



**CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT**

Agenda Date: May 20, 2024

SUBJECT: City Contractor Equal Pay Act Compliance Ordinance – Second Reading – Pass to Print

REPORT BY: Nicole Almaguer, City Manager

SUMMARY

The issue before the Council is the adoption of an Equal Pay Ordinance.

STAFF RECOMMENDATION

That the Council adopt Ordinance No. 2024-01, amending Chapter 2 of the Albany Municipal Code by adding a new section entitled “City Contractor Equal Pay Act Compliance”.

BACKGROUND

On April 1, 2024, Vice Mayor López and Council Member Tiedemann provided a memorandum requesting the Council direct staff to prepare an Equal Pay Ordinance that codifies pay parity across genders for contractors/vendors under contractual agreement with the City of Albany. The City Council unanimously approved this request.

On May 6, 2024, Ordinance No. 2024-01 was introduced for first reading by the City Council.

DISCUSSION

The proposed Ordinance incorporates requirements that have been established regarding equal pay, prohibiting an employer from paying any of its employees wage rates less than the wage rates paid to employees of another gender, race or ethnicity for equal or substantially similar work per the California Equal Pay Act and Fair Pay Act, which are codified in California Labor Code section 1197.5.

The Ordinance is intended to provide a mechanism for the City to determine whether those under contract to provide services to the City are in compliance with the requirements of the Equal Pay Act and Fair Pay Act. All entities entering into a contract with the City will be required to certify in writing that they will comply with the requirements of the California Equal Pay Act and Fair Pay Act. Further, violations will be addressed and can constitute a

material breach of the applicable contract, with authority by the City to cancel, terminate, or suspend the contract.

SUSTAINABILITY CONSIDERATIONS

N/A.

SOCIAL EQUITY AND INCLUSIVITY CONSIDERATIONS

As provided by Vice Mayor López and Council Member Tiedemann, ensuring codified protection for equity in pay, regardless of gender, ethnic background, or race, advances the City's equity goals.

CITY COUNCIL STRATEGIC PLAN INITIATIVES

The proposed Ordinance helps further the City Council Strategic Plan, Goal 4: Encourage Community Connectivity through Diversity, Equity & Inclusivity.

FINANCIAL CONSIDERATIONS

The proposed Ordinance will be implemented and administered with existing staff resources and should not require additional funding that is not already incorporated into the City Operating Budget.

Attachment

1. Ordinance No. 2024-01

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDINANCE NO. 2024-01

**AN ORDINANCE OF THE ALBANY CITY COUNCIL AMENDING
CHAPTER 2 OF THE ALBANY MUNICIPAL CODE BY ADDING A NEW SECTION
ENTITLED “CITY CONTRACTOR EQUAL PAY ACT COMPLIANCE”**

WHEREAS, the City of Albany prioritizes racial inclusivity and social equity for all members of our community; and

WHEREAS, the California Equal Pay Act and Fair Pay Act, which are codified in California Labor Code section 1197.5, prohibit an employer from paying any of its employees wage rates less than the wage rates paid to employees of another gender, race or ethnicity for equal or substantially similar work; and

WHEREAS, recent salary studies have shown that women continue to be paid less than men for substantially similar work; and

WHEREAS, wage disparities in earnings have a significant impact on the welfare and economic security, and can contribute to higher poverty rates among women, especially women of color and single women living with children; and

WHEREAS, there is no mechanism for a local agency to determine whether contractors or firms who seek to contract with the local agency are in compliance with the requirements of the Equal Pay Act.

NOW, THEREFORE, THE ALBANY CITY COUNCIL ORDAINS AS FOLLOWS:

SECTION 1: CHAPTER 2 OF THE ALBANY MUNICIPAL CODE, ARTICLE VI, SECTION 2-29 TITLED “CITY CONTRACTOR EQUAL PAY ACT COMPLIANCE” IS HEREBY AMENDED AS FOLLOWS:

1 PURPOSE.

2 It is the intent of the Albany City Council to provide a local means of determining whether entities
3 contracting with the City are in compliance with the California Equal Pay Act. The regulations
4 established by this ordinance shall apply to all individuals or firms who provide services to the
5 City as independent contractors or paid consultants.
6

7
8 DEFINITIONS.

9 “City” as herein used shall mean the City of Albany

10 “Contract” means any agreement between the City and another party for the provision of material,
11 equipment or services to the City. Contract does not include public works contracts as defined by
12 Albany Municipal Code Section 13-4.1.

13 “Contractor” means any individual or firm providing or proposing to provide material, equipment
14 or services to the City as an independent contractor or consultant.

15
16 APPLICABILITY OF EQUAL PAY ORDINANCE.

17 All contracts awarded by the City for material, equipment, or services to contractors shall
18 demonstrate compliance with the requirements of the California Equal Pay Act and Fair Pay Act
19 as codified in California Labor Code section 1197.5. The awarding of a contract or the approval
20 of payments or expenses under a contract by the City to a person or entity that has not complied
21 with the reporting requirements is regarded as a violation.

Awarding of contracts shall be prohibited according to the following:

- 22 (1) A contractor shall not be awarded a contract with the City when the contractor has been
23 determined to have violated the Equal Pay Act and Fair Pay Act at any time within the
24 preceding five (5) years.
25 (2) A contractor shall not be awarded a contract with the City if the contractor refuses to comply
26 with the requirement to provide a certification of compliance as part of Equal Pay Act and
27 Fair Pay Act as part of contract agreements.
28

1 CERTIFICATION OF COMPLIANCE.

2 Contractors shall certify in writing to the City that they will comply with the requirements of the
3 California Equal Pay Act and Fair Pay Act, as defined in California Labor Code section 1197.5,
4 and as may be amended, for the duration of the applicable contract.
5

6 VIOLATIONS.
7

8 The City may issue a written notice to the contractor if it determines that a violation exists. The
9 notice shall inform the contractor that it must cure the violation within 30 calendar days.
10 Contractor's failure to cure the violation shall constitute a material breach of the applicable
11 contract and the City may cancel, terminate, or suspend the contract in whole or in part, in addition
12 to any other remedies or actions provided in the contract.

13 **SECTION 2: PUBLICATION AND EFFECTIVE DATE.**

14 This ordinance shall be posted at three public places within the City of Albany and shall
15 become effective thirty days after the date of its posting.
16

17 **PASSED AND ADOPTED** by the City Council of the City of Albany at its meeting on
18 the __ day of _____ 2024, by the following vote:

19 AYES:

20 NOES:

21 ABSENT:

22 ABSTAIN:

23 _____
24 JOHN MIKI, MAYOR
25
26
27
28