

**RESOLUTION NO. 20150205-003**

**WHEREAS**, less than five percent of Austin's firefighters are African-American and less than twenty percent of Austin's firefighters are Hispanic; and

**WHEREAS**, there is a well-documented history of racial discrimination in the hiring processes of public safety departments across the United States; and

**WHEREAS**, the City of Austin is committed to building a professional Fire Department whose diversity reflects the diversity of our City; and

**WHEREAS**, Austin Firefighters Association Local 975 (AFA) has stated their commitment to a professional and diverse Fire Department during multiple public sessions of the Austin City Council; and

**WHEREAS**, the voters of the City of Austin voted in favor of collective bargaining rights for Austin's firefighters by referendum in 2004; and

**WHEREAS**, AFA—the democratically chosen representative of Austin's firefighters—and the City of Austin have not achieved a mutually beneficial collective bargaining agreement and contract since 2009; and

**WHEREAS**, the failure to achieve a mutually beneficial collective bargaining agreement harms the City's ability to promote and protect the interests of the public; and

**WHEREAS,** the City of Austin and AFA have regularly bargained over a hiring process for years, and the City's long-term ability to achieve diversity in our fire department and fair treatment of firefighters is dependent on collective bargaining; and

**WHEREAS,** the City of Austin is now under Consent Decree with the Department of Justice to ensure that all provisions of Title VII of the Civil Rights Act of 1964 are fully enforced and to ensure that no disparate impact discrimination exist within any hiring process of our Fire Department; and

**WHEREAS,** the City of Austin is committed to standing for racial equity, for the right of workers to organize and bargain as a union, and for ensuring the safety of the public through a professional fire department; and

**WHEREAS,** the AFA has sent a request for collective bargaining to the City of Austin, and the City intends to bargain with the AFA as soon as practicable; **NOW,**

**THEREFORE,**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

The Council directs the City Manager to:

1. When bargaining, agree to terms for a hiring process and cadet training standards within the mutually beneficial collective bargaining agreement. The City Council desires that the bargained hiring process meet the Council's goal of racial equity and meet the City's responsibilities already detailed in the Consent Decree, which include:

- a) only include testing procedures that are job-related and justified by the business necessity of running a safe and professional Fire Department;
- b) limit components of testing that are proven to have high adverse impacts against applicants of color and women;
- c) reasonably seek to hire the best firefighters while minimizing adverse impact;  
and
- d) meet the City's obligations under the Consent Decree.

2. The Council desires that collective bargaining with the Austin Firefighters Association include bargaining over a mutually acceptable hiring process, including criteria for selecting a hiring vendor, and that such bargaining be completed prior to Council action on the selection of a hiring vendor. The Council further desires that the current vendor evaluation process incorporate specific modifications to that process as agreed to today and shown in Exhibit A, and that the vendor selection process proceed in a manner that will meet the timeline required in the Consent Decree. In the event a collective bargaining agreement cannot be achieved on a timeline that ensures compliance with the Consent Decree, the Council directs the City Manager to include consultation with the AFA in the formation of any agreement for professional consulting services in connection with the hiring process at the Austin Fire Department.

3. In anticipation of successful bargaining with AFA Local 975, direct Fire Department staff to not spend the current fiscal year budgeted 1% salary increase on items other than

its intended purpose of a general wage increase. Also, direct appropriate budget staff to prepare the FY 2015/16 budget with lost general wage increases from 2013 and 2014 to prepare for the possibility of successful future bargaining sessions. This provision is not intended to guarantee specific salary increases for firefighters, but rather it is intended to prepare the City for the possibility of a successfully bargained contract.

**BE IT FURTHER RESOLVED:**

The Council desires that:

4. The process for seeking a third party hiring vendor strongly consider any vendor's history of success in producing both racially diverse and successful public safety personnel when working with other major or comparable metropolitan public safety departments. A third party vendor should be required to produce a test intended to have a level of validity commensurate with the high stakes job of structural firefighting, and the City Council desires that the City and the AFA attempt to include a specific goal for validity of a testing instrument in a collective bargaining agreement to avoid any future misunderstandings or grievances over such terms in the agreement.

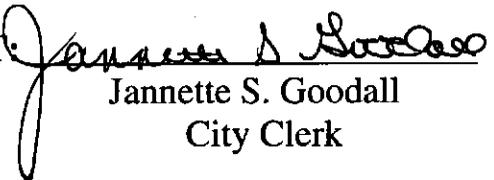
5. The City Manager notify the City Council immediately if there is a determination that collectively bargaining over hiring is likely to result in unlawful disparate impact against people of color or women.

6. The City Manager brief the City Council on the City's proposal for recruiting more applicants of color and women with the skill sets needed to be a successful candidate

within the hiring process for firefighters. The City Council would like to consider any additional action items that could further support extensive recruitment in the local community and communities of color. The City Council would like to consider providing more support for internship programs or school partnerships to increase the pool of local applicants.

**ADOPTED:** February 5, 2015

**ATTEST:**

  
Jannette S. Goodall  
City Clerk

## **EXHIBIT A**

1. Change the composition of operational evaluation team to 3 from management, 2 from AFA. Others from management can attend as observers.
2. Allow non-participating observers from AFA to meeting tomorrow (technical evaluation).
3. Nothing in the vendor selection process will be used by the City or the AFA to limit the ability to bargain collectively.
4. Ultimate vendor selection will incorporate any agreements regarding hiring reached in collective bargaining so long as compliant with consent decree.
5. City will not select a hiring vendor until after bargaining has been completed.
6. Vendor selection proposal to City Council will include the requirement that the proposed vendor meet the requirements of any agreement between the City and the Association regarding hiring.
7. If bargaining fails, then Association will be consulted about the development of the provisions of the vendor contract.