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April 9, 2024

CONFIDENTIAL AND PRIVILEGED
ATTORNEY WORK PRODUCT

Shannon Ragonesi
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Re: [REDACTED] v. *City of Anacortes*

Dear Ms. Ragonesi:

You retained me to investigate a complaint the City of Anacortes (the “City”) received from [REDACTED].¹ Ms. [REDACTED] alleges that she was subjected to sex/pregnancy-based discrimination and harassment by Mayor Matt Miller. Ms. [REDACTED] additionally alleges that she was subjected to “bullying” by Emily Schuh, Director of Administrative Services.

This is my investigative report.

I. Investigative Procedure – Persons Interviewed.

I interviewed the following people on the specified dates:

1. Ms. [REDACTED], City of Anacortes (November 29, 2023) (by videoconference);
2. Ms. [REDACTED], City of Anacortes (December 7, 2023) (by videoconference);
3. Ms. [REDACTED], City of Anacortes (December 15, 2023) (by videoconference);

¹ Ms. [REDACTED] resigned from her employment with the City effective November 1, 2023, while she was on a leave of absence following the birth of her son. After resigning from her employment, she made her complaint verbally to the City Council and subsequently provided the Council with written notes she had taken documenting Mayor Miller’s alleged harassing and discriminatory behavior towards her (referred to herein as the [REDACTED] Complaint”). See [REDACTED] Complaint (copy attached as Exhibit 1).

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4. Mr. [REDACTED], City of Anacortes (December 22, 2023) (by telephone); and
5. Mayor Matt Miller, City of Anacortes (January 19, 2024 (in person) and January 24, 2024 (by videoconference)).

I attempted to interview Henry Hash, former City Public Works Director, as a part of my investigation but was unable to do so after Mr. Hash did not agree to participate in an interview with me.

II. Investigative Procedure – Documents Reviewed.

I reviewed the following documents:

1. [REDACTED] timeline of allegations;
2. Various email communications and documentation provided by [REDACTED];
3. Various email communications, text communications and documentation provided by M. Miller; and
4. City of Anacortes Personnel Policies, including Policy 201 (Equal Employment Opportunity), Policy 202 (Productive Work Environment – Complaints of Unlawful Discrimination, Harassment or Retaliation) and Policy 204 (Hiring).

III. Findings of Fact.

A. Factual Background.

The following facts are not in material dispute, unless noted otherwise.

1. Ms. [REDACTED] Employment History with the City.

Ms. [REDACTED] was employed by the City from September 2021 until November 1, 2023. From September 2021 until December 31, 2022, Ms. [REDACTED] was employed as [REDACTED] and reported directly to Ms. Schuh. From January 1, 2023, until November 1, 2023, Ms. [REDACTED] was employed as [REDACTED] and reported directly to Mayor Miller.²

² Ms. [REDACTED] went out on a leave of absence related to her pregnancy and the birth of her son on August 27, 2023. In October 2023 while she was out on leave, Ms. [REDACTED] tendered her resignation with a November 1, 2023, effective resignation date.

2. Mayor Miller's History with the City.

Mayor Miller has served as the mayor of the City (elected) since 2022. He previously served as a City Councilmember for eight years.

3. Emily Schuh's Employment History with the City.

Ms. Schuh has been employed with the City since January 2000 when she was hired as Human Resources Manager. In approximately 2004, Ms. Schuh was promoted to the position of Human Resources and Labor Relations Director. In approximately 2014, she transitioned to her current position as Director of Administrative Services, at which time she continued to oversee the City's Human Resources Department until approximately 2019 when the City employed a Human Resources and Labor Relations Director who then oversaw the Human Resources Department. After that individual left her employment with the City in approximately 2020, Ms. Schuh went back to overseeing the City's Human Resources Department in her capacity as Director of Administrative Services and continued to do so until [REDACTED] effective January 1, 2023.³

4. City Personnel Policy Regarding Equal Employment Opportunity.

City Personnel Policy 201 (Equal Employment Opportunity) provides, in part, as follows:

The City of Anacortes is an equal opportunity employer. The City of Anacortes does not discriminate in employment decisions or policies in violation of law on the basis of protected class. This policy applies to all terms and conditions of employment, including hiring, placement, promotion, termination, reduction in force, recall, transfer, leaves of absence, compensation, and training.

* * *

5. Reasonable Accommodation of Pregnancy:

a. An employee who needs accommodation due to pregnancy may be afforded the following accommodations with or without a medical certification: frequent, longer, or flexible restroom breaks; seating or allowing the employee to sit more frequently; and limiting lifting to 17 pounds or less. In addition, a pregnant employee may be entitled to other workplace accommodation(s), so long as there is no significant difficulty or expense and subject to the written certification from a health care professional regarding the requested accommodation....

See City of Anacortes Personnel Policy 201 (Equal Employment Opportunity) (copy attached as Exhibit 2).

³ Following Ms. [REDACTED] November 1, 2023, resignation from her employment with the City, Ms. Schuh has once again assumed oversight of the City's Human Resources Department in her capacity as Director of Administrative Services.

**5. City Personnel Policy Regarding Productive Work Environment
(Complaints of Unlawful Discrimination, Harassment or Retaliation).**

City Personnel Policy 202 (Productive Work Environment – Complaints of Unlawful Discrimination, Harassment or Retaliation) provides, in part, as follows:

The City of Anacortes promotes a productive work environment and does not tolerate unlawful discrimination, harassment, or retaliation.

1. The City of Anacortes is committed to providing a workplace that is free from unlawful discrimination. Unlawful discrimination occurs when an employee is disciplined, terminated, demoted, or suffers some other adverse consequence in their employment on the basis of protected class (referred to in this policy as “protected classes” or “protected class status”).
2. The City of Anacortes is committed to providing a work environment which is free from unlawful harassment. The City expressly prohibits any form of unlawful harassment by or against its employees on the basis of any protected class status.
3. Sexual harassment is conduct that is directed at an employee because of their sex, is unwelcome, and is offensive. Each supervisor and manager have a responsibility to keep the workplace free of any form of harassment, and in particular, sexual harassment. No supervisor or manager is to threaten or insinuate, either explicitly or implicitly, that an employee’s refusal or willingness to submit to sexual advances will affect the employee’s terms or conditions of employment. Romantic or sexual relationships between co-workers where one individual has influence or control over the other’s conditions of employment can create a range of potential issues, including actual or perceived favoritism, bias, conflicts of interest and even harassment. As a result, supervisors and employees are required to disclose such a relationship to Human Resources so that the City may evaluate the need for changes in reporting relationships or other modifications to avoid actual or potential problems....

See City of Anacortes Personnel Policy 202 (Productive Work Environment – Complaints of Unlawful Discrimination, Harassment or Retaliation) (copy attached as Exhibit 3).

6. City Personnel Policy Regarding Hiring.

City Personnel Policy 204 (Hiring) provides, in part, as follows:

The City of Anacortes is an equal opportunity employer and hires individuals solely based on their qualifications and ability to do the job to be filled.

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2. The City of Anacortes will consider a member of an employee's immediate family for employment if the applicant possesses all the qualifications for employment. An immediate family member may not be hired, however, if the employment would: a. Create either a direct or indirect supervisor/subordinate relationship with a family member; or b. Create an actual conflict of interest or the appearance of a conflict of interest.

3. These criteria will also be considered when assigning, transferring, or promoting an employee. For purposes of this policy, "immediate family" includes: the employee's spouse, domestic partner, brother, sister, mother, father, stepmother, stepfather, children, stepchildren, father-in-law, mother-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, and any other member of the employee's household....

See City of Anacortes Personnel Policy 204 (Hiring) (copy attached as Exhibit 4).

B. Allegation that Mayor Miller Subjected Ms. [REDACTED] to Discrimination and Harassment on the Basis of Sex and Pregnancy.

1. Ms. [REDACTED] Account.

Ms. [REDACTED] was promoted to the position of [REDACTED] effective January 1, 2023, at which time she began reporting directly to Mayor Miller. On February 21, 2023, Ms. [REDACTED] notified Mayor Miller during a one-on-one meeting that she was pregnant. In response, Mayor Miller "immediately looked at [Ms. [REDACTED]] stomach and his eyes got wide." See Exhibit 1 ([REDACTED] Complaint), at 1. Ms. [REDACTED] then stated that she intended to take 12 weeks of leave and Mayor Miller responded by stating that she would need to decide if she would "keep working." Ms. [REDACTED] responded by stating: "Of course I will."

Shortly thereafter, in early May 2023, Ms. [REDACTED] learned from [REDACTED] that Henry Hash, then-Public Works Director, had made a discriminatory comment about pregnant women to Ms. [REDACTED] after Ms. [REDACTED] and Mr. Hash had been involved in a workplace disagreement. Specifically, on April 28, 2023, Ms. [REDACTED] expressed concern to Mr. Hash that he had been extending offers of employment to candidates without involving Human Resources. Mr. Hash "made some very angry comments" towards Ms. [REDACTED] in response, after which Ms. [REDACTED] "left the room abruptly because [Mr. Hash] was being aggressive towards [her]." A few days later—on May 1, 2023—Ms. [REDACTED] was discussing the incident with Ms. [REDACTED]. During their conversation, Ms. [REDACTED] shared that Mr. Hash had gone into her office during the afternoon of April 28, 2023, and asked her: "Are pregnant women more irritable than others?" Ms. [REDACTED] subsequently reported Mr. Hash's comment to Mayor Miller on May 18, 2023, but Mayor Miller disregarded her complaint and took no action.⁴

⁴ Following our investigative interview, Ms. [REDACTED] provided me with a copy of her May 18, 2023, email to Mayor Miller in which she complained about Mr. Hash's comment. See May 18, 2023, Email from [REDACTED] to M. Miller (with attachment) (copy attached as Exhibit 5).

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Ms. [REDACTED] alleges that after she disclosed her pregnancy to Mayor Miller on February 21, 2023, and complained about Mr. Hash's discriminatory comment on May 18, 2023, Mayor Miller treated began treating her adversely by: (1) speaking negatively to her and unjustly criticizing her job performance; (2) reducing her job role and responsibilities; and (3) making negative comments in the workplace about pregnant women.⁵ Ms. [REDACTED] alleges that Mayor Miller was "motivated" to engage in such adverse treatment of her because of her pregnancy and because she complained that Mr. Hash had made a discriminatory comment about pregnant women in the workplace.

a. Allegation that Mayor Miller Spoke Negatively to Ms. [REDACTED] and Unjustly Criticized her Job Performance.

i. Allegation that Mayor Miller Unfairly Criticized Ms. [REDACTED] for Not Terminating a City Employee as Quickly as He Wished.

According to Ms. [REDACTED], beginning in May 2023, Mayor Miller criticized her for not moving more quickly in terminating an employee with poor performance, [REDACTED].⁵ Ms. [REDACTED] was "doing it progressively" with the "advice of [legal] counsel," yet Mayor Miller informed Ms. [REDACTED] that the speed with which she terminated Mr. [REDACTED] was "tied to [her] performance" and that "if [she] didn't terminate him, it would be on [her] performance evaluation." Mayor Miller continued "pressuring" Ms. [REDACTED] to move "aggressively fast" with the termination process, which was "must faster than [Ms. [REDACTED]] was comfortable with." Ultimately, Ms. [REDACTED] did terminate Mr. [REDACTED] employment, after which time Mayor Miller expressed that he would give her a positive performance review for her actions in that regard.

ii. Allegation that Mayor Miller Unfairly Criticized Ms. [REDACTED] for Not Handling Her Working Relationships Well.

According to Ms. [REDACTED], on multiple occasions Mayor Miller criticized her for not handling her working relationships well, including after she raised concerns with Mayor Miller that Ms. Schuh had been cutting Human Resources out of the hiring process and decision-making (as described in greater detail below).

iii. Allegation that Mayor Miller Unfairly Criticized Ms. [REDACTED] for Issues Pertaining to Mr. Hash's Background Check.

According to Ms. [REDACTED], in June 2023 during a one-on-one meeting, Mayor Miller told Ms. [REDACTED] that he had come to learn that Mr. Hash had been terminated from his prior employment with the City of Tukwila for having created a hostile work environment. Mayor Miller then "pointed" at Ms. [REDACTED] and stated: "You should have found that out. That's on you. What kind of background checks did you do?" Ms. [REDACTED] then "went back and looked" and confirmed that she had used the same background check process as is used for all hiring decisions at the City and

⁵ After Mayor Miller began engaging in such behavior, Ms. [REDACTED] began documenting Mayor Miller's actions in writing. See Exhibit 1 ([REDACTED] Complaint).

⁶ According to Ms. [REDACTED] Mr. [REDACTED] had a history of performance concerns that had gone unaddressed prior to her promotion to the position of [REDACTED].

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that “no red flags” had come back from Mr. Hash’s background check. Moreover, at the time that Mr. Hash was hired, Ms. [REDACTED] was serving in her former position as [REDACTED], at which time she reported to Ms. Schuh who oversaw the Human Resources Department. For this reason, according to Ms. [REDACTED], any oversight of Mr. Hash’s background check “would be on [Ms. Schuh]” because she was supervising Ms. [REDACTED] at the time.

iv. Allegation that Mayor Miller Unfairly Admonished Ms. [REDACTED] for Disclosing to the Personnel Committee a Budget Request for a New Full-Time Human Resources Department Employee.

According to Ms. [REDACTED] she notified Mayor Miller in advance that she intended to disclose to the Personnel Committee at a Council retreat on May 16 a budget request to create a new FTE position in the Human Resource Department. See May 11, 2023, Email from [REDACTED] to M. Miller regarding “Council Retreat Tuesday 16 May” (copy attached as Exhibit 6). After she shared the request at the May 16, 2023, Council retreat, however, Mayor Miller admonished Ms. [REDACTED] for having done so, at which time he engaged in “intimidating and threatening” behavior by using an inappropriate tone and by pointing his finger at her.⁷ According to Ms. [REDACTED] “It wasn’t illegal, by any means. But it was intimidating and threatening. I’m very afraid for my performance evaluations or being fired at this point because I can do no right, even though I’m doing everything above board.”

v. Allegation that Mayor Miller Frequently Commented to Ms. [REDACTED] that He Could “Fire Her at Any Time.”

According to Ms. [REDACTED], Mayor Miller has frequently commented to her that he could “fire her at any time.” He has relatedly made comments that he is “the only one who can’t be fired” because he is an elected official, which, according to Ms. [REDACTED] “is sad because he’s kind of right.” Ms. [REDACTED] is aware that Mayor Miller has made similar comments to other City directors and believes that “he’s trying to joke.” Nonetheless, according to Ms. [REDACTED] “I don’t care if it’s a joke. It makes me uncomfortable.”

b. Allegation that Mayor Miller Reduced Ms. [REDACTED] Role and Job Responsibilities.

i. Allegation that Mayor Miller Deliberately Cut Ms. [REDACTED] and Human Resources out of Hiring and Recruiting Processes and Employee Reclassification Decisions.

According to Ms. [REDACTED] Mayor Miller deliberately cut her and the Human Resources Department out of hiring and recruiting processes. For example, in June 2023, Mayor Miller

⁷ According to Ms. [REDACTED] “What you can’t read between the lines here is that Council was very, very supportive of this. The Council was supportive of it, and [Mayor Miller] was pissed off that I talked to them about it, even though he gave me permission to talk to them about it. The relationship between the Council and the Mayor is not positive. So, when the Council supports something that he doesn’t, it’s a problem. But the issue here is that he yelled at me for something he gave me permission to do.”

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expressed his intention to hire his old “Navy buddy” for the Public Works Director position. According to Ms. [REDACTED] “The content of the conversation felt very inappropriate to me. At this point, I felt, ‘Man, am I aiding and abetting someone being unethical?’ ... I’m sure [Mayor Miller] talked to him and tried to get him to come, but I think the Mayor told me he was making substantially more at Mount Vernon so he was not coming.” Mayor Miller additionally asked Mr. Hash—the individual who had tendered his resignation from the position and whom Mayor Miller learned had been terminated from his prior employment with the City of Tukwila for having created a hostile work environment (described above)—to assist in recruiting for a replacement for the position. According to Ms. [REDACTED] “I said, ‘Oh, we’re involving [Mr. Hash] in recruiting now?’ [and] the Mayor flipped out after that.”

Additionally, Mayor Miller failed to include Human Resources in decision-making with regard to employee reclassifications. For example, in July 2023, Mayor Miller approved requests made to him directly by Mr. Hash to reclassify two employees. According to Ms. [REDACTED] “[Mr. Hash] had initiated it, but [Mayor Miller] approved it and never said, ‘Woah, we need to include HR. We’re the compensation specialists at the City. I’m not pissed off because I’m not included. It was a departure from past practice where HR is always involved in these decisions.’”

ii. Allegation that Mayor Miller Expressed His Intention to Eliminate Human Resources’ Participation in Executive Group Meetings.

According to Ms. [REDACTED] during a one-on-one meeting with Mayor Miller on June 27, 2023, Mayor Miller expressed that he was considering removing Ms. [REDACTED] from participating in executive meetings because she is a director who serves in a “supportive role” and, thus, that “there’s no need for [her] to attend.”⁸ See Exhibit 1 ([REDACTED] Complaint), at 5. Ms. [REDACTED] understood Mayor Miller’s comment to be a “public acknowledgement that [she’s] not a ‘real director.’” Mayor Miller did not similarly express his intention to remove other “supportive” director positions from attending executive meetings, including Ms. Swetnam and Steve Hoglund, City Treasurer/Director of Finance. Later during the meeting while discussing Ms. [REDACTED] 2022 performance evaluation completed by Ms. Schuh, Mayor Miller expressed that Ms. [REDACTED] was doing a “great job” but that he wanted her to remember that, although she has a “director” title, she is in a “supportive director role” because she does not have any “initiatives of [her] own.” Mayor Miller went on to compare Ms. [REDACTED] position to that of a “supportive commander” in the military context. Specifically, according to Ms. [REDACTED] “He said that combat commanders are the ones actually going out into battle and dealing with the problems and then the supportive commanders are the ones that do things like logistics. He said I need to remember all of this as I move forward in my role.” Mayor Miller did not similarly identify Ms. Swetnam or Mr. Hoglund as being in “supportive roles,” and Ms. [REDACTED] took Mayor Miller’s comparison to her role as a “supportive commander” to be in an effort to “minimize” her role and so that she would “remember that’s [her] place.”

⁸ The comment came up in the context of a discussion Ms. [REDACTED] and Mayor Miller were having regarding Jennifer Gunderson, Human Resources Generalist, serving as [REDACTED] in an interim capacity while Ms. [REDACTED] was out on a pregnancy-related leave of absence. During the conversation, Ms. [REDACTED] asked Mayor Miller whether he was “comfortable” with Ms. Gunderson attending executive meetings while serving in an interim [REDACTED] capacity, after which Mayor Miller expressed that he was considering eliminating Ms. [REDACTED] participation in such meetings.

iii. Allegation that Mayor Miller Diminished Ms. [REDACTED] Role in a June 2023 Department Head Meeting.

According to Ms. [REDACTED] during a June 28, 2023, department head meeting, Mayor Miller “announced” that there was a potential “reorganization” happening at Skagit Transit, an entity for which he is a board member. He further expressed that other mayoral board members were bringing their respective [REDACTED] to a board meeting to discuss the reorganization but that he did not intend to do so. Ms. [REDACTED] received Mayor Miller’s comment in this regard as “publicly diminishing” and insulting and as though he was conveying to her: “All other city [REDACTED] are coming, but I don’t need you.”

c. Allegation that Mayor Miller Made Negative Comments in the Workplace to Ms. [REDACTED] about Women and Pregnancy.

i. May 2023: Mayor Miller Allegedly Stated to Ms. [REDACTED] that She “Clearly” has “Stressors” in Reference to Her Pregnancy.

According to Ms. [REDACTED] during a May 23, 2023, one-on-one meeting with Mayor Miller, he told Ms. [REDACTED] that she “clearly had stressors in [her] life” while looking at Ms. [REDACTED] stomach, which Ms. [REDACTED] understood to be a reference to the fact that she was pregnant. He then “mentioned” Ms. [REDACTED] anticipated leave of absence and made disparaging comments about diversity, equity and inclusion (“DEI”).⁹ See Exhibit 1 ([REDACTED] Complaint), at 2. Specifically, according to Ms. [REDACTED] Mayor Miller expressed that he has a “problem” with DEI; that he has felt discriminated against as a white male; and that “equality to him is treating everyone nice and not discriminating against white men.” See *id.* Mayor Miller made a similar comment in a May 5, 2023, email to Ms. [REDACTED] with regard to City personnel policies protecting employees from discrimination and harassment on the basis of “protected classes.” See May 5, 2023, email from M. Miller to [REDACTED] (copy attached as Exhibit 7).

ii. July 2023: Mayor Miller Allegedly Asks Ms. [REDACTED] “What do Dads Get When They Have Babies?”

According to Ms. [REDACTED] during a one-on-one meeting with Mayor Miller, Ms. [REDACTED] shared with Mayor Miller that Ms. [REDACTED] was anticipating going out on a leave of absence related to her pregnancy and the birth of her child in February 2024, which Ms. [REDACTED] intended to “announce” in two weeks. In response, Mayor Miller “scoffed” and then asked: “What do dads get when they have babies?” See Exhibit 1 ([REDACTED] Complaint), at 6. Ms. [REDACTED] perceived Mayor Miller’s comment in this regard to be “disparaging about women going out on pregnancy leave.”

⁹ According to Ms. [REDACTED] during the meeting Mayor Miller went on to praise her performance by telling her that she was doing her job “really well.”

iii. August 2023: Mayor Miller Allegedly Proposed Doing a “Risk Assessment” to Identify Employees of “Childbearing Age.”

According to Ms. [REDACTED] on August 15, 2023, she participated in a meeting with Mayor Miller and Mr. [REDACTED] to discuss “all of the departments’ requests for new FTEs in 2024.” See Exhibit 1 ([REDACTED] Complaint), at 7. During the meeting, they “went down the list” of department FTE requests. When they “came to HR,” Ms. [REDACTED] expressed that there was an FTE request in that department that Mayor Miller was “already aware of.” With regard to the request, Mayor Miller asked Ms. [REDACTED] “Do you have any new points for why [Human Resources] should get a new FTE?” Ms. [REDACTED] responded by expressing that she did not and that she had previously submitted a “detailed proposal” in support of the request. She then noted that “the only thing that has changed” was the fact that Ms. [REDACTED] was anticipated to be going out on a pregnancy/maternity related leave of absence in February 2024 and that it would “be really hard to get a three-month temp” for the three months that Ms. [REDACTED] would be out on leave from September through December 2023 and then again for the two months that Ms. [REDACTED] was anticipated to be out on leave beginning in February 2024. In response, Mayor Miller “chuckled” and stated that he had a “sexist” thought that he would keep to himself. He then stated that he was “going to make risk assessments in each of the other departments on women of childbearing years and see who’s an issue for him,” after which time he looked at Ms. [REDACTED] and stated: “That would be an objective business assessment, wouldn’t it?” See Exhibit 1 ([REDACTED] Complaint), at 8. Mayor Miller then went on to state that when he was in the military, “back in the stone ages,” two women had been prohibited from flying anymore after they each got pregnant and that “it’s the women that always need the leave.” See *id.* Ms. [REDACTED] responded by expressing that men need parental leave as well and identified male employees in other City departments (including Police and Fire) who had recently taken parental leave. See *id.* She further expressed that “anyone could need leave at any time, at any moment in time, so you can’t assess people based on that.” See *id.* Mayor Miller’s comments were “extremely distressing” to Ms. [REDACTED] particularly given that she was then two weeks away from going out on her leave of absence.

The following day—August 16, 2023—Ms. [REDACTED] went to Mr. [REDACTED] office to discuss Mayor Miller’s comments with Mr. [REDACTED]. During their conversation, Ms. [REDACTED] stated to Mr. [REDACTED] “Do you realize the comments [Mayor Miller] made were harassment? If anyone else said them, I’d have major issues.” Mr. [REDACTED] responded by expressing concern but also by expressing his belief that Mayor Miller was “trying to joke.”

2. Account of [REDACTED].

On no occasion did Ms. [REDACTED] hear, or otherwise observe, Mayor Miller engage with Ms. [REDACTED] in any manner that she believed was inappropriate in any way or otherwise based on Ms. [REDACTED] sex/pregnancy. Ms. [REDACTED] however, expressed to Ms. [REDACTED] that Mayor Miller’s behavior towards her “took a turn” after she was promoted to the position of [REDACTED]. Specifically, Ms. [REDACTED] told Ms. [REDACTED] that Mayor Miller made comments to her that “she could be fired at any time”; that, within the context of discussions regarding the potential hiring of a new FTE in the Human Resources Department to fill in while Ms. [REDACTED] and Ms. [REDACTED] were each out on their respective pregnancy-related leaves of absence, Mayor Miller told Ms. [REDACTED] that he “didn’t want to hire someone who would

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end up pregnant and go out on leave again”; that Mayor Miller “seemed to kind of dismiss” concerns Ms. [REDACTED] raised with a comment Mr. Hash had made in the workplace “asking other employees if it was normal that pregnant women had anger issues”; and that Mayor Miller told Ms. [REDACTED] that “he didn’t consider HR to be essential so he didn’t want her in meetings anymore.”

On no occasion did Mayor Miller engage with Ms. [REDACTED] in any matter that Ms. [REDACTED] perceived to be based on her sex/pregnancy, although she has had infrequent interactions with him.

3. Account of [REDACTED].

According to Ms. [REDACTED], on one occasion in April 2023 while in her office, Mr. Hash made a comment to Ms. [REDACTED] along the lines of: “Are pregnant women more emotional?” Ms. [REDACTED] responded by stating, “Hold on. What are you talking about? Let’s not do that.” Mr. Hash then stated to Ms. [REDACTED] “Well, [Ms. [REDACTED]] just yelled at me.” Ms. [REDACTED] then stated to Mr. Hash that he needed to remain “professional” and that he should speak with a fellow department head if there are issues between them, but that “we don’t need to attribute it to people being pregnant.” Shortly thereafter, Ms. [REDACTED] shared with Ms. [REDACTED] that she and Mr. Hash had had a “dispute,” and in response Ms. [REDACTED] shared with Ms. [REDACTED] the comment Mr. Hash had made to Ms. [REDACTED] thereafter (described above). Ms. [REDACTED] subsequently complained to Mayor Miller about Mr. Hash’s comment, and it is Ms. [REDACTED] belief and recollection that Mayor Miller subsequently contacted WCIA to open a “pre-defense” matter and investigation into Ms. [REDACTED] complaint. Mr. Hash resigned from his employment with the City shortly thereafter and Ms. [REDACTED] recalls that, as a result, Mayor Miller decided not to pursue the matter further.

4. Account of [REDACTED].

According to Mr. [REDACTED], it is a “joke amongst the directors” at the City that Mayor Miller frequently “jokes a lot about being able to fire [them].” Mayor Miller has made such comments to Mr. [REDACTED] which Mr. [REDACTED] perceived as “just [Mayor Miller’s] sense of humor.” Mr. [REDACTED] is aware that Mayor Miller has made similar comments to other City directors. On one occasion, while Mr. [REDACTED] and City Fire Chief Bill Harris were hunting together in or around 2022, Chief Harris asked Mr. [REDACTED] “How do you like working for Mayor Miller?” Mr. [REDACTED] responded by stating that he had not had “any issues” working for Mayor Miller but that he does “find it uncomfortable sometimes how often [Mayor Miller] jokes about being able to fire [Mr. [REDACTED]].” Chief Harris laughed in response and stated: “Oh, I thought I was the only one.”

Mr. [REDACTED] generally recalls having participated in a meeting with Mayor Miller and Ms. [REDACTED] in mid-August 2023 to discuss department FTE requests. During our investigative interview, when I asked Mr. [REDACTED] if he recalled Mayor Miller having made the comments Ms. [REDACTED] alleges him to have made in that meeting (that is, that he had a “sexist” thought and was considering doing “risk assessments in each of the other departments on women of childbearing years and see who’s an issue for him”), Mr. [REDACTED] responded as follows: “I don’t remember that comment. I guess I would like to think I would remember that for obvious reasons. But I have no recollection of it. I’ll give this some thought. I’ll be the first to admit I don’t have the sharpest memory. It’s possible it took place. I just don’t recall it.”

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Approximately one hour after our interview concluded, Mr. [REDACTED] contacted me to share that he had since recalled being involved in a meeting with Mayor Miller and Ms. [REDACTED] during which time they discussed “staffing” issues related to Ms. [REDACTED] and Ms. [REDACTED] respective pregnancy-related leaves of absence. At that time, the City was “already understaffed” and Ms. [REDACTED] and Ms. [REDACTED] were each going out on leave, which they were attempting to “manage.” According to Mr. [REDACTED] “I have this vague recollection of [Mayor Miller] making a comment along the lines of, ‘Who else could be going on maternity leave that we need to prepare for?’ in the way in which Ms. [REDACTED] alleges Mayor Miller to have articulated it—namely, that he intended to do “risk assessments in each of the other departments on women of childbearing years and see who’s an issue for him.” According to Mr. [REDACTED]: “At the time, I just kind of thought it was his odd sense of humor—like I was saying before about him joking about firing people.”

Mr. [REDACTED] has no recollection of having engaged in any conversation with Ms. [REDACTED] about Mayor Miller’s comments at any time.

5. Account of Emily Schuh.

Ms. Schuh has heard Mayor Miller make comments to department heads at the City stating that he can “fire” them, although she has never heard Mayor Miller make any such comment to Ms. [REDACTED]. According to Ms. Schuh: “I think all department heads should have a clear understanding of that. We are the only employees at the City who are at-will. All others are for cause. We are employed at the will of the Mayor. I have heard him say that. I can’t say I’ve heard him say it to [Ms. [REDACTED]]. I have heard him say it to other department heads.” On no occasion has she perceived Mayor Miller’s comment in this regard to be a “threat.” Instead, according to Ms. Schuh: “It’s more in conversation—like, ‘I can fire you because you work for me.’ Does it feel good? No. But it’s the understanding of our employment contract.”

6. Mayor Miller’s Account.

Mayor Miller has no recollection of when Ms. [REDACTED] notified him that she was pregnant. He denies having acted in the manner as alleged after Ms. [REDACTED] notified him of her pregnancy—that is, that he looked at her stomach with his eyes “wide” and subsequently told her that she would need to decide whether she wanted to continue working. According to Mayor Miller, there is “no chance” that he would have engaged in such behavior. Instead, according to Mayor Miller: “Probably the first thing I said would have been, ‘Congratulations.’ I’m the guy who used to own a baby store.”¹⁰ Because Mayor Miller is a “storyteller,” he “probably” told Ms. [REDACTED] that, when he was in the Navy, “you’d get a call while on active duty saying you had a baby” but that “now the Navy understands parental leave more.” To that end, according to Mayor Miller, he likely told Ms. [REDACTED] some “old-timer stories” in that regard.

Mayor Miller concedes that he additionally engaged in conversations with Ms. [REDACTED] on numerous occasions about her anticipated pregnancy-related leave of absence in order to plan how

¹⁰ Mayor Miller and his wife previously owned and operated a children’s book and toy store in Anacortes for approximately 15 years.

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her duties and responsibilities would be handled while she was on leave, during which time there would be a “12-week hole in the organization” given that the City’s Human Resources Department is a “Department of two [employees]”—Ms. [REDACTED] and [REDACTED]. According to Mayor Miller: “I try to separate out the personal from the professional, but for me there was a math problem trying to figure out how to handle things while she was out.”¹¹ As part of their conversations, Mayor Miller “floated” the idea of hiring an additional full-time employee (“FTE”) in the City’s Human Resources Department, an idea that Ms. [REDACTED] “loved” and that is not something Mayor Miller typically advocates for out of fiscal considerations to conserve public tax dollars. For this reason, Mayor Miller “challenged [Ms. [REDACTED]] pretty hard” to justify such a hiring decision. Ultimately Mayor Miller decided not to hire an FTE in the Human Resources Department—an outcome that Ms. [REDACTED] “didn’t like”—and instead Mayor Miller appointed Ms. [REDACTED] to serve in Ms. [REDACTED] position in an “interim” capacity while Ms. [REDACTED] was out on leave.

Mayor Miller does not deny having received a complaint from Ms. [REDACTED] alleging that Mr. Hash had made a discriminatory comment in the workplace about pregnant women following a disagreement in which Ms. [REDACTED] and Mr. Hash had engaged.¹² Specifically, Ms. [REDACTED] reported Mr. Hash having stated to Ms. [REDACTED] “Are pregnant women more irritable than other people?” Mayor Miller denies that he disregarded Ms. [REDACTED] complaint. After receiving Ms. [REDACTED] complaint, he met with Ms. [REDACTED] that same day—on May 18, 2023—to discuss her concerns. According to Mayor Miller, he rarely takes notes during meetings. On this occasion, however, Mayor Miller took notes of the meeting because he took Ms. [REDACTED] complaint “very seriously.”¹³ See Handwritten Notes Authored by M. Miller regarding May 18, 2023, Meeting with [REDACTED] (copy attached as Exhibit 8). After meeting with Ms. [REDACTED] he spoke with Ms. [REDACTED] about Ms. [REDACTED] complaint. He subsequently contacted Robin Aronson of the Washington Cities Insurance Authority (“WCIA”) on May 22, 2023, to open up a “pre-defense” investigation matter into a “discrimination issue.”¹⁴ See Email communications to/from M. Miller and R. Aronson (copy attached as Exhibit 9). Ms. Hash resigned from his employment with the City before any investigation could be conducted into Ms. [REDACTED] complaint.

Mayor Miller vehemently denies that he was motivated by Ms. [REDACTED] sex/pregnancy, or by Ms. [REDACTED] complaint about Mr. Hash’s comment about pregnant women, to engage in any actions or behaviors towards Ms. [REDACTED] (as described below).¹⁵

¹¹ Things were initially “compounded” given that Ms. [REDACTED] was also pregnant with a similar anticipated leave of absence timeframe as Ms. [REDACTED]. Ms. [REDACTED] subsequently [REDACTED] no longer was anticipated to go out on a leave of absence at the same time as Ms. [REDACTED].

¹² See Exhibit 5 (Email from [REDACTED] to M. Miller).

¹³ During their meeting, in addition to reporting Mr. Hash’s alleged comment made to Ms. [REDACTED] about pregnant women, Ms. [REDACTED] additionally raised other concerns with Mr. Hash, including that he had engaged in “rash” and “brutish” behavior in the workplace.

¹⁴ As described in greater detail below, during his telephone call with Ms. Aronson, Mayor Miller learned that, before being hired by the City, Mr. Hash had been terminated by his prior employer—the City of Tukwila—for having created a hostile work environment.

¹⁵ According to Mayor Miller, while Ms. [REDACTED] was on a leave of absence following the birth of her child—and approximately two months before she made her underlying complaint—Mayor Miller reached out to Ms. [REDACTED] to congratulate her and to let her know that he and his wife had a “baby gift” for her. See September 2023 Text Communications to/from M. Miller and [REDACTED] (copy attached as Exhibit 10).

a. Allegation that Mayor Miller Spoke Negatively to Ms. [REDACTED] and Unjustly Criticized her Job Performance.

i. Allegation that Mayor Miller Unfairly Criticized Ms. [REDACTED] for Not Terminating a City Employee as Quickly as He Wished.

According to Mayor Miller: “Yes, I absolutely pressured my [REDACTED] to terminate [REDACTED]. In my opinion, he was stealing from the taxpayers. He was awful. He had ongoing issues from Day One.... It was a problem she inherited, but, yeah, I definitely wanted her to fire [REDACTED]. And so did [REDACTED] department head.” Specifically, according to Mayor Miller, [REDACTED] had ongoing “attendance issues,” had “faked an injury” and was a “bully.” Mayor Miller “didn’t have the chance” to address Ms. [REDACTED] handling, or timing, of Mr. [REDACTED]’s termination in Ms. [REDACTED] performance evaluation, but he concedes that if he had he would have included in it: “Fire [Mr. [REDACTED]].”

ii. Allegation that Mayor Miller Unfairly Criticized Ms. [REDACTED] for Not Handling Her Working Relationships Well.

According to Mayor Miller, it is “possible” that he made comments encouraging Ms. [REDACTED] to work more effectively with other senior department heads that she may have “taken as [him] criticizing her.” Ms. [REDACTED] was regularly “upset” when the heads of departments within the City—as well as Mayor Miller—engaged in recruitment efforts without the involvement of Human Resources. In an effort to “mentor” her, Mayor Miller encouraged Ms. [REDACTED] to recognize that, in her capacity as [REDACTED] her role was to “support” the heads of City departments. For example, Ms. [REDACTED] was “upset” after the City’s Chief of Police, Dave Floyd, attended a recruitment event that Ms. [REDACTED] was not asked to attend. Mayor Miller attempted to explain to Ms. [REDACTED] that the City’s Police Department “needed officers” and that it made sense for Chief Floyd to be engaging in recruitment for those officers. According to Mayor Miller: “Part of it was that she was growing into her role, but it seemed like she thought the way to do that was to take over.” Mayor Miller’s intention in his conversations with Ms. [REDACTED] was to assist her in understanding that “her job is to support the departments.” He concedes that “[his] tone sometimes may not be great,” which he attributes to his prior “military experience.” According to Mayor Miller, however, the “point” he attempted to relay to Ms. [REDACTED] in each case was that he was “trying to mentor her to fit in.”

iii. Allegation that Mayor Miller Unfairly Criticized Ms. [REDACTED] for Issues Pertaining to Mr. Hash’s Background Check.

As described generally above, when Mayor Miller communicated with Ms. Aronson at WCIA to open a pre-defense matter and investigation into Ms. [REDACTED] complaint regarding Mr. Hash, he learned from Ms. Aronson that Mr. Hash had been terminated from his prior employment with the City of Tukwila for having created a hostile work environment. According to Mayor Miller, he did not blame Ms. [REDACTED] “directly” for failing to discover this fact in Mr. Hash’s background check. Instead, according to Mayor Miller, he commented to Ms. [REDACTED] “that it would have been good to find that out before hiring him” because “if [Mayor Miller] had known [Mr.

Hash] was terminated for poor performance, [he] wouldn't have hired him." During our investigative interview, in further response to Ms. [REDACTED] allegation that Mayor Miller unfairly criticized Ms. [REDACTED] for failing to discover this fact in Mr. Hash's background check, Mayor Miller responded as follows: "It's somebody's fault that we didn't do a thorough background check. I don't know if it's [Ms. [REDACTED]]. I don't think I blamed her directly. Bad on me to not know the sensitivities of my direct reports. I would say the same thing to any of my directors. It's part of my sense of humor. It's dry. Even if I said it like, 'Hey, you're terrible, and it's your fault, and you're fired,'—I may say something goofy like that, but I wouldn't mean it seriously. It's my sense of humor."

iv. Allegation that Mayor Miller Unfairly Admonished Ms. [REDACTED] for Disclosing to the Personnel Committee a Budget Request for a New Full-Time Human Resources Employee.

Mayor Miller does not deny having discussed with Ms. [REDACTED] that he was displeased with the fact that she had made a budget request during the May 16, 2023, Council retreat for a new FTE position in the Human Resources Department, but Mayor Miller denies having admonished her for doing so. According to Mayor Miller: "If anything, I discussed with [Ms. [REDACTED]] that [they] hadn't fully vetted it in the executive branch before it being exposed to the legislative branch." Mayor Miller "live[s] in a political world," and when he served on the City Council he was known as the member who did not advocate for creating new FTE positions. Specifically, according to Mayor Miller: "I probably told her, 'I'm the FTE guy on Council. I have long hours on tape while I was on City Council saying, 'If we hire all these FTEs, it's not sustainable.' I think all our people are great, and we need them all. But is it sustainable?'" The May 16, 2023, Council retreat was the first Ms. [REDACTED] had attended. In contrast, Mayor Miller has attended 12 Council retreats. According to Mayor Miller, the Council retreats "are not a free-for-all for a director to go and say, 'Hey, I want to have all these FTEs.'" Instead, it is Mayor Miller's role to present the City budget to the Council, and Mayor Miller had not yet fully "vetted" the idea of hiring an FTE in the Human Resources Department before Ms. [REDACTED] presented it at the retreat. During our investigative interview, Mayor Miller had no specific recollection of having received Ms. [REDACTED] May 11, 2023, email message, in which she identified the FTE budget request as an agenda item she intended to present at the Council retreat. *See Exhibit 6 (May 11, 2023, Email from [REDACTED] to M. Miller regarding "Council Retreat Tuesday 16 May")*. He does not deny having received it, but during our investigative interview surmised that he had possibly overlooked it and did not expressly give Ms. [REDACTED] permission to present the FTE budget proposal.

v. Allegation that Mayor Miller Frequently Commented to Ms. [REDACTED] that He Could "Fire Her at Any Time."

Mayor Miller does not deny having made such comments to Ms. [REDACTED]—as well as to other directors—but he has done so only in a joking manner.

b. Allegation that Mayor Miller Reduced Ms. [REDACTED] Role and Job Responsibilities.

i. Allegation that Mayor Miller Deliberately Cut Ms. [REDACTED] and Human Resources out of Hiring Processes and Employee Reclassification Decisions.

Mayor Miller denies that he deliberately cut Human Resources out of the recruitment or hiring process, although he concedes that he was aware of—and had no concerns with—department heads engaging in recruitment efforts in an attempt to hire individuals they believed would be positive additions to their respective departments. Mayor Miller himself has engaged in such efforts. For example, in seeking to fill the Public Works Director position, Mayor Miller “reached out to [his] network of professionals” in an effort to find qualified potential candidates for the position. He additionally approached the Public Works Director for the City of Twisp after meeting him at a conference to ask if he was interested in applying for the position.

As described above, Ms. [REDACTED] was regularly “upset” when the heads of departments within the City—as well as Mayor Miller—engaged in recruitment efforts without the involvement of Human Resources. According to Mayor Miller: “Clearly [Ms. [REDACTED]] didn’t appreciate the fact that I had a network of people I liked to talk to. She also didn’t appreciate that I valued the opinions of the department heads who are experts in their fields to provide feedback on what they’re looking for. My interpretation of it is that she thought it was only HR’s job to do that—to hire people for the City.... Why wouldn’t I be recruiting for my own subordinates?” Although Mayor Miller, in his capacity as elected City Mayor, could have hired individuals directly for positions within his discretion, on no occasion did he do so and, instead, even in cases where he recommended individuals for positions, the hiring decisions were always made through the City’s regular hiring process, which included the Human Resources Department. For example, despite recommending the Twisp Public Works Director for the Public Works Director position (described above), after going through the City’s regular hiring process, that candidate was not offered the position. According to Mayor Miller: “Technically, all I need to do is get Council’s approval [for hiring decisions].... I’m not an employee. I’m an elected official. The Twisp guy was my favorite, but as we went through the multiple interview process he ended up being number four and was not hired.... [Ms. [REDACTED]] was involved every step of the way except for the recommendation from me saying, ‘this is my guy.’”

Mayor Miller has no recollection of having approved any reclassification request made by Mr. Hash. According to Mayor Miller, he made Mr. Hohmann the interim Public Works Director, which resulted in, approximately, a nine-percent increase in his compensation. Mayor Miller made the decision to appoint Mr. Hohmann to the position in an interim capacity, which was “within his realm” in his position as the elected Mayor, “but HR would have had to be involved in making the reclassification effective.”

ii. Allegation that Mayor Miller Expressed His Intention to Eliminate Human Resources' Participation in Executive Group Meetings.

Mayor Miller denies having stated, or otherwise suggested, on any occasion—including during a June 27, 2023, one-on-one meeting with Ms. [REDACTED]—that Ms. [REDACTED] was not a “real director.” Mayor Miller additionally denies having expressed to Ms. [REDACTED] that he was considering no longer having her participate in executive meetings. When Mayor Miller was a member of the City Council, the executive meetings typically were only attended by the mayor, the Public Works Director, the Chief of Police, the Fire Chief and the Finance Director. From “day one” under Mayor Miller’s tenure as mayor, all City directors were invited to participate in executive meetings. According to Mayor Miller: “In the reality of operating the City, I don’t need the Museum Director and the Library Director at all meetings.” It is “possible” that Mayor Miller stated to Ms. [REDACTED] during the June 27, 2023, meeting that Ms. [REDACTED] “in her interim role didn’t need to sit in those meetings” and Ms. [REDACTED] may have misinterpreted Mayor Miller’s comment. During our investigative interview, Mayor Miller additionally added: “I’d make an argument that much of what I said has been misinterpreted by Ms. [REDACTED].”

Mayor Miller does not recall, but does not deny, having articulated that Ms. [REDACTED] role as Human Resources and Labor Relations Director “is more in a supportive role than police or fire” and, according to Mayor Miller: “Management-wise, that’s probably what [Ms. [REDACTED]] and I disagreed on.” To this end, Mayor Miller “may have told [Ms. [REDACTED]] she needs to act in that supportive capacity” and discussed it in the “analogous” military context.

iii. Allegation that Mayor Miller Diminished Ms. [REDACTED] Role in a June 2023 Department Head Meeting.

Mayor Miller denies that he expressed during a June 2023 department head meeting that other mayoral Skagit Transit board members were bringing their respective [REDACTED] to a board meeting to discuss a reorganization but that he did not intend to bring Ms. [REDACTED].¹⁶ Mayor Miller is the “chair” of the Skagit Transit board of directors. In June 2023, Skagit Transit was having some “major personnel issues,” including with its Chief Financial Officer who was “ultimately terminated.” On no occasion, however, did all other mayoral members on the board of directors bring their [REDACTED] to any board meetings to address the issues. On one occasion, Mayor Miller met separately with the mayor of the City of Mount Vernon, who is also a Skagit Transit board member, with the City of Mount Vernon’s Human Resources Director. Relatedly, Mayor Miller has asked Ms. [REDACTED] “for help with outside things in the past,” including for assistance with issues pertaining to Skagit Transit.

¹⁶ In further response to Ms. [REDACTED] allegation that Mayor Miller attempted to publicly criticize Ms. [REDACTED] in the department head meeting in this regard, Mayor Miller expressed the following: “I’m very clear with my staff: ‘You criticize in private; you praise in public.’”

c. Allegation that Mayor Miller Made Negative Comments in the Workplace about Women and Pregnancy.

i. May 2023: Mayor Miller Allegedly Stated to Ms. [REDACTED] that She “Clearly” has “Stressors” in Reference to Her Pregnancy.

Mayor Miller has no specific recollection of commenting on his perception of “stress” in Ms. [REDACTED] life pertaining to her workload, but he denies having done so in reference to Ms. [REDACTED] pregnancy or while looking at Ms. [REDACTED] stomach. According to Mayor Miller, he tries to “always evaluate stressors of [his] employees.” During our investigative interview, he cited as an example that Mr. Hoglund’s wife had recently passed away, after which Mayor Miller had spoken with Mr. Hoglund about “stressors” in Mr. Hoglund’s life. During our investigative interview Mayor Miller added: “I know the death of a spouse and divorce is high stress. I don’t know about pregnancy. I care about my employees and their stress.”

Mayor Miller has no specific recollection of having discussed his opinion of DEI with Ms. [REDACTED] in the manner as alleged, but he does not deny having done so.¹⁷ According to Mayor Miller, he has expressed his “political” opinion and belief “that everyone should be treated equally,” which he believes DEI policies do not do. To this end, he has expressed his belief on numerous occasions and in numerous contexts—including at a DEI conference hosted by the Association of Washington Cities—that DEI policies violate the equal protection clause of the Constitution. According to Mayor Miller: “I have said in the past, ‘Why don’t we just categorize everyone as a protected class?’ It’s a political comment, not a discriminatory comment, in a political way by someone who represents 18,000 people in Anacortes. I believe that everyone should be treated equally. And I’m pretty comfortable saying that.”

ii. July 2023: Mayor Miller Allegedly Asks Ms. [REDACTED] “What do Dads Get When They Have Babies?”

Mayor Miller has no recollection of having commented to Ms. [REDACTED] while discussing both her and Ms. [REDACTED] anticipated leave of absence: “What do dads get when they have babies?” During our investigative interview, Mayor Miller surmised that he may possibly have engaged in a conversation with Ms. [REDACTED] about his previous experiences in the military “when you were lucky to get a phone call when your child is born” while you are stationed overseas. According to Mayor Miller: “Again, I feel like a lot of the critiques or complaints ... are possibly tying in stories that I tell about previous experiences, especially as an officer and manager in the U.S. Navy and how Navy policies have changed over the years.... So, yes, telling those stories may have been interpreted as offensive to [Ms. [REDACTED]]. So, good to know.”

¹⁷ Mayor Miller similarly does not deny having made the following comment in a May 5, 2023, email to Ms. [REDACTED] on the subject with regard to City discrimination and harassment personnel policies: “The politician in me must make one snarky comment – at some point with so many “protected classes” wouldn’t it be easier if everyone was in a protected class? – editorial complete.” See Exhibit 7 (May 5, 2023, Email from M. Miller to [REDACTED]).

iii. August 2023: Mayor Miller Allegedly Proposed Doing a “Risk Assessment” to Identify Employees of “Childbearing Age.”

Mayor Miller denies having made the comments Ms. [REDACTED] alleges him to have made in an August 15, 2023, meeting with Ms. [REDACTED] and Mr. [REDACTED]—namely, stating that he had a “sexist” thought and that he was considering doing “risk assessments in each of the other departments on women of childbearing years and see who’s an issue for him.” During our investigative interview, when I presented Mayor Miller with Ms. [REDACTED] allegation in this regard, he responded, in part, as follows: “No chance. That’s outlandish. I wouldn’t ever start with saying I had a ‘sexist’ thought. I’m trying to figure how someone could interpret it like that.” According to Mayor Miller, he “possibly” made a comment about pregnancy in the “planning context,” such as “pregnancy being something [he] can plan for,” which is something he “can imagine saying.”

7. Factual Findings.

Based on a preponderance of the evidence found throughout the course of my investigation (as described above), I made the following factual findings with regard to Ms. [REDACTED] allegations concerning Mayor Miller:

a. Allegation that Mayor Miller Spoke Negatively to Ms. [REDACTED] and Unjustly Criticized her Job Performance.

i. Allegation that Mayor Miller Unfairly Criticized Ms. [REDACTED] for Not Terminating a City Employee as Quickly as He Wished.

I find, at Mayor Miller’s admission, that he criticized Ms. [REDACTED] for not terminating Mr. [REDACTED] as quickly as Mayor Miller desired. I find credible Mayor Miller’s account that he did so out of an interest in terminating Mr. [REDACTED]’s employment due to concerns with Mr. [REDACTED]’s job performance. In contrast, I was unable to find it more likely than not that Mayor Miller was motivated by Ms. [REDACTED] sex/pregnancy, or her complaint with regard to Mr. Hash, in criticizing Ms. [REDACTED] for not terminating Mr. [REDACTED]’s employment as quickly as Mayor Miller desired.

ii. Allegation that Mayor Miller Unfairly Criticized Ms. [REDACTED] for Not Handling Her Working Relationships Well.

I find that Mayor Miller made comments to Ms. [REDACTED] addressing her working relationships with other City employees and encouraging her to work more effectively with other senior department heads, which Ms. [REDACTED] reasonably perceived as a criticism of how Mayor Miller perceived her working relationships with other employees. I find credible Mayor Miller’s account that he made such comments in an effort to mentor Ms. [REDACTED] and to encourage her to serve in a more supportive role for other City departments. I was unable to find it more likely than not that Mayor Miller was motivated by Ms. [REDACTED] sex/pregnancy, or her complaint with regard to Mr. Hash, in offering Ms. [REDACTED] critical feedback of her working interactions with other employees.

iii. Allegation that Mayor Miller Unfairly Criticized Ms. [REDACTED] for Issues Pertaining to Mr. Hash's Background Check at the Time He was Offered Employment with the City.

I find, at Mayor Miller's admission, that he criticized Ms. [REDACTED] for Human Resources' failure to discover as a part of Mr. Hash's background check that Mr. Hash had been terminated from his prior employment with the City of Tukwila for having created a hostile work environment. I was unable to find it more likely than not that Mayor Miller was motivated by Ms. [REDACTED] sex/pregnancy, or her complaint with regard to Mr. Hash, in criticizing Ms. [REDACTED] for Human Resources' failure to discover Mr. Hash's prior termination from the City of Tukwila in his background check. I make no findings as to whether any background check could possibly have resulted in the discovery of such information and, thus, whether Mayor Miller's criticism was reasonable.

iv. Allegation that Mayor Miller Unfairly Admonished Ms. [REDACTED] for Disclosing to the Personnel Committee Plans to Hire a New Full-Time Employee for the City's Human Resources Department.

I find, at Mayor Miller's admission, that he expressed to Ms. [REDACTED] that he was displeased with her after she disclosed to the Personnel Committee during a City Council retreat that Human Resources sought budget approval for a new FTE hire, despite the fact that Ms. [REDACTED] had previously sent Mayor Miller an email message setting forth her intention to disclose such information during the retreat. I was unable to find it more likely than not that Mayor Miller was motivated by Ms. [REDACTED] sex/pregnancy, or her complaint with regard to Mr. Hash, in criticizing Ms. [REDACTED] for having made the disclosure during the retreat.

v. Allegation that Mayor Miller Frequently Commented to Ms. [REDACTED] that He Could "Fire Her at Any Time."

I find, at Mayor Miller's admission, that he made comments to Ms. [REDACTED] that he could "fire her at any time." I further find that Mayor Miller made similar comments to other City department heads, including to Mr. [REDACTED]. My finding in this regard is supported by Mayor Miller's admission in this regard, as well as by Mr. [REDACTED] corroborating account. I was unable to find it more likely than not that Mayor Miller was motivated by Ms. [REDACTED] sex/pregnancy, or her complaint with regard to Mr. Hash, in making comments to Ms. [REDACTED] that he could "fire her at any time" when Mayor Miller made similar comments to other employees outside of Ms. [REDACTED] protected class.

b. Allegation that Mayor Miller Spoke Negatively to Ms. [REDACTED] and Unjustly Criticized her Job Performance.

i. Allegation that Mayor Miller Deliberately Cut Ms. [REDACTED] and Human Resources out of Recruiting and Hiring Processes and Employee Reclassification Decisions.

I find, at Mayor Miller’s admission, that he has recruited individuals to apply for positions with the City and that he is aware of, and has not discouraged other City department heads—including the Chief of Police—from doing the same. I find credible Mayor Miller’s account that he has done so in order to identify candidates that he believes would be successful candidates for City employment and that it is his understanding that other City department heads have engaged in such behavior for similar reasons. I was unable to find it more likely than not that Mayor Miller was motivated by Ms. [REDACTED] sex/pregnancy, or her complaint with regard to Mr. Hash, to engage in recruitment efforts for City positions or to permit other City department heads to engage in similar actions.

ii. Allegation that Mayor Miller Expressed His Intention to Eliminate Human Resources’ Participation in Executive Group Meetings.

My findings are inconclusive as to whether Mayor Miller expressed his intention to eliminate Ms. [REDACTED] participation from executive meetings. There is no factual dispute that the [REDACTED] position has not been precluded from participating in such meetings.

iii. Allegation that Mayor Miller Diminished Ms. [REDACTED] Role in a June 2023 Department Head Meeting.

My findings are inconclusive as to whether Mayor Miller made any comment during a department head meeting that other City mayors on the Skagit Transit Board of Directors intended to bring their respective [REDACTED] to a Skagit Transit board meeting to consult with them on issues pertaining to employee reorganization at Skagit Transit but that he did not intend to bring Ms. [REDACTED] to the board meeting.

c. Allegation that Mayor Miller Made Negative Comments in the Workplace about Women and Pregnancy.

i. May 2023: Mayor Miller Allegedly Stated to Ms. [REDACTED] That She “Clearly” has “Stressors” in Reference to Her Pregnancy.

I find it more likely than not that Mayor Miller made a comment to Ms. [REDACTED] about “stressors” in her life during a one-on-one meeting in May 2023, and that the comment was more likely than not in the context of her anticipated pregnancy/maternity-related leave of absence in the context of discussions pertaining to her job duties and responsibilities. My findings in this regard are supported by Mayor Miller’s admission that it is not uncommon to discuss with his subordinate employees stressful situations going on in each employee’s life, and that Mayor Miller

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and Ms. [REDACTED] were regularly engaged in conversations with regard to how to fill Ms. [REDACTED] position while she was out on a leave of absence. My findings are inconclusive as to whether Mayor Miller looked at Ms. [REDACTED] stomach when making the comment.

I further find, at Mayor Miller's admission, that he made comments to Ms. [REDACTED]—both during a one-on-one meeting in May 2023 and in a May 5, 2023, email exchange—criticizing DEI initiatives.

ii. July 2023: Mayor Miller Allegedly Asks Ms. [REDACTED] “What do Dads Get When They Have Babies?”

I find it more likely than not that Mayor Miller made comments to Ms. [REDACTED] comparing leaves of absence for women related to childbirth with leaves of absence for men related to childbirth, including making a comment in the vein of that alleged (that is—“What do dads get when they have babies?”). My finding is supported by Mayor Miller's admission of having told “stories” in this regard pertaining to his prior experience in the military.

iii. August 2023: Mayor Miller Allegedly Proposed Doing a “Risk Assessment” to Identify Employees of “Childbearing Age.”

I find it more likely than not that Mayor Miller made comments as alleged during an August 2023 meeting with Ms. [REDACTED] and Mr. [REDACTED] while discussing issues pertaining to Ms. [REDACTED] and Ms. [REDACTED] anticipated pregnancy/maternity leaves of absence, namely, that he was considering doing a “risk assessments” in departments within the City of “women of childbearing years” in order to determine how many additional employees he might anticipate going out on pregnancy/maternity leaves of absence. My findings in this regard are supported by the corroborating accounts of Ms. [REDACTED] and Mr. [REDACTED].

C. Allegation that Ms. Schuh Subjected Ms. [REDACTED] to Inappropriate “Bullying” Behavior in the Workplace.

1. Ms. [REDACTED] Account.

According to Ms. [REDACTED], she had a positive working relationship with Ms. Schuh while she reported directly to Ms. Schuh in her position as Human Resources Manager. After she was promoted to Human Resources and Labor Relations Director in January 2023, however, their relationship “soured” and Ms. Schuh engaged in what Ms. [REDACTED] characterizes as “bullying” behavior in the workplace towards Ms. [REDACTED].¹⁸ Ms. [REDACTED] believes that Ms. Schuh's behavior towards her changed because Ms. [REDACTED] “revoked” Ms. Schuh's access to City employees' personnel files shortly after she was “officially made [REDACTED]” and was no longer overseeing the City's Human Resources Department.

Thereafter, Ms. Schuh's “behavior” towards Ms. [REDACTED] “changed” and Ms. Schuh began cutting the City's Human Resources Department out of hiring and recruitment processes. On one

¹⁸ Ms. [REDACTED] does not allege that Ms. Schuh engaged in any behavior towards her based on any protected status.

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occasion in May 2022, Ms. Schuh “kicked [REDACTED] out of an HR recruiting meeting” and stated: “We don’t need HR in here for this hire.” The recruiting process was for an Information Technology (“IT”) position that would report directly to the City’s IT Director, Jose Cervantes. Following the interviewing process for the position, Ms. Schuh extended an offer of employment for the position to Jay Elizondo, Mr. Cervantes’ godson, without notifying Ms. [REDACTED]—in her capacity as [REDACTED]—of the relationship so that Ms. [REDACTED] could confirm that there were no nepotism concerns. According to Ms. [REDACTED] “I felt it was inappropriate. She was the [REDACTED] for 20 years. She should know. As soon as I was promoted and was equal to her, she didn’t like me trying to ‘HR her.’ It felt very inappropriate that she didn’t tell me, on top of her telling [Ms. [REDACTED]] to get out of the recruiting meeting.”

2. Ms. [REDACTED] Account.

According to Ms. [REDACTED], she typically “handle[s] all recruiting” other than for director-level positions, which includes taking in all applications; redacting personnel information from applicant materials before providing it to the hiring manager; reviewing application materials with the hiring manager to identify which applicants the hiring manager wants to interview; and setting up interviews with hiring managers and interview panels, in which Ms. [REDACTED] typically participates. In the case of the hiring process for the IT position in May 2022, when Ms. [REDACTED] went to Ms. Schuh’s office to review application materials and identify individuals whom Ms. Schuh wished to interview, Ms. Schuh stated to Ms. [REDACTED] “Oh, you don’t need to be here. Me and Jose are going to take care of this.” Ms. [REDACTED] “had other things going on” and “didn’t think much of it.” She informed Ms. [REDACTED] who “wasn’t okay with it,” but they “kind of let it go.” Ms. Schuh subsequently notified Ms. [REDACTED] whom they wanted to interview based on her review of the application materials. Ms. [REDACTED] set up interviews with those candidates, but she had a “conflicting meeting” that day, so was unable to participate in the interviews. Following the interviews, Ms. Schuh let Ms. [REDACTED] know which of the candidates they wanted to call back for second interviews. According to Ms. [REDACTED] “HR doesn’t normally attend second interviews unless specifically asked by hiring managers. After the second interviews, [Ms. Schuh] told me who they wanted to make an offer to. At that point is when [Ms. Schuh] said, ‘Oh, by the way. This person happens to be Jose (Cervantes’) godson.’ Usually if they know someone is applying with a relationship, even when redacting in this case, they would have known after the first or second interview of a potential conflict of interest. In this case, they didn’t tell us until after they were asking me to make the offer.... We typically don’t allow any family members to direct family.” After learning from Ms. Schuh that the individual to whom she wanted to make an offer was Mr. Cervantes’ godson, Ms. [REDACTED] notified Ms. [REDACTED]. It is Ms. [REDACTED] understanding that Ms. [REDACTED] “looked into it a little bit just to see exactly what the City (nepotism) policy was,” and Ms. [REDACTED] is uncertain “what all happened beyond that.” Nevertheless, according to Ms. [REDACTED], “this is something that should have been disclosed at the beginning, not the end.”

3. Ms. Schuh’s Account.

According to Ms. Schuh, Ms. [REDACTED] was promoted to the position of [REDACTED] at Ms. Schuh’s recommendation. Ms. Schuh worked “really closely”

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with Ms. [REDACTED] to help her gain the experience necessary for Ms. Schuh to feel “comfortable” in making the recommendation to Mayor Miller that Ms. [REDACTED] be promoted.

According to Ms. Schuh, while Ms. [REDACTED] was employed with the City as [REDACTED] and reported directly to Ms. Schuh, there was “zero tension” between them. After Ms. [REDACTED] was promoted to the position of [REDACTED], however, there suddenly was “tension” in their working relationship, and Ms. Schuh did not understand the basis for that tension. After Ms. [REDACTED] was promoted, Ms. Schuh acknowledged that Ms. [REDACTED] may choose to do things “differently” than Ms. Schuh had done them when she oversaw the Human Resources Department, but she continued to offer “feedback” to Ms. [REDACTED] in an effort to support her in her new position. For example, after Ms. [REDACTED] was promoted, she began implementing “blind” interviews, for which City employees interviewing candidates for positions were not given the names of the applicants before the interviews. Instead, the candidates were identified generically only—for instance as “Candidate 1” or “Candidate 2.” Ms. Schuh offered feedback to Ms. [REDACTED] that the process had proven to be “awkward” and “uncomfortable” in the interviews when the interview panel did not know the candidates’ names and suggested candidates’ first names be disclosed prior to the interviews. Ms. [REDACTED] did not welcome the feedback and it resulted in a “bit of a disagreement” between them. On another occasion, Ms. [REDACTED] became upset with Ms. Schuh after learning that Ms. Schuh had communicated a promotion decision to a City employee in advance of a meeting that was scheduled with Ms. [REDACTED], Ms. Schuh and the employee.

Ms. Schuh denies that she engaged in any behavior with the intention of inappropriately cutting the Human Resources Department out of recruitment and hiring processes. The Human Resources Department is responsible for posting open positions and receiving and reviewing applicant submissions. To this end, according to Ms. Schuh: “HR manages the recruitment process. They post the positions. I don’t have access to the applications at that point. They were all blind. I don’t know how I could cut them out when they’re the ones who recruit for the position.” That said, Ms. Schuh “felt very comfortable not having HR in the actual interviews” with candidates given that she “had been doing interviews for 24 years at the City” in her prior oversight of the Human Resources Department. For this reason, she did not request to have any Human Resources personnel present during interviews for an IT position in May 2023, which led to a candidate being selected for the position who was the godson of the IT Director. In communicating to Human Resources that the individual had been selected for the position through the interview process, Ms. Schuh informed Ms. [REDACTED] that the individual was the godson of the IT Director. According to Ms. Schuh: “The hiring of a godson is not part of our nepotism policy. We have very specific relationships listed there.... It’s not a relative. I shared with HR that he was the godson. They’re the ones who make the offer. We make the recommendation. They do the background checking. If there was a concern, they could say, ‘I’m really concerned this is against our nepotism policy’ [and] I would have said, ‘It’s not included in our nepotism policy.’” At the time of our investigative interview, Ms. Schuh recalled that, after communicating the hiring recommendation, Ms. [REDACTED] expressed that Ms. Schuh “should have told her earlier that there was a potential for that issue because of this and then she would have had someone [in HR] in the interview because it was ‘gray.’”

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Ms. Schuh denies that she treated Ms. [REDACTED] differently, or adversely in any way, because Ms. [REDACTED] “revoked” Ms. Schuh’s access to City employee personnel files after Ms. [REDACTED] was promoted to the [REDACTED].

At the end of our investigative interview, Ms. Schuh added the following comments with regard to Ms. [REDACTED] allegations against her: “It’s important for me to reiterate—[and] I’ve said this many times to [Ms. [REDACTED]]—‘There are many things you’re going to do differently than me, and that’s fine.’ I wanted to set her up for success. [Ms. [REDACTED]] is very competent in terms of putting structures and systems in place. She’s great at that. I wanted her to succeed. That would have made my life easier not having those responsibilities. It benefited me for her to do well. I did not expect there to be no communication. There was no communication in how she assumed the director position. She stopped talking to me. She never asked me any questions from an HR perspective—never a single call to say, ‘How do we do this or that?’ I feel like I was the one who was treated differently after she was promoted, and it wasn’t intentional on my part. That wasn’t what I expected. Again, I really feel that as HR professionals one of our responsibilities is the ability to have difficult conversations. It doesn’t make them fun, but just acknowledging the elephant in the room. So, when I went in and talked with her—she often came in early—in the one instance I just told her, ‘Let’s agree we both need to work on our communications.’ When I was her manager that wasn’t an issue. I recommended that she be promoted to the position. So, I was surprised when we got to the point of having what seemed to be a strained relationship. There was just a wall that was put up. She didn’t communicate with me.... I wanted her to be successful. And I can tell you that her resignation came as a complete shock to the organization.”

4. Factual Findings.

There is no factual dispute that, after Ms. [REDACTED] was promoted to the position of [REDACTED] at Ms. Schuh’s recommendation, the relationship between Ms. Schuh and Ms. [REDACTED] became strained and they had a number of disagreements about issues pertaining to recruiting and hiring. Based on a preponderance of the evidence found throughout the course of my investigation (as described above), however, I was unable to substantiate Ms. [REDACTED] allegations that Ms. Schuh engaged in any behavior towards Ms. [REDACTED] in the workplace that can reasonably be characterized as “bullying.” At Ms. Schuh’s admission, she informed Ms. [REDACTED] that she did not require her participation during a May 2023 hiring process for an IT position, and she recommended to Human Resources that the godson of the IT Director be given an offer for the position. There is no factual dispute that Ms. Schuh informed Ms. [REDACTED] of the relationship between the candidate and the IT Director at the time she recommended to Ms. [REDACTED] that the candidate be extended an offer of employment. Ms. Schuh’s account that the relationship of godson and godfather is not included within the definition of “family member” within the City’s hiring (nepotism) policy language is supported by the plain language of the policy.¹⁹

¹⁹ See Exhibit 4 (Personnel Policy 204).

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IV. Conclusion.

This concludes my investigation.

Sincerely,

SEBRIS BUSTO JAMES

A handwritten signature in blue ink, appearing to read 'J. Parda-Aldrich', with a long horizontal flourish extending to the right.

Jennifer A. Parda-Aldrich

Enclosures