (a) "City or City and County" shall mean the City and County of San Francisco.
- (b) "Commission" shall mean the Commission on the Status of Women.
- (c) "Disaggregated data" shall mean information collected and analyzed by enumerated categories in order to identify the disparities existing between women and men. These categories shall include, to the extent permitted by law, sex, race, immigration status, parental status, language, sexual orientation, disability, age and other attributes.
- (d) "Discrimination against women" shall include, but not be limited to, any distinction, exclusion or restriction made on the basis of sex that has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental, or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty by family, community or government.
- (e) "Gender" shall mean the way society constructs the difference between women and men, focusing on their different roles, responsibilities, opportunities and needs, rather than their biological differences.
- (f) "Gender analysis" shall mean an examination of the cultural, economic, social, civil, legal and political relations between women and men within a certain entity, recognizing that women and men have different social roles, responsibilities, opportunities and needs and that these differences, which permeate our society, affect how decisions and policy are made.
- (g) "Gender equity" shall mean the redress of discriminatory practices and establishment of conditions enabling women to achieve full equality with men, recognizing that needs of women and men may differ, resulting in fair and equitable outcomes for both.
- (h) "Human rights" shall mean the rights every individual possesses that are intended to improve the conditions in society that protect each person's dignity and well-being and the humanity of all people.
- (i) "Racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

(Added by Ord. 325-00, File No. 001920, App. 12/28/2000. Former Sec. 12K.2 renumbered as Sec. 12K.3 by Ord. 325-00)

SEC. 12K.3. LOCAL PRINCIPLES OF CEDAW.

It shall be the goal of the City to implement the principles underlying CEDAW, listed in Section 12K.6 by addressing discrimination against women and girls in areas including economic development, violence against women and girls and health care. In implementing CEDAW, the City recognizes the connection between racial discrimination, as articulated in the International Convention on the Elimination of All Forms of Racial Discrimination, and discrimination against women. The City shall ensure that the City does not discriminate against women in areas including employment practices, allocation of funding and delivery of direct and indirect services. The City shall conduct gender analyses, as described in Section 12K.4, to determine what, if any, City practices and policies should change to implement the principles of CEDAW.

(a) Economic Development.

(1) The City shall take all appropriate measures to eliminate discrimination against women and girls in the City of San Francisco in employment and other economic opportunities, including, but not limited to, ensuring:

(A) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment and the right to receive access to and vocational training for nontraditional jobs;

- (B) The right to promotion, job security and all benefits and conditions of service, regardless of parental status, particularly encouraging the appointment of women to decision making posts, City revenue generating and managing commissions and departments, and judicial positions;
- (C) The right to equal remuneration, including benefits and to equal pay in respect to work of equal value;
- (D) The right to the protection of health and safety in working conditions, including supporting efforts not to purchase sweatshop goods, regular inspection of work premises, and protection from violent acts at the workplace.

- (2) The City shall encourage and, where possible, fund the provisions of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child care facilities, paid family leave, family-friendly policies and work-life balance.
- (3) The City shall encourage the use of public education and all other available means to urge financial institutions to facilitate women's access to bank accounts, loans, mortgages, and other forms of financial services.

(b) Violence Against Women and Girls.

- (1) The City shall take and diligently pursue all appropriate measures to prevent and redress sexual and domestic violence against women and girls, including, but not limited to:

- (A) Police enforcement of criminal penalties and civil remedies, when appropriate;
- (B) Providing appropriate protective and support services for survivors, including counseling and rehabilitation programs;
- (C) Providing gender-sensitive training of City employees regarding violence against women and girls, where appropriate; and
- (D) Providing rehabilitation programs for perpetrators of violence against women or girls, where appropriate.

The City shall not discriminate on the basis of race, ethnicity, culture, language or sexual orientation, when providing the above supportive services.

- (2) It shall be the goal of the City to take all necessary measures to protect women and girls from sexual harassment in their places of employment, school, public transportation, and any other places where they may be subject to harassment. Such protection shall include streamlined and rapid investigation of complaints.
- (3) Prostitutes are especially vulnerable to violence because their legal status tends to marginalize them. It shall be the policy of San Francisco that the Police Department diligently investigate violent attacks against prostitutes and take efforts to establish the level of coercion involved in the prostitution, in particular where there is evidence of trafficking in women and girls. It shall be the goal of the City to develop and fund projects to help prostitutes who have been subject to violence and to prevent such acts.
- (4) The City shall ensure that all public works projects include measures, such as adequate lighting, to protect the safety of women and girls.
- (5) It shall be the goal of the City to fund public information and education programs to change traditional attitudes concerning the roles and status of women and men.

(c) Health Care.

- (1) It shall be the goal of the City to take all appropriate measures to eliminate discrimination against women and girls in the field of health care in order to ensure, on a basis of equity, information about and access to adequate health care facilities and services, according to the needs of all communities, regardless of race, ethnicity, culture, language, and sexual orientation, including information, counseling and services in family planning.
- (2) It shall be the goal of the City to ensure that women and girls receive appropriate services in connection with prenatal care, delivery, and the post-natal period, granting free services where possible, as well as adequate nutrition during pregnancy and lactation.

- (d) In undertaking the enforcement of this ordinance, the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

(Formerly Sec. 12K.2; added by Ord. 128-98, App. 4/13/98; renumbered and amended by Ord. 325-00, File No. 001920, App. 12/28/2000)

SEC. 12K.4. IMPLEMENTATION OF THE PRINCIPLES OF CEDAW IN SAN FRANCISCO.

(a) Citywide integration of human rights principles. The City shall work towards integrating gender equity and human rights principles into all of its operations, including policy, program and budgetary decision-making. The Commission shall train selected departments in human rights with a gender perspective.

(b) Gender Analysis and Action Plan. As a tool for determining whether the City is implementing the local principles of CEDAW and/or discriminating against women and girls, selected City departments, programs, policies, and private entities to the extent permitted by law, shall undergo a gender analysis and develop an Action Plan. The gender analysis shall be conducted according to guidelines developed by the CEDAW Task Force and Commission. The gender analysis shall include: (i) the collection of disaggregated data; (ii) an evaluation of gender equity in the entity's operations, including its budget allocations, delivery of direct and indirect services and employment practices and (iii) the entity's integration of human rights principles and the local principles of CEDAW as set forth in section 12K.3. Upon completion of the gender analysis, the entity shall develop an Action Plan that contains specific recommendations on how it will correct any identified deficiencies and integrate human rights principles and the local principles of CEDAW into its operations.

(1) The CEDAW Task Force shall identify the City departments, programs, policies, and entities, to undergo the gender analysis and shall develop timelines for completion of the analyses and Action Plans. In the absence of Task Force action, the Commission shall make the selections.

(2) The Commission shall train the selected department, entity, policy or program staff to conduct its gender analysis and shall provide technical assistance to the entity throughout the gender analysis process and development of the Action Plan.

(3) Each department or entity undergoing a gender analysis shall designate a management and/or executive level employee to serve as a liaison to the Commission and to coordinate the completion of the gender analysis.

(4) Each department or entity undergoing a gender analysis shall provide a report on its gender analysis and its Action Plan to the CEDAW Task Force and the Commission, which shall review, analyze and comment on the report and forward it to the Board of Supervisors and the Mayor.

(5) The Commission shall monitor the implementation of each department or entity's Action Plan.

(c) Five-year Citywide Action Plan. Provided sufficient funds are available, the Commission and the CEDAW Task Force shall jointly develop a five-year Citywide Action Plan. The Citywide Action Plan shall address how to integrate human rights principles into the City's operations, how to further implement the local principles of CEDAW as described in Section 12K.3, any and all deficiencies found in the gender analyses and the measures recommended to correct those deficiencies. The Commission and the CEDAW Task Force shall present the Action Plan to the Mayor and the Board of Supervisors on or before December 30, 2002. The Board of Supervisors Committee responsible for considering the City's budget shall hold a hearing to receive the Citywide Action Plan and public comment thereon. The Commission shall monitor the implementation of the Citywide Action Plan.

(Formerly Sec. 12K.3; added by Ord. 128-98, App. 4/13/98; renumbered and amended by Ord. 325-00, File No. 001920, App. 12/28/2000)

SEC. 12K.5. CEDAW TASK FORCE.

(a) Establishment. A CEDAW Task Force is hereby established. The Task Force shall report to the Mayor, the Board of Supervisors and the Commission. The Commission shall provide administrative support for the Task Force. The Task Force shall consist of 11 members.

(b) Purpose. The Task Force is established to advise the Mayor, the Board of Supervisors and the Commission about the local implementation of CEDAW.

(c) Powers and Duties. The Task Force shall have all powers and duties necessary to carry out the local implementation of CEDAW as described in Section 12K.4.

(d) Membership and Organization.

(1) The members of the Task Force shall be as follows:

(A) The President of the Human Rights Commission or her or his designee;

(B) A staff member from the Mayor's Office knowledgeable about the City's budget, to be designated by the Mayor;

(C) The head of the Department of Human Resources or her or his designee;

(D) The President of the Board of Supervisors or her or his designee;

(E) The President of the Commission or her or his designee;

(F) Six members from the community to be appointed by the Commission, as follows:

(i) Two representatives shall work in the field of international human rights and be knowledgeable about CEDAW,

(ii) One representative shall be knowledgeable about economic development, including employment issues,

(iii) One representative shall be knowledgeable about health care issues,

(iv) One representative shall be knowledgeable about violence against women, and

(v) One representative shall be knowledgeable about City unions and experienced in women's issues.

(2) The Task Force shall convene by June 1, 1998.

(3) The Task Force shall expire on June 30, 2003, unless its powers are renewed by the Board of Supervisors. When the Task Force expires, the Commission shall take on the leadership and responsibilities previously designated to the Task Force.

(4) All appointed members of Task Force shall serve at the pleasure of their appointing authorities. The term of each community member of the CEDAW Task Force shall be for two years; provided however, that the initial members shall, by lot, classify their terms so that three members shall serve a two-year term and two members shall serve a three-year term. Subject to the expiration of the Task Force, their successors shall be appointed for a two-year term; provided, however, that any member may be reappointed for consecutive terms.

(e) Alternate members. An alternate may be designated for each member. Ex officio members enumerated in Subsection (d)1(A)--(E) may designate a person to serve as her or his alternate. The Commission may appoint alternate members for those community members enumerated in Subsection (d)1(F). The term of office of the alternate shall be the same as that of the regular member. When the regular member is not present at the meeting of the Task Force, the alternate may act as the regular member and shall have all the rights, privileges, and responsibilities of the regular member.

(f) Attendance requirement. The President of the Commission, or her or his designee, shall monitor the attendance of the Task Force. In the event that any community member, enumerated in Subsection (d)1(F), and her or his alternate miss three regularly scheduled meetings of the Task Force without the prior notice to the Task Force, the President or her or his designee shall certify in writing to the Commission that the member and alternate have missed three meetings. On the date of such certification, the member and alternate shall be deemed to have resigned from the Task Force. The President or her or his designee shall notify the Commission of the resignation and request the appointment of a new member and alternate.

(Formerly Sec. 12K.4; added by Ord. 128-98, App. 4/13/98; renumbered and amended by Ord. 325-00, File No. 001920, App. 12/28/2000; Ord. 16-03, File No. 021853, App 2/7/2003)

SEC. 12K.6. SUMMARY OF CEDAW.

Article 1: Defines discrimination against women as any "distinction, exclusion, or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of marital status, on the basis of equality between men and women, of human rights or fundamental freedom in the political, economic, social, cultural, civil, or any other field."

Article 2. Mandates concrete steps, implementing laws, policies and practices to eliminate discrimination against women and embody the principle of equality.

Article 3. Requires action in all fields--civil, political, economic, social, and cultural--to advance the human rights of women.

Article 4. Permits affirmative action measures to accelerate equality and eliminate discrimination.

Article 5. Recognizes the role of culture and tradition, and calls for the elimination of sex role stereotyping.

Article 6. Requires suppression of traffic in women and exploitation of prostitutes.

Article 7. Mandates ending discrimination against women in political and public life.

Article 8. Requires action to allow women to represent their governments internationally on an equal basis with men.

Article 9. Mandates that women will have equal rights with men to acquire, change or retain their nationality and that of their children.

Article 10. Obliges equal access to all fields of education and the elimination of stereotyped concepts of the roles of men and women.

Article 11. Mandates the end of discrimination in the field of employment and recognizes the right to work as a human right.

Article 12. Requires steps to eliminate discrimination from the field of health care, including access to family planning. If necessary, these services must be free of charge.

Article 13. Requires that women be ensured equal access to family benefits, bank loans, credit, sports and cultural life.

Article 14. Focuses on the particular problems faced by rural women.

Article 15. Guarantees equality before the law and equal access to administer property.

Article 16. Requires steps to ensure equality in marriage and family relations.

Article 17. Calls for the establishment of a committee to evaluate the progress of the implementation of CEDAW.

Articles 18--30. Set forth elements of the operation of the treaty.
(Formerly Sec. 12K.5; added by Ord. 128-98, App. 4/13/98; renumbered by Ord. 325-00, File No. 001920,
App. 12/28/2000)



BOARD/COMMISSION RECOMMENDATION

Human Rights Commission

Recommendation Number: 20171023-001a: Women's Equity in Austin Prohibiting Employment Inquiries Regarding Prior Salary

WHEREAS, the Human Rights Commission of the City of Austin ("Commission") advocates on behalf of human rights for all people in the City of Austin ("City"); and

WHEREAS, the Commission's duties include, but are not limited to, advising and consulting with the Austin City Council ("Council") as well as all City departments, advisory boards and regulatory agencies on all matters involving discrimination, including providing legislative recommendations and proposing measures to improve the ability of various departments and agencies, as well as initiating and facilitating discussions and negotiations between individuals and groups to lessen tensions and improve understanding in the community and aiding in the formulation of local community groups in neighborhoods as needed to carry out specific programs; and

WHEREAS, on March 23, 2017 the Council passed Resolution No. 20170323-054 ("Resolution"), calling upon the Commission, in collaboration with the City's Commission for Women ("Women's Commission"), to research the City's previous efforts to address gender disparities in the City as well as research other potential practices that have not been documented or addressed by the City which have an unintended disparate impact on women but are commonly used by common governmental entities comparable to the City, examine whether those practices are being used within the City, and if so, determine their nature and scope, and develop recommendations for modifying City policies or practices to eliminate those disparate impacts; and

WHEREAS, the Resolution further called upon for the Commission and Women's Commission to separate their recommendations into long-term and short-term items; and

WHEREAS, with regard to short-term items, the Resolution called upon the Commission and Women's Commission to offer recommendations concerning steps to review City practices with regard to requesting previous salary data for City job applicants and appropriate measures to eliminate those practices ("Prior Salary Inquiries") and;

WHEREAS, the Commission and Women's Commission is aware of research indicating that, controlling for personal demographics, occupation, college major, hours worked and location, women get paid 6.6 percent less than men in their very first jobs ("Gender Pay Imbalance"), and that an entity's knowledge of a job applicant's self-reported lower salary history (e.g. honest responses to Prior Salary Inquiries) will lead to subsequent job offers at rates that correspond to

the (lower) prior salary, such that the cumulative effect over the course of women's lifetimes amplifies initial and subsequent Gender Pay Imbalances¹; and

WHEREAS, the effects of Gender Pay Imbalances are detrimental to women's wellbeing, specifically impairing their ability to repay student debt, limiting their options for housing, clothing and feeding themselves and, if applicable, their children (especially in the case of single mothers), saving for their children's college education (especially in the case of single mothers) and increasing the likelihood (if married and earning less than their husbands) that, upon reaching parenthood, the woman will be the parent to take time away from the workforce or reduce working hours, which further widens the gap between men's and women's future earnings and, over the long-run, contributes to a poverty rate among elderly women that is twice that of elderly men²; and

WHEREAS, the City, which currently ranks number 9 on Forbes' list of Best U.S. Employers, seeks to serve as a model of pay equity among employers, public and private, nationwide; and

WHEREAS, regarding Prior Salary Inquiries, consultation with City staff revealed that that practice, as relates to outside applicants ("Outside Applicants") for City jobs can be eliminated by:

- (a) removing that question in the hiring application on the City's e-career applicant tracking system which currently asks Outside Applicants to provide their prior salary history ("Salary History")(which, upon information and belief, is the same application used for the all sworn, unsworn and civil service jobs, but not for temporary/seasonal jobs, which may not use written application forms); and
- (b) instructing the City's hiring managers not to inquire about the applicant's Salary History during the interview process; and

WHEREAS, consultation with City staff revealed that, while internal applicants ("Internal Applicants") for City jobs are not necessarily subject to explicit Prior Salary Inquiries, the City's pay policy procedures ("City Pay Policy") mandate that Internal Applicants' Salary History is nonetheless considered in connection with any type of job transfer as Salary History one of the factors that will determine the recommended base salary to be offered in connection with that transfer (see City Pay Policy document entitled Human Services Department Establishing Base Pay attached at Exhibit A); and

¹ Christianne Corbett and Catherine Hill, Graduating to a Pay Gap; the Earnings of Women and Men One Year After College Graduation, American Association of University Women Study (2013), available online at <https://www.aauw.org/files/2013/02/graduating-to-a-pay-gap-the-earnings-of-women-and-men-one-year-after-college-graduation.pdf>. See also Todd Thorsteinson, Initiating Salary Discussions With an Extreme Request: Anchoring Effects on Initial Salary Offers, 1 J. of Applied Psychology, 41(7)(2011). See also Association for Psychological Science article discussing anchoring theory and salary negotiations and Massachusetts law banning the practice of asking for prior salary history, available online at <https://www.psychologicalscience.org/news/minds-business/how-cracking-the-right-joke-benefits-salary-negotiations.html>.

² Corbett and Hill, *supra* note 1 at p. 5.

WHEREAS, the City Pay Policy mandates a 5% minimum salary increase in the event of promotion and classification to a higher pay grade, a 5% minimum salary decrease in the event of demotion, voluntary reassignment, and classification changes to a lower salary grade; and

WHEREAS, the City Pay Policy contains a prohibition against increasing salary in cases of lateral transfer or reassignment; and

WHEREAS, the City Pay Policy contains permitted exceptions to the above rules concerning recommended base salary; and

WHEREAS, consultation with City staff revealed that, in May of 2017, the City put forward a request for proposals ("RFP") for Actuarial Services and Employee Benefits Consulting ("Contract") that would, according to its scope of work ("Scope of Work"), include review of the City Pay Policy, including its current classification and pay grade methodology as part of the update or development of a new Citywide pay plan ("New Pay Plan")(see Scope of Work at https://assets.austintexas.gov/financeonline/downloads/vc_files/RFP_5800_RWS0503/RFP_5800_RWS0503_0500_v1.pdf); and

WHEREAS, that Scope of Work calls for the selected contractor to undertake an equity study of the City's compensation structure to determine whether employee pay is affected by gender as opposed to other performance, experience or expertise, factors; and

WHEREAS, that Scope of Work called upon the selected contractor to offer specific recommendations to promote pay equity; and

WHEREAS, consultation with City staff revealed that City personnel believe that development of the New Pay Plan will include of assessment of any Gender Pay Imbalance among City employees and will specifically examine whether the current Pay Policy's explicit consideration of Salary History serves to amplify Gender Pay Imbalances (as research suggests occurs in the private sector) and, if so, explore alternate pay practices that would not do so which would be incorporated in the New Pay Plan; and

WHEREAS, upon information and belief, the City awarded the Contract to Arthur J. Gallagher & Co. ("Gallagher") and the work is supposed to start on October 1, 2017 and conclude on or around September 30, 2018.

NOW, THEREFORE, BE IT RESOLVED, that the City Manager and Council immediately halt the practice of soliciting Outside Applicants' Salary History, which could be accomplished, upon information and belief, by removing that question in the hiring application on the City's e-career applicant tracking system which currently asks Outside Applicants to provide their Salary History and instructing the City's hiring managers not to inquire about the applicant's Salary History during the interview process; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Manager and Council immediately confer with Gallagher to consider any other interim measures the City could implement aimed at preventing and addressing Gender Pay Imbalance among City employees, including, but not limited to, immediately halting the practice of considering Salary History in connection with determining recommended base pay; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Manager and Council immediately confer with Gallagher to verify that development of the New Pay Plan includes assessment of any Gender Pay Imbalance among City employees and that the work to be

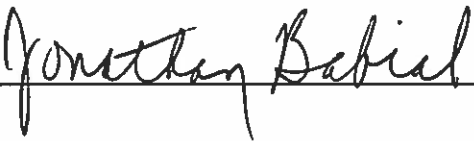
performed under the Contract will specifically examine whether the current Pay Policy's explicit consideration of job applicants' Salary History in connection with the determination of recommended base pay to be offered to a successful job candidate serves to amplify Gender Pay Imbalances (as research suggests occurs in the private sector); and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Manager and Council instruct Gallagher that any New Pay Plan should not include any policies or practices that serve to amplify Gender Pay Imbalances, but rather include policies and practices, including but not limited to a merit-based system of determining compensation adjustments, that serve to remedy such imbalances; and

NOW, THEREFORE, BE IT RESOLVED, that Council may wish to provide the Human Rights Commission and Commission for Women with additional requests relating to Gender Pay Imbalance at some future date when the New Pay Plan has been further developed.

Date of Approval: October 23, 2017

Record of the vote: 7-0. Motion to adopt by Commissioner Avashia, Commissioner Casas second. Voting in favor were Vice Chair Caballero, Commissioner Avashia, Commissioner Bennett, Commissioner Casas, Commissioner McMahon, Commissioner Royall, and Commissioner Yang. Chair Davis, Commissioner Brown, Commissioner Miguez, and Commissioner Normand were absent.

Attest: _____

Jonathan Babiak

Staff Liaison, Human Rights Commission



BOARD/COMMISSION RECOMMENDATION

Human Rights Commission

Recommendation Number: 201701023-001b Women's Equity in Austin Equity in Naming of Public Symbols

WHEREAS, the Human Rights Commission of the City of Austin ("Commission") advocates on behalf of human rights for all people in the City of Austin ("City"); and

WHEREAS, the Commission's duties include, but are not limited to, advising and consulting with the Austin City Council ("Council") as well as all City departments, advisory boards and regulatory agencies on all matters involving discrimination, including providing legislative recommendations and proposing measures to improve the ability of various departments and agencies, as well as initiating and facilitating discussions and negotiations between individuals and groups to lessen tensions and improve understanding in the community and aiding in the formulation of local community groups in neighborhoods as needed to carry out specific programs; and

WHEREAS, on March 23, 2017 the Council passed Resolution No. 20170323-054 ("Resolution"), calling upon the Commission, in collaboration with the City's Commission for Women ("Women's Commission"), to research the City's previous efforts to address gender disparities in the City as well as research other potential practices that have not been documented or addressed by the City which have an unintended disparate impact on women but are commonly used by common governmental entities comparable to the City, examine whether those practices are being used within the City, and if so, determine their nature and scope, and develop recommendations for modifying City policies or practices to eliminate those disparate impacts; and

WHEREAS, the Resolution further called upon for the Commission and Women's Commission to separate their recommendations into long-term and short-term items; and

WHEREAS, with regard to short-term items, the Resolution called upon the Commission and Women's Commission to offer recommendations concerning steps to study disparities in Austin between streets named after men and those named after women, and appropriate measures to eliminate those disparities; and

WHEREAS, the Commission is aware of a 2015 study of seven world metros (London, Paris, San Francisco, Mumbai, New Delhi, Chennai and Bangalore), found that, controlling for gender-neutral names, only 27.9% of streets named for persons were named for women (see article at <https://www.citylab.com/equity/2015/11/mapping-the-sexism-of-city-street-names/414094/>); and

WHEREAS, the Street Name Database does not itself indicate whether a given street was named after a natural person and many streets that appear likely to have been named after natural persons do not include that person's first name, making determination of their gender impossible without conducting additional research of that street name's history; and

WHEREAS, Equal Visibility Everywhere, a Washington D.C.-based nonprofit dedicated to achieving gender parity in the symbols and icons of the United States, has noted gender imbalances exist nationwide in not only street names, but in building names, statuary, monuments and memorials, public holidays, parades and festivals, as well as in stamps and currency, in museum exhibits and in the media; and

WHEREAS, women's history is full of scientists, writers, artists, activists and politicians, and women who have made positive contributions to society and deserve more widespread recognition for their work; and

WHEREAS, the predominance of public symbols that are laudatory of exclusively male achievements are understood and perceived by America's schoolchildren in ways that contribute to boys' confidence and diminish girls' confidence; and

WHEREAS, the lack of public symbols recognizing the societal contributions of persons of color, particularly women of color, presents a similar problem, which is made worse when a public authority fails to adapt the contextualization of existing public symbols devoted to persons who may have caused or perpetuated racial harms to the modern age; and

WHEREAS, according to data maintained on the City's Demographics Data Library website, whites now make up 47.1% of the City's population (see [http://www.austintexas.gov/sites/default/files/files/Planning/Demographics/Age by Race 2014.pdf](http://www.austintexas.gov/sites/default/files/files/Planning/Demographics/Age%20by%20Race%202014.pdf)); and

WHEREAS, upon information and belief, the City's public symbols that are named after natural persons represent a significantly larger percentage of white persons than persons of color, particularly women of color; and

WHEREAS, as regards new street names, the City's Street Naming Guidelines are posted on the City's website and available for review at https://www.austintexas.gov/sites/default/files/files/Planning/Applications_Forms/street-naming-standards.pdf ("Street Naming Guidelines"); and

WHEREAS, the Street Naming Guidelines do not list gender equity or racial equity in street naming as among the criteria in the selection of new names for the Street Name Database; and

WHEREAS, the criteria and procedure for the naming or renaming of City facilities ("Facilities"), that is, buildings, structures, or other facilities directly used by the public, as well as parks, park facilities and features set forth at §14-1-31 through 39 of the City Code, which does not list gender or racial equity in its naming criteria; and

WHEREAS, upon information and belief, gender or racial equity play no formal role in considerations for the naming or renaming of Facilities; and

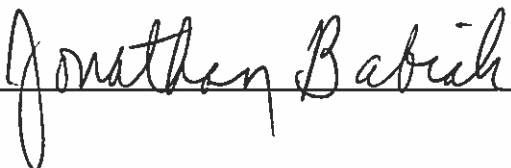
WHEREAS, to the extent that City statutes and memorials are not named using the conventions found at §14-1-31 through 39 of the City Code (relating to "Facilities"), upon information and belief, gender and racial equity play no formal role in considerations for the naming or renaming of them; and

NOW, THEREFORE, BE IT RESOLVED, that the Council and the City Manager's Office take all appropriate steps to immediately insert, in those criteria used by the City to select names for streets, public buildings, statues, memorials, public parks, park facilities and features, a requirement that, going forward, gender and racial equity shall be required, meaning that, for any new streets, public buildings, statues, memorials, public parks, park facilities and features, named after natural persons, the half of them shall be named after women and at least half of these shall be named after women of color; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that, after equitable proactive policies have been put in place, Council may again call upon the Human Rights Commission and Commission for Women to offer recommendations in connection with studying the extent of naming inequities and remedial measures to address them.

Date of Approval: October 23, 2017

Record of the vote: Motion to adopt by Commissioner Bennett, second by Commissioner McMahon. Voting in favor were Vice Chair Caballero, Commissioner Avashia, Commissioner Bennett, Commissioner Casas, Commissioner McMahon, and Commissioner Yang. Voting against was Commissioner Royall. Chair Davis, Commissioner Brown, Commissioner Miguez, and Commissioner Normand were absent.

Attest: _____

Jonathan Babiak
Staff Liaison, Human Rights Commission