

25 **WHEREAS**, approximately 80% of all individuals who undergo fertility
26 treatment do not have insurance coverage for these services, and when IVF
27 treatment is paid for out-of-pocket, employees often pursue less expensive and less
28 effective treatments; and

29 **WHEREAS**, many couples and individuals may be prevented from building
30 families because employer benefits may not consider fertility treatment to be
31 covered as medically necessary or provide support to workers seeking adoption,
32 fostering or kinship placement, leaving these options to be cost-prohibitive for
33 most employees attempting to self-finance; and

34 **WHEREAS**, since 1987, the State of Texas has been one of only a handful
35 of states that require private health insurers make available coverage for expenses
36 that may arise from IVF procedures; however, according to section 1366.005 of the
37 Insurance Code, coverage is required only when reproductive material comes from
38 a spouse and the couple must have a medical history of infertility for at least five
39 years; and

40 **WHEREAS**, the City employee health coverage is self-funded and exempt
41 from many state rules on private health care coverage and the current City policy
42 excludes most fertility treatments, including IVF under a wide range of scenarios,
43 but does have similar medical infertility coverage as required in state code as well
44 as in cases of cervical trauma; and

45 **WHEREAS**, the City prides itself on being a LGBTQIA+ friendly
46 community and employer, and on May 13, 2006, Austin voters passed Proposition
47 2 by a vote of 68 percent in favor which amended the City Charter to recognize
48 equal domestic partner benefits for City employees; and

49 **WHEREAS**, the City supports gender equity, and the Council has passed
50 Resolution No. 20170323-054, which states that it is the goal of the City is to
51 eliminate any “distinction, exclusion, or restriction made on the basis of sex which
52 has the effect or purpose of impairing or nullifying the recognition, enjoyment or
53 exercise by women, irrespective of marital status, on the basis of equality between
54 men and women, of human rights or fundamental freedom in the political,
55 economic, social, cultural, civil, or any other field;” and

56 **WHEREAS**, fertility care services, such as oocyte cryopreservation (egg
57 freezing), allow for greater choice in the timing of pregnancy and planning of
58 family development which may be less disruptive to employee careers; and

59 **WHEREAS**, on June 15, 2020, the United States Supreme Court ruled in
60 *Bostock v. Clayton County, Georgia* that sexual orientation and gender identity
61 discrimination are prohibited under federal sex-based employment protections; and

62 **WHEREAS**, *The Access to Infertility Treatment and Care Act* (S.2352,
63 HR4450) has been introduced in Congress and would require health insurers
64 nationally to provide a standard level of coverage for infertility treatment, as well
65 as fertility preservation services for individuals who anticipate undergoing
66 medically necessary procedures that may cause infertility, such as chemotherapy;
67 and

68 **WHEREAS**, according to the May 2021 RESOLVE National Survey of
69 Employer-Sponsored Health Plans, 97% of employers who reported adding
70 infertility coverage did not result in a significant increase in medical plan cost; and

71 **WHEREAS**, recently there has been significant growth in fertility coverage
72 among private employers, and according to the same study, 55% of companies had
73 some level of coverage and 47% included IVF; and

74 **WHEREAS**, many couples or individuals may seek to grow their family
75 through adoption, fostering or kinship placement and there are currently over
76 100,000 children awaiting adoption in the United States, and over 400,000 children
77 in foster care, including approximately 45,000 in foster care in Texas, which has
78 long lacked shelter and placement capacity; and

79 **WHEREAS**, employers can provide support for the often complex and
80 expensive process of adoption, fostering or kinship placement by including
81 information and referral resources, financial assistance, and parental leave; and

82 **WHEREAS**, the City competes for workforce talent with many employers
83 who offer expanded family building benefits, and

84 **WHEREAS**, the City strives to be a model employer in its commitment to
85 the values of equity and non-discrimination, setting an example for other major
86 employers in central Texas and the country; **NOW, THEREFORE,**

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

88 The City of Austin supports laws and policies that protect and promote the
89 full spectrum of reproductive justice. Individuals and couples have the right to plan
90 their families without discrimination, and access to medical care and employer
91 support should be inclusive of all individuals or couples seeking to build a family,
92 independent of their wealth, gender identity, sexual orientation, or marital status.

93 **BE IT FURTHER RESOLVED:**

94 The City Manager is directed to amend the federal legislative agenda to
95 support legislation that advances workplace equity for family building support and
96 increases the number of people with access to health insurance that covers
97 infertility medical treatment, and specifically IVF and fertility preservation.

98 **BE IT FURTHER RESOLVED:**

99 The City Manager is directed to study and provide recommendations for
100 providing inclusive and high-quality family-building benefits to City employees,
101 including, but not limited to, expanded access to IVF, cryopreservation, and
102 support for adoption, foster care, and kinship placement services. This study may
103 make recommendations for phased implementation of benefits.

104 **BE IT FURTHER RESOLVED:**

105 The City Manager is directed to provide an interim status update to Council
106 within 90 days and a final report back to Council within 180 days and to share their
107 final recommendations and copy of this Resolution with:

- 108 • The Human Rights Commission, Commission for Women, LGBTQ Quality
109 of Life Commission, Early Childhood Council, and Mayor’s Committee for
110 People with Disabilities;
- 111 • Leadership of employee affinity groups including Woman to Woman and
112 Stonewall Equality Employee Network; and
- 113 • AFSCME Local 1624, Austin EMS Association, Austin Firefighters
114 Association, and Austin Police Association.

115

116 **ADOPTED:** _____, 2022 **ATTEST:** _____

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Myrna Rios
City Clerk