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Judge Nelva Gonzales Ramos

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United States of America & Corpus Christi Police Officers' Association v. City of Corpus Christi, Texas

Keywords

United States of America, Corpus Christi Police Officers' Association, City of Corpus Christi, Texas, 2:12-cv-00217 (NGR), Consent Decree, Disparate Impact, Hiring, Sex, Female, Government, Employment Law, Title VII

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
– and –)	Civil Action No.: 2:12-cv-00217 (NGR)
)	
)	
CORPUS CHRISTI POLICE OFFICERS’ ASSOCIATION,)	Hon. Nelva Gonzales Ramos
)	
Plaintiff-Intervenor,)	
)	
v.)	
)	
CITY OF CORPUS CHRISTI, TEXAS,)	
)	
Defendant.)	

SECOND AMENDED CONSENT DECREE

Plaintiff United States of America (the “United States”) brought this action against Defendant City of Corpus Christi, Texas (the “City”) to enforce the provisions of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, *et seq.*, as amended (“Title VII”). This Court has jurisdiction of this action under 42 U.S.C. § 2000e-5(f), 42 U.S.C. § 2000e-6(b), 28 U.S.C. §§ 1331 and 1343, and 28 U.S.C. § 1345.

In its Complaint, the United States alleges that the City has engaged and continues to engage in a pattern or practice of discrimination against women because of their sex, in violation of Section 707 of Title VII, 42 U.S.C. §§ 2000e-2, *et seq.* Specifically, the United States contends that the City’s use of the physical ability test (“PAT”), also referred to as the physical fitness test, to screen and select applicants for entry-level police officer jobs, has had and

continues to have a disparate impact on women because of their sex. The United States further claims that the City has not demonstrated that the City's use of the PAT is both job related and consistent with business necessity.

The United States and the City have agreed to resolve this matter by entering into the proposed consent decree ("Consent Decree" or "Decree") rather than through protracted litigation. Accordingly, the United States and the City agree that this Court has jurisdiction over the United States and the City as parties here as well as over the subject matter of this action. Further, those parties agree to entry of this Decree as final and binding between themselves as to the issues raised in the United States' Complaint in this case. Additionally, Intervenor Corpus Christi Police Officers' Association ("CCPOA") consents to entry of this Decree by the Court. CCPOA and the City agree that the Decree's entry will resolve CCPOA's complaint against the City in this case. CCPOA also agrees that this Decree's entry will resolve any objections to the Decree raised by CCPOA prior to and/or at the Fairness Hearing held on January 9, 2013.

The United States and the City stipulate, and the Court finds as follows:

- a. Since at least 2005, the City has administered and used a PAT in connection with selecting applicants for entry-level police officer jobs.
- b. At all relevant times, the PAT at issue has consisted of four events: (1) push-ups; (2) sit-ups; (3) a 300-meter run; and (4) a 1.5-mile run. The PAT has cut-off scores for each event. An applicant who fails one event cannot proceed to the next event and, thus, fails the PAT. Applicants who fail the PAT cannot continue in the selection process for entry-level police officer jobs.

- c. From 2005 to 2009, 27 of 140 female applicants for entry-level police officer jobs who took the PAT passed the test. During the same time period, 572 of 901 male applicants for entry-level police officer jobs who took the PAT passed the test.
- d. From 2005 to 2009, the pass rate for female applicants was approximately 19%, while the pass rate for male applicants was approximately 63%. The disparity in pass rates was statistically significant at the level of 8.19 units of standard deviation. The ratio of female test passers to male test passers was approximately 30%, less than 80% of the pass rate of male applicants.
- e. When each administration of the PAT from 2005 to 2009 is considered separately, the difference in pass rates is statistically significant. In each test administration during that time period, the ratio of female test passers to male test passers is less than 80% of the pass rate of male applicants. The disparity in pass rates between female and male applicants in each year from 2005 to 2009 is reflected in the table below:

Male and Female Pass Rates for the 2005-2009 PATs

Year	Male Passers/ Takers	Male Pass Rate	Female Passers/ Takers	Female Pass Rate	Ratio of Female Pass Rate to Male Pass Rate (80% Rule)	Disparity in Units of Standard Deviation
2005	84/131	64%	6/24	25%	39%	3.57
2006	108/152	71%	7/20	35%	49%	3.22
2007	141/224	63%	9/52	17%	27%	5.95
2008	119/202	59%	5/33	15%	25%	4.67
2009	120/192	63%	0/11	0%	0%	4.10

- f. In 2011, the City used the same PAT that it used in 2005 to 2009; however, it changed the cut-off scores for each event.

- g. In 2011, 16 of 49 female applicants for entry-level police officer jobs who took the PAT passed the test. During the same time period, 193 of 234 male applicants for entry-level police officer jobs who took the PAT passed the test.
- h. In 2011, the pass rate for female applicants was approximately 33%, while the pass rate for male applicants was approximately 82%. The disparity in pass rates was statistically significant at the level of approximately 7.22 units of standard deviation. The ratio of female test passers to male test passers was approximately 40%, less than 80% of the pass rate of male applicants.
- i. If women had passed the PAT at the same rate as men from 2005 to 2011, approximately 82 additional women would have been available for further consideration for the position of entry-level police officer.
- j. Because female applicants failed the PAT at statistically significantly higher rates than male applicants, female applicants were less likely to proceed through the selection process, and thus less likely to be hired as entry-level police officers than male applicants. The estimated shortfall of female applicants hired for entry-level police officer positions from 2005 to 2011 is between 15 and 18.
- k. The United States contends, and the City does not dispute, that the City's use of the PAT from 2005 to 2011 is neither job related (with respect to the position of entry-level police officer) nor consistent with business necessity. With respect to that time period, the City does not have any criterion, construct, or content validity studies supporting its selection of events for the PAT or the cut-off scores it has used for determining who has passed

PAT events. The City also does not have any mandatory fitness requirements for a majority of its incumbent police officers.

In resolution of this action, with the consent of the United States, the City, and CCPOA, IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED as follows:

I. DEFINITIONS AND PARTIES

1. The parties to this Decree are the United States, by the United States Department of Justice, and the City of Corpus Christi, Texas, by the Corpus Christi City Attorney's Office (collectively the "parties," and individually a "party"). CCPOA is not a party to the Decree but has reviewed the Decree and consents to entry of this Decree. Accordingly, CCPOA consents to, and agrees not to challenge, the relief afforded by this Decree, the United States' compliance with the Decree, and/or the City's compliance with the Decree.
2. "Backpay" means a monetary award that represents the value of some or all of the wages and benefits that a claimant (as defined herein) would have received from the City had the claimant been hired by the City as an entry-level police officer on or about the claimant's presumptive hire date (as defined herein).
3. "Claimant" means any female applicant for the position of entry-level police officer who is preliminarily eligible for individual relief and who timely submits a claim form, pursuant to Paragraphs 35 and 38, respectively.
4. "Date of entry" of the Decree means the date on which the Court enters the Decree as an order at or following the Fairness Hearing on the Decree as set forth in Paragraph 27 of this Decree.

5. “Days” means calendar days, unless business days are clearly specified. If any deadline referenced in this Decree should fall on a weekend or federal holiday, the deadline shall be moved to the next business day.
6. “Entry-level police officer” means the entry-level position in the City’s Police Department, even though an individual hired into that position may be called some other title until the individual has completed the training academy. This term does not include promotional candidates.
7. “Individual relief” means the following relief that a claimant may be offered pursuant to this Decree: (i) a monetary award in the form of backpay; and/or (ii) an offer of priority hire with retroactive hire date (as defined herein) (a recipient of such relief is a “priority hire”); and/or (iii) a retroactive hire date for a claimant whom the City hired between 2005 and 2011 and who is presently a City police officer (a “delayed hire”).
8. “PAT” means the physical ability test, which is also referred to as a physical fitness test, that was used by the City to select applicants for entry-level police officer jobs from 2005 to 2011, regardless of the cut-off scores used.
9. “Presumptive hire date,” with respect to a claimant, means the date of hire of applicants who passed the PAT on the date the claimant failed the PAT and whom the City hired as a result of that same selection process.
10. “Retroactive hire date” means the seniority date to be used by the City for any claimant who: (i) both is actually hired by the City as a priority hire pursuant to the terms of this Decree and successfully completes any applicable probationary period; or (ii) is a delayed hire. Except as set forth in this Paragraph 10, a claimant’s retroactive hire date shall be

used for all purposes for which the City's police department uses seniority, including, without limitation: amount of salary or other pay; promotional examination seniority points; accrual and scheduling of leave; layoffs/reductions in work force; recall from layoffs/reductions in work force; and pension benefits and eligibility for retirement. A claimant's retroactive hire date shall not be used for purposes of any applicable probationary periods or any time-in-grade requirements associated with eligibility for promotions, eligibility for transfers, or eligibility for filling internal vacancies. A claimant's retroactive hire date shall not be used for selecting shifts, which shall be assigned pursuant to the City's applicable policies and practices, including those related to determining and using seniority dates for senior officers.

11. "Selection device" means any examination, test, requirement, or other criterion used to evaluate an applicant's qualifications for hire as an entry-level police officer (*e.g.*, application, written entrance examination, physical ability test or physical fitness test, personal history statement, polygraph examination, background examination, oral board interview, psychological examination, and physical examination and drug test).

II. PURPOSES OF THIS DECREE

12. The purposes of this Decree are to ensure that:
 - i. the City does not violate Title VII by using policies or practices that have a disparate impact upon female applicants for entry-level police officer positions on the basis of sex and are not job related for that position and consistent with business necessity, or otherwise do not meet the requirements of Title VII; and

- ii. the City provides, as appropriate, monetary relief and/or priority hire relief and/or retroactive hire dates to priority hires and delayed hires, to qualified individuals who were denied employment with the City because of the employment practice challenged by the United States in this case.

III. GENERAL INJUNCTIVE RELIEF

13. The City, its officials, agents, employees, successors, and all persons acting on its behalf or in active concert or participation with it, are enjoined from using any selection device, including a physical ability test or physical fitness test, for the entry-level police officer position, that has a disparate impact upon female applicants on the basis of sex and is not job related for that position and consistent with business necessity, or otherwise does not meet the requirements of Title VII. Further, the City is enjoined from retaliating against or otherwise adversely affecting any person because he or she: opposed the alleged discrimination at issue here, in any way participated or cooperated in the investigation or litigation of the alleged discrimination at issue here, has been involved with the development or administration of this Decree, or received relief under or otherwise benefited from this Decree.
14. During the term of this Decree, the City shall not administer any physical ability test or physical fitness test for use in selecting entry-level police officers without the approval of the United States or the Court.
15. The City is specifically enjoined from using the PAT or any other physical ability test or physical fitness test in a manner that results in a disparate impact upon female applicants, unless the City is able to show that the test comports with the requirements of Title VII.

16. The United States and the City acknowledge that the City may have the need and ability to hire entry-level police officers before both this Consent Decree is entered by the Court and the relief proceedings contained in this Consent Decree occur. In order to allow the City to move forward with this hiring, the United States and the City agree that before the Fairness Hearing on Individual Relief described below, the City may initiate two (2) rounds of interim hiring. One round of interim hiring has occurred. Another round is set to begin soon. Prior to that upcoming interim hiring process, the City will notify potential claimants that:

- i. The United States filed suit against the City because of the City's use of the PAT;
- ii. The physical ability test has been changed;
- iii. If individuals are interested, the City is hiring entry-level police officers and would like the individuals to apply;
- iv. Failure to apply for hire during this interim hiring procedure will not affect their eligibility to receive relief if the Consent Decree is entered, but the City may have fewer priority hire positions available moving forward; and
- v. If the individuals are hired and the Consent Decree is entered by the Court, the individuals may be entitled to relief under the Consent Decree including retroactive seniority and backpay.

17. Any potential claimant hired through the Paragraph 16 interim hiring process will be a priority hire under this Consent Decree.

18. The City will inform potential claimants of the interim hiring process by certified mail, and the City may also send the notification by e-mail.

19. The use of any physical ability test or physical fitness test during the interim hiring period must comport with the requirements of Title VII.
20. To obtain an offer of priority hire through the interim hiring process, a claimant must successfully complete the City's entry-level police officer screening and selection procedures that are then in effect and required of all other entry-level police officer applicants, except for any written examination or maximum age requirements if, at the time of her initial application, the claimant both passed a written entry-level police officer examination administered by the City and met the maximum age requirements.
21. Failure to participate in or complete the interim process shall not bar an applicant from consideration for priority hire or any other relief under the terms of this Decree.
22. No later than ninety (90) days after the date of entry of this Decree, the City shall submit to the United States a proposal to use a new selection device in place of the PAT for selecting entry-level police officers. The new selection device shall either have no disparate impact on the basis of sex, or shall have been demonstrated to be job related for the entry-level police officer position and consistent with business necessity in accordance with Title VII. In selecting or developing its selection device, the City shall make reasonable efforts to explore the availability of selection devices that have been shown to reduce or eliminate disparate impact upon women in processes for selecting police officers.
23. The proposal that the City submits pursuant to Paragraph 22 shall include all information available to the City about the development and/or validation of the proposed selection device, which may include: a description of the selection device and the manner in which

the City intends to use it; the known or likely disparate impact on women, if any, of the intended use of the selection device; all evidence of job relatedness or validity of the selection device, including all job analyses, test plans, expert reports, and validation studies, as well as data underlying such analyses, plans, reports, or studies; and any basis for a conclusion that the proposed use of the selection device is job related for the position and consistent with business necessity. The City's submission shall also identify any other selection device, as well as any other manner of using the selection device the City proposes, that the City considered. Within ninety (90) days of receiving a proposal for a selection device from the City, the United States shall notify the City in writing whether it objects to the City's proposed use of the selection device; otherwise, the City may administer the selection device.

24. If after the administration of the City's selection device the United States determines that the City's use of the selection device does not comply with Title VII and/or this Decree, the United States shall notify the City in writing that the United States objects to the City's use of the selection device.

25. If the United States objects pursuant to Paragraphs 23 or 24 of this Decree to the City's use of the selection device, the United States and the City shall within thirty (30) days discuss the United States' objection and whether resolution is possible. If the United States and the City fail to reach an agreement on resolving the issues raised by the United States' objection within thirty (30) days, either of those parties may move the Court for resolution no sooner than fourteen (14) days after providing the other party with written notice of such intent. If the United States, pursuant to Paragraphs 23 or 24, objects to the

City's use of the selection device for the entry-level police officer position, no person shall be certified for appointment as an entry-level police officer from any affected eligibility list except by written agreement of the United States and the City or order of the Court.

26. The City shall designate an individual who shall be responsible for enforcing the provisions of this Decree. The individual's responsibilities shall include, but not be limited to, ensuring that the City fully implements and complies with all paragraphs of this Decree and receiving complaints of discrimination on the basis of sex in the screening, selection, and hiring of entry-level police officers in the Corpus Christi Police Department.

IV. FAIRNESS HEARING ON THE CONSENT DECREE

27. On January 9, 2013, the Court held a Fairness Hearing on the Consent Decree to allow the Court to determine whether the Decree's terms are fair, reasonable, equitable, and otherwise consistent with federal law.
28. The purpose of the Fairness Hearing on the Consent Decree and the related notification provisions of this Decree is to provide, to all individuals who may be affected by the terms of the Decree, notice of the Decree and an opportunity to present objections for the Court's resolution prior to final entry of the Decree, in accordance with Section 703(n) of Title VII, 42 U.S.C. § 2000e-2(n).
29. The United States and the City made reasonable efforts to provide notice of the Decree and the opportunity to object to the Decree's terms to:

- i. each female applicant who took the PAT as part of the City's entry-level police officer selection process from 2005 to 2011 and who failed the PAT;
- ii. each police officer in the Corpus Christi Police Department;
- iii. the Corpus Christi Police Officers' Association; and
- iv. other interested and/or potentially affected persons, including through postings on the City's website and Corpus Christi Police Department's website.

V. ENTRY OF THE CONSENT DECREE

30. If the Court determines that the terms of this Decree are fair, reasonable, equitable, and otherwise consistent with federal law, the Court shall enter the Decree.

VI. INDIVIDUAL RELIEF

A. Deposit of the Settlement Fund

31. Within thirty (30) days after the date of entry of this Decree by the Court, the City shall deposit an initial sum of \$500,000 into an interest-bearing account that has been established for this purpose in a federally insured financial institution that has been approved by the United States and the City. Within one-hundred and eighty (180) days after the date of entry of this Decree by the Court, the City shall deposit an additional sum of \$200,000 into the aforementioned account. The monies deposited pursuant to this Paragraph, as well as interest earned on those monies, are referred to herein as the "Settlement Fund." No later than fourteen (14) days from the date of entry of this Decree, the City shall in writing propose to the United States a federally insured financial institution for deposit of the Settlement Fund. The United States shall provide a written response to the City's proposal within seven (7) days of its receipt, either consenting to

the City's proposed financial institution or objecting and proposing an alternative financial institution. If the United States and the City cannot agree on a federally insured financial institution, either of those parties may submit the dispute to the Court for resolution upon providing the other party with seven (7) days' written notice of its intent.

B. Monetary Relief Awards from the Settlement Fund

32. The Settlement Fund shall be distributed by the City to claimants entitled to backpay monetary relief under this Decree, as provided in Subsection H of this Decree.

33. The City shall pay all federal, state, and/or local taxes or contributions that normally are paid by employers and that are due on any monetary relief award paid to a claimant, including the appropriate employer's contributions to Medicare and Social Security. No such taxes or contributions shall be deducted from the Settlement Fund or any claimant's monetary relief award.

34. The City shall, to the extent required by law, withhold from each claimant's monetary relief award all appropriate federal and state income taxes and any other required employee withholdings or deductions to the extent required by law. Such amounts shall be deducted by the City from each claimant's monetary relief award and shall be paid by the City from the Settlement Fund.

C. Preliminary Eligibility for Individual Relief

35. Individuals preliminarily eligible for relief under this Decree shall include each female applicant for an entry-level police officer position who passed the written examination step of any entry-level police officer selection process the City conducted at any time from 2005 through 2011, but who failed the PAT and, thus, was eliminated from further

consideration in that selection process. The City shall provide to the United States a list of such individuals, including their first names, last names, and presumptive hire dates, within seven (7) days after entry of this Decree. To receive an award of monetary relief, an individual need not: be eligible for priority hiring relief, seek priority hiring relief, or accept an offer of employment with the City. Delayed hires may receive monetary relief per this Decree, regardless of whether they seek retroactive seniority relief.

36. Within fourteen (14) days after the entry of this Decree by the Court, the City shall send a copy of the Notice of Entry of Consent Decree and Interest in Relief Form, attached to this Decree as Appendix A, by certified U.S. mail (return receipt requested), to the last known address of each individual preliminarily eligible for relief, as described in Paragraph 35.

37. The City shall keep records of all notices required by Paragraph 36 that are returned to the City as undeliverable. Within twenty-one (21) days of the mailing of the notices required by Paragraph 36, the City shall provide to the United States a list of all delivered and undelivered notices, and a copy of all notices, envelopes, and mail receipts for all persons to whom a notice was sent. If the United States provides the City with an alternative address for any individual whose notice was returned to the City as undeliverable, the City shall promptly mail the notice to the alternate address for that individual by certified U.S. mail (return receipt requested). If requested, the City shall provide reasonable and prompt assistance to the United States in providing information that may allow the United States to locate alternative addresses for any individual whose notice was returned as undeliverable.

D. Claimants to Submit Interest in Relief Form

38. Any person who wishes to be considered for an award of individual relief under this Consent Decree must return the completed Interest in Relief Form (Appendix A) to the United States no later than forty-five (45) days from the date of entry of this Decree. Any person who fails to do so shall be deemed to have waived any right to be considered for an award of individual relief under this Decree, unless she demonstrates good cause as determined by the United States. Completed Interest in Relief Forms shall be submitted by mailing or e-mailing a copy of the form to the United States in accordance with the instructions contained in Paragraph 82.
39. No later than ninety (90) days from the date of entry of this Decree, the United States shall provide to the City a Preliminary Relief Awards List that identifies all claimants preliminarily eligible for relief who have submitted Interest in Relief Forms to the United States. The list required by this Paragraph shall indicate the type(s) of relief, if any, for which the United States has determined each such claimant is eligible and each such claimant's presumptive hire date, as defined in Paragraph 9 above. If the United States determines that any claimant is not eligible for a type of relief sought by the claimant, the Preliminary Relief Awards List will include the reason(s) for that determination.
40. If the City disagrees with the United States' initial determination as to any claimant's eligibility for priority hiring relief, as set forth in the Preliminary Relief Awards List, the City shall: notify the United States in writing of all grounds for each of its disagreements, identify and provide contact information for all witnesses with knowledge of facts supporting its position(s), and include a copy of all documents supporting its

position. The City's notification per this Paragraph must be made within twenty-one (21) days of the City's receipt of the Preliminary Relief Awards List that the United States provides pursuant to Paragraph 39.

41. The United States and the City shall make good faith efforts to resolve any disagreements submitted to the United States pursuant to Paragraph 40. Within ten (10) days after the United States' request, the City shall make available for interview or deposition all available officials, agents, and employees of the City with knowledge of facts supporting the City's positions stated in the written notice referenced in the Paragraph 40. The United States shall consider the City's positions and all information provided pursuant to this Paragraph or Paragraph 40, and if after such consideration the United States agrees with any of those positions, the United States shall amend the Preliminary Relief Awards List accordingly before filing it with the Court pursuant to Paragraph 42 of this Decree.

E. Filing of Relief Awards List

42. Within one-hundred and eighty (180) days after entry of this Decree by the Court, the United States shall file with the Court a Relief Awards List stating whether the claimants timely returned Interest in Relief Forms, the type(s) of relief sought by the claimants, the types of relief for which the United States deems the claimants eligible, and the claimants' presumptive hire dates. In addition, for each claimant the United States deems eligible for monetary relief, the Relief Awards List shall state the share of the Settlement Fund that the United States has determined should be awarded to the claimant. The United States shall simultaneously serve a copy of the Relief Awards List on the City.

43. For purposes of the Relief Awards List, the United States shall determine each claimant's share of the total amount of monetary relief in a manner that is reasonable and equitable in relation to the claimant population, when the claimant took and failed the PAT, the total amount of monetary relief available under the Decree, and consistent with provisions of this Decree.

F. Fairness Hearing on Individual Relief

44. Upon filing the Relief Awards List described in Paragraph 42 of this Decree, the United States shall move the Court to hold a Fairness Hearing on Individual Relief to allow the Court to determine whether the Relief Awards List filed by the United States should be approved or amended. The Court shall provide the United States and the City with at least ninety (90) days' notice of the date and time set for the Fairness Hearing on Individual Relief.

45. If the City disagrees with the United States' determinations regarding eligibility for priority hiring relief as stated in the Relief Awards List, the City may file objections with the Court no later than seventy-five (75) days prior to the date set for the Fairness Hearing on Individual Relief. The City may not object to any claimant's eligibility for priority hiring relief unless, pursuant to Paragraph 40 of this Decree, the City objected to a preliminary determination by the United States that the claimant was eligible for priority hiring relief, and the City may not object on any grounds, or support its objections with any documents or testimony, that it did not timely disclose to the United States pursuant to Paragraph 40 of this Decree. The City may not object to the United States' determinations regarding monetary relief reflected in the Relief Awards List filed

by the United States. The United States shall file its response to any objections filed by the City pursuant to this Paragraph no later than thirty (30) days after the objections are filed.

46. No later than seventy-five (75) days before the date set for the Fairness Hearing on Individual Relief, the United States shall send by certified U.S. mail (return receipt requested) to each claimant, addressed to the last known or corrected/updated address of such individual, a Notice of Fairness Hearing on Individual Relief and Instructions for Filing an Objection to Individual Relief and Objection form, in the formats attached as Appendix B to this Decree, as well as the notice in the format attached as Appendix C, which notifies the claimant of the United States' determinations regarding the claimant's eligibility for relief under the Decree, the reasons for any determination that the claimant is ineligible for any particular form of relief, and the claimant's proposed share of the Settlement Fund, if any.

47. Claimants who object to the United States' proposed relief determinations may file objections, in accordance with the requirements and format set forth in Appendix B, as follows:

- i. Objections must include all the information set forth in Appendix B.
- ii. Objections shall be submitted by mailing or e-mailing a copy of any objection to the United States in accordance with the instructions contained in Paragraph 82.
- iii. Objections must be mailed or e-mailed to the United States, and postmarked or e-mail date-stamped with a date that is no later than forty-five (45) days prior to the date set for the Fairness Hearing on Individual Relief. By no later than thirty (30) days prior

to the date set for the Fairness Hearing on Individual Relief, the United States shall serve upon the City copies of the objections it has received.

48. No later than ten (10) days prior to the Fairness Hearing on Individual Relief: (1) the United States shall file with the Court copies of all objections received by the United States, and (2) the United States and the City shall file their responses, if any, to objections timely received by the United States in accordance with the deadlines set forth in Appendix B.

G. Approval of Final Relief Awards List

49. At or following the Fairness Hearing on Individual Relief, the Court shall determine which, if any, objections to the United States' Relief Awards List filed pursuant to Paragraph 42 of this Decree are well-founded. The Court shall then approve the Relief Awards List as submitted or, if the Court finds that any objection(s) is/are well-founded, shall amend the list to adjust the amount and nature of the relief to be awarded to the claimants consistent with such finding, while maintaining, to the extent possible, the proportionate shares of monetary relief awarded to all other claimants. The list approved by the Court will be the Final Relief Awards List.

50. The Court shall evaluate any objections, including those made by the City and those made by any claimant challenging the United States' determinations of a claimant's eligibility for priority hiring relief (as reflected on the Relief Awards List filed pursuant to Paragraph 42) and/or regarding the amount of monetary relief to be awarded to a claimant, in accordance with applicable law.

H. Notice of Relief Award and Acceptance and Release

51. No later than thirty (30) days after the Court determines, at or following the Fairness Hearing on Individual Relief, each claimant's eligibility for relief under this Decree, the United States shall mail by certified U.S. mail (return receipt requested) a notice of award of individual relief to all claimants determined by the Court to be entitled to individual relief, as stated in the Final Relief Awards List, at their current or last known addresses.

Each notice shall include:

- i. the letter and information set forth in Appendix D; and
- ii. any withholding forms provided that are necessary for the City to comply with its withholding obligations under the law. The City shall provide the United States with such forms no later than seven (7) days after the Court determines, at or following the Fairness Hearing on Individual Relief, each claimant's eligibility for relief under this Decree.

52. As a condition for the receipt of a monetary relief award and/or priority hiring consideration and/or retroactive seniority relief, each claimant otherwise entitled to relief as indicated in the Final Relief Awards List shall be required to execute a copy of the Acceptance of Relief and Release of Claims form set forth in Appendix D of this Decree, along with any withholding forms if the claimant is eligible for monetary relief, and return them to the United States no later than sixty (60) days after the Court approves the Final Relief Awards List. Acceptance of Relief and Release of Claims forms shall be submitted by mailing or e-mailing a copy of the form to the United States in accordance with the instructions contained in Paragraph 82. A claimant's failure to return an

executed Acceptance of Relief and Release of Claims form within the time allowed, except for good cause as determined by the United States, shall constitute a rejection of the offer of relief and shall release the United States and the City from any further obligation under this Decree to make an award of relief to that claimant.

53. No later than seventy-five (75) days after the Court approves the Final Relief Awards List, the United States shall forward to the City copies of all executed Acceptance of Relief and Release of Claims forms and withholding forms it received from claimants listed in the Final Relief Awards List.
54. If any claimant listed on the Final Relief Awards List actually or effectively (*e.g.*, by not complying in a timely manner with the steps set forth in the Decree for acceptance except for good cause as determined by the United States) rejects a monetary relief award, the United States shall reallocate the amount of monetary relief allocated to that claimant to those other claimants who are listed on the Final Relief Awards List and timely returned all forms required by Paragraph 52, in a manner consistent with the limitation set forth in Paragraph 43 and designed to allocate the total amount of monetary relief available in the Settlement Fund while preserving the relative proportions of the claimants' shares of the Settlement Fund as stated on the Final Relief Awards List. No later than ninety (90) days after the Court approves the Final Relief Awards list, the United States shall either amend the Final Relief Awards List to reflect any such reallocation of monetary relief and to reflect any rejections of priority hiring relief and provide a copy of the Amended Final Relief Awards List to the City, or inform the City that no amendments are required.

55. If a claimant listed on the Final Relief Awards List is deceased or has an appointed legal guardian, any monetary relief indicated in the Final Relief Awards List shall be paid to the claimant's authorized legal representatives, heirs, or guardians, as appropriate, in accordance with the laws of the State of Texas.
56. No later than thirty (30) days after the United States provides to the City the Amended Final Relief Awards List or informs the City that no amendments are required, the City shall mail a monetary relief award check to each claimant eligible for monetary relief, as listed on the Amended Final Relief Awards list (or original Final Relief Awards List if no amendments were required), in the amount stated for the claimant on the relevant List, less all appropriate taxes and other amounts required to be withheld by law in accordance with Paragraph 34. Also no later than thirty (30) days after the United States provides to the City the Amended Final Relief Awards List or informs the City that no amendments are required, the City shall begin to use the retroactive hire dates, per Paragraph 10 above, for all delayed hires who have accepted retroactive seniority relief under the Decree.
57. No later than forty-five (45) days after the United States provides to the City the Amended Final Relief Awards List (or notifies the City that no amendment is required), the City shall provide to the United States a copy of each monetary relief award check mailed to a claimant pursuant to Paragraph 56, along with a statement indicating the amounts withheld from each check and the purpose of each withholding.
58. No later than one-hundred and twenty (120) days after the United States provides to the City the Amended Final Relief Awards List (or informs the City that no amendments are

required), the City shall provide to the United States a list of all checks that have been returned to the City as undeliverable and of any other checks that have not been cashed, as well as a statement of the amount of funds remaining in the Settlement Fund. The amount remaining in the Settlement Fund will be redistributed as directed by the United States in a manner consistent with this Decree, unless the United States determines that the amount of money represented by the returned and uncashed checks is *de minimus*.

I. Priority Hiring with Retroactive Hire Date

59. The City shall make eighteen (18) priority hires of claimants eligible for priority hiring relief as indicated on the Final Relief Awards List (or the Amended Final Relief Awards List).
60. For a hire to be an acceptable priority hire under this Decree, the person hired must be a claimant who is: eligible for priority hire relief as indicated by the Amended Final Relief Awards List (or the Final Relief Awards List if no amendments were required) and hired by the City through the Paragraph 16 interim hiring process or after receiving an offer of priority hire as defined in Paragraph 63. A claimant is considered hired only when the claimant begins her first day of paid employment as an entry-level police officer after successfully completing the training academy.
61. To obtain an offer of priority hire, a claimant must successfully complete the City's entry-level police officer screening and selection procedures that are then in effect and required of all other entry-level police officer applicants, except for any written examination or maximum age requirements if, at the time of her initial application, the claimant both passed a written entry-level police officer examination administered by the

City and met the maximum age requirements. The City shall make reasonable efforts to accommodate claimants in scheduling the screening and selection procedures described in this Paragraph.

62. If the City disqualifies any claimant listed on the Amended Final Relief Awards List (or the Final Relief Awards List if no amendments were required) from an offer of priority hire based on any part of its screening and selection process before fulfilling its priority hiring obligations under the Decree, the City shall, within ten (10) days of making such determination, send the United States: written notice of its determination, the basis of its determination, and any supporting documentation. If the United States disagrees with the City's determination to disqualify any claimant, it shall notify the City in writing, and the United States and the City shall make a good faith effort to resolve the disagreement. If those parties are unsuccessful in that regard, the United States may seek judicial resolution by submitting an objection to the claimant's disqualification to the Court no later than thirty (30) days after receipt of the City's written notice of determination.
63. An offer of priority hire, except one made in connection with the Paragraph 16 interim hiring process, is made to a claimant only when the City sends to the claimant, by certified mail (return receipt requested), a written offer of employment in the entry-level police officer position, prominently indicating:
- i. that the offer is an offer of priority hire being made pursuant to the Decree;
 - ii. that at the completion of any applicable probationary period, the claimant will be entitled to retroactive seniority as of the claimant's presumptive hire date as provided by this Decree;

- iii. the beginning salary the City will pay the claimant and the benefits the claimant will receive if the offer is accepted, as well as the salary and benefits, including retroactive pension benefits, the claimant will receive after completion of any applicable probationary period based on her retroactive hire date;
- iv. the date on which the claimant will begin employment if the offer is accepted;
- v. the telephone numbers at which the claimant may contact the City and the United States with any questions regarding the offer of priority hire; and
- vi. that the claimant has at least thirty (30) days from the date on which the claimant receives the written offer of priority hire to notify the City that the claimant accepts the offer.

On the date that such an offer of priority hire is sent to a claimant, the City shall send a copy of the offer of priority hire to the United States.

64. Except pursuant to this Decree's interim hiring provisions in Paragraphs 16-21, from the date the Court approves that Final Relief Awards List, the City shall not hire any person other than a claimant eligible for priority hire into an entry-level police officer position until either: a) eighteen (18) priority hires have occurred; or b) each eligible claimant has: been hired as a priority hire pursuant to this Decree, rejected an offer of priority hire, or accepted an offer of priority hire but failed to appear to begin the training academy on the date scheduled without good cause as determined by the United States.
65. If a claimant fails to timely accept the City's offer of priority hire, or if the claimant fails to report for work on the start date identified in the City's offer of priority hire, except for good cause as determined by the United States, the City's obligation to provide the offer

to or make a priority hire of that claimant ceases; however, such instances of non-offer or non-hire shall not affect the number of priority hires that the City must make under the Decree.

66. No later than thirty (30) days after the beginning of any training academy class for which offers of priority hire have been made, the City shall provide to the United States: a written report identifying the name of each claimant who accepted such an offer of priority hire; whether each such claimant was actually employed by the City; and for any claimant not employed by the City, a statement of the reason(s) that any claimant to whom an offer of priority hire was made was not hired, along with all available documentation relating to such reason(s).

67. No later than thirty (30) days after the completion of any training academy class for which offers of priority hire have been made, the City shall provide to the United States: a written report identifying the name of each claimant who accepted such an offer of priority hire; whether each such claimant successfully completed the training academy; and for any claimant who did not complete the training academy, a statement of the reason(s) that any claimant to whom an offer of priority hire was made did not complete the training academy, along with all available documentation relating to such reason(s).

68. On the date on which a claimant who was hired as a priority hire under this Decree completes any applicable probationary period, the City shall credit the claimant with a retroactive hire date in the police officer position that corresponds to the claimant's presumptive hire date as stated on the Amended Relief Awards List (or the original Final Relief Awards List if no amendments were required).

69. Any potential claimant who initially failed the PAT, but subsequently passed the PAT and was hired by the City as an entry-level police officer, shall not constitute a priority hire. This potential claimant is a delayed hire and, as such, is preliminarily eligible for monetary relief and/or retroactive seniority.
70. A claimant hired as a priority hire under this Decree may be hired under the City's alternate hiring process, provided: (1) under the alternate hiring process, the claimant is entitled to salary and benefits in addition to what she would otherwise receive under the Decree, and (2) the claimant is provided all benefits, based on her retroactive hire date, that she is entitled to under the Decree in addition to any benefits she receives under the alternate hiring process. The provisions of the alternate hiring process are contained in the Agreement between the City of Corpus Christi and The Corpus Christi Police Officers' Association, August 1, 2010 to July 31, 2015, and are hereby incorporated by reference.
71. Pension eligibility and benefits shall be provided to any claimant who: (i) is hired as a priority hire pursuant to this Decree, or (ii) is a delayed hire. For each priority hire or delayed hire who accepts retroactive pension relief, the City shall pay any non-employee share of the pension contributions necessary to obtain pension credit for each of the priority hire claimants and each of the delayed hire claimants from her retroactive hire date to her actual date of hire, and any interest on the employee share or the non-employee share that may be required. This payment is in addition to the monetary payments required to be made by the City in Paragraphs 32-33, and shall not be paid by the City from the Settlement Fund. The City shall offer each of the priority hire

claimants and each of the delayed hire claimants, who accepts such relief, the option to pay the employee's share required for the retroactive pension credit either by a lump sum payment or through additional payroll withholding, as each employee shall elect.

72. Nothing in this Consent Decree shall preclude any claimant from applying for hire or being hired into the entry-level police officer position under any of the City's regular selection or hiring processes. However, hire of a claimant under one of the City's regular selection or hiring processes, whether or not the hiring predated entry of the Decree, shall not be counted toward fulfillment of the City's priority hiring obligations under this Decree, except pursuant to this Decree's interim hiring provisions set forth in Paragraphs 16-21. Hire of a claimant under one of the City's regular selection or hiring processes shall not affect the claimant's eligibility for monetary relief under this Decree. The City also may not refuse to select or hire a claimant under one of its regular selection or hiring processes because the claimant is eligible for priority hiring or monetary relief under this Decree.

VII. RECORD KEEPING AND COMPLIANCE MONITORING

73. While this Decree remains in effect, the City shall maintain all of the following records:

- i. all documents relating to the screening, evaluation, or selection of applicants for the entry-level police officer position;
- ii. all records relating to the development and/or validation of any selection practice or procedure the City uses to screen or select entry-level police officers;
- iii. all documents relating to written or verbal complaints made by any person or entity regarding sex discrimination in the hiring of entry-level police officers;

- iv. all documents relating to written or verbal complaints made by any person or entity alleging that the City retaliated against, or otherwise adversely affected, any person because he or she: opposed the alleged discrimination at issue here, in any way participated or cooperated in the investigation or litigation of the alleged discrimination at issue here, has been involved with the development or administration of this Decree, or received relief under or otherwise benefited from this Decree;
- v. all documents relating to the evaluation or selection of claimants to be offered priority hire and/or to the employment of claimants hired as priority hires under this Decree; and
- vi. all other documents relating to the City's compliance with the requirements of this Decree, including, but not limited to, documents relating to the payment or award of individual relief to any claimant under this Decree.

74. Except as otherwise provided in this Decree, the City will make available to the United States, no later than thirty (30) days after the United States so requests in writing, any records maintained in accordance with Paragraph 73 and any additional documents relating to any dispute arising under the Decree.

75. When possible, all records furnished to the United States shall be provided in a computer-readable format to be agreed upon by the United States and the City prior to production.

76. Within thirty (30) days after the United States makes a request in writing, the City shall make available for interview by the United States any agent, employee, or official of the City who has knowledge, and/or who the United States reasonably believes to have

knowledge, of information necessary to verify the City's compliance with the terms of this Decree or to resolve a dispute arising under this Decree.

VIII. DISPUTE RESOLUTION

77. The United States and the City shall attempt in good faith to resolve informally any disputes that arise under this Decree. If those parties are unable to resolve the dispute expeditiously, either of those parties may submit the disputed issue to the Court for resolution upon seven (7) days' written notice to the other party, unless a different time period has been specified elsewhere in the Decree.

IX. DURATION OF DECREE

78. This Decree shall be dissolved and this action shall be dismissed, without further order of the Court, upon the occurrence of the latter of the following two events:

- i. thirty (30) days after the establishment of the third eligibility list based on the City's adoption of the selection device that has been agreed upon by the United States, or approved by the Court pursuant to Paragraphs 22-25 of this Decree; or
- ii. the fulfillment of all of the United States' and the City's obligations regarding Individual Relief contained in Section VI of this Decree, including crediting by the City of retroactive seniority in accordance with the retroactive hire dates assigned to claimants hired as priority hires.

X. COSTS AND FEES

79. Except as set forth elsewhere in this Decree, the United States and the City shall bear their own costs, attorneys' fees, and other expenses incurred as a result of obligations imposed by this Decree, including the cost of all notification and publication procedures.

80. The United States, the City, and CCPOA shall bear their own costs, attorneys' fees, and other expenses incurred in this litigation.

XI. MISCELLANEOUS

81. The Court shall retain jurisdiction over this Decree for the purpose of resolving any disputes or entering any orders that may be appropriate to implement the Decree.

82. Any documents required to be delivered by any objectors or claimants to the United States shall be mailed or e-mailed to the following address:

United States Department of Justice
Civil Rights Division
Employment Litigation Section
Attn: 2012 U.S. v. Corpus Christi Settlement
P.O. Box 14400
Washington, DC 20044-4400

CorpusChristi.Settlement@usdoj.gov

The date any document was mailed or e-mailed to the United States shall be deemed the date of return. In the event that a document is returned by U.S. mail, but no date of mailing is indicated by a postmark of the United States Postal Service, the date of return of the document shall be deemed to be ten (10) days prior to the date the form was received by the Employment Litigation Section of the Department of Justice's Civil Rights Division.

83. Any documents required to be delivered under this Decree to the United States by the City shall be sent by an express mail service (such as FedEx or United Parcel Service (UPS)), *but not via United States mail*, or e-mail to the attention of:

Trevor S. Blake II
Senior Trial Attorney
United States Department of Justice
Civil Rights Division
Employment Litigation Section
601 D Street, NW- PHB
Washington, DC 20579

CorpusChristi.Settlement@usdoj.gov


84. Any documents required to be delivered under this Decree by the United States to the City shall be sent to the attention of:

Allison Logan
First Assistant City Attorney
City of Corpus Christi
City Attorney's Office
P.O. Box 9277
Corpus Christi, TX 78469-9277

85. If any provision of this Decree is found to be unlawful, only the specific provision in question shall be affected, and the other provisions will remain in full force and effect.

86. Final entry of this Decree constitutes the entry of final judgment within the meaning of Rule 54 of the Federal Rules of Civil Procedure as to all claims asserted in this action.

It is so ORDERED, this 16th day of May, 2013.



JUDGE NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE

AGREED AND/OR CONSENTED TO:

FOR PLAINTIFF UNITED STATES OF AMERICA:

THOMAS E. PEREZ
Assistant Attorney General
Civil Rights Division

By:

/s Delora L. Kennebrew
DELORA L. KENNEBREW (GA Bar No. 414320)
Chief
Employment Litigation Section

/s Sharyn A. Tejani
SHARYN A. TEJANI (DC Bar No. 456150)
Deputy Chief
Employment Litigation Section

/s Trevor S. Blake II
/s Sonya L. Sacks
TREVOR S. BLAKE II (DC Bar No. 974319)
Attorney in Charge
Senior Trial Attorney
SONYA L. SACKS (VA Bar No.30167)
Senior Trial Attorney
United States Department of Justice
Civil Rights Division
Employment Litigation Section
950 Pennsylvania Avenue, NW-PHB
Washington, DC 20530
Telephone: (202) 514-3831
Fax: (202) 514-1005
E-mail: Trevor.Blake@usdoj.gov

KENNETH MAGIDSON
United States Attorney
Southern District of Texas

By:

/s John A. Smith

JOHN A. SMITH (TX Bar No. 18627450)

Assistant United States Attorney

Southern District of Texas

One Shoreline Plaza South Tower,

800 N Shoreline Blvd., Suite 500

Corpus Christi, TX 78401

Telephone: (361)888-3111

Fax: (713)718-3300

E-mail: John.A.Smith@usdoj.gov

Attorneys for the United States of America

**FOR INTERVENOR-PLAINTIFF CORPUS CHRISTI POLICE OFFICERS'
ASSOCIATION:**

By: /s L. Celeste Robertson Cory
L. CELESTE ROBERTSON CORY (TX Bar No. 00790925)
Combined Law Enforcement Associations of Texas
3122 Leopard
Corpus Christi, TX 78408
Telephone: (361) 883-3224
Fax: (361) 884-8357
E-mail: Celeste.Cory@cleat.org

Attorney for the Corpus Christi Police Officers' Association

FOR DEFENDANT CITY OF CORPUS CHRISTI, TEXAS:

/s Carlos Valdez

CARLOS VALDEZ (TX Bar No. 20426250)

City Attorney

By: /s Alison Logan

ALISON LOGAN (TX Bar No. 00795485)

First Assistant City Attorney

City of Corpus Christi

City Attorney's Office

P.O. Box 9277

Corpus Christi, TX 78469-9277

Telephone: (361) 826-3360

Fax: (361) 826-3239

E-mail: AlisonL@cctexas.com

Attorneys for the City of Corpus Christi, Texas

APPENDIX A

Notice of Entry of Consent Decree to Potential Claimants

Re: United States v. The City of Corpus Christi, Texas, Civ. Action No. 2:12-cv-00217 (NGR) (S.D. Tex.)

Dear _____:

On [insert date], the Court approved the Consent Decree in the United States v. The City of Corpus Christi, Texas. In the lawsuit, the United States alleged that the City had engaged in employment practices that violated Title VII of the Civil Rights Act of 1964, as amended ("Title VII"). The United States alleged that the City's use of a physical ability test from 2005 to 2011 disproportionately excluded female applicants from employment as police officers and that use of the examination had not been shown to be job related and consistent with business necessity, as required by federal law.

You may be eligible for the relief in the Consent Decree. This letter explains the steps you must take to be considered for relief.

Terms of the Consent Decree

Under the Consent Decree:

- The City will no longer use its physical ability test and will replace it with one that meets the required legal standards.
- The City will hire eighteen (18) women who did not pass the test between 2005 and 2011, provided those women pass the City's other selection requirements and successfully complete the Academy.
- The City will provide retroactive seniority and pension benefits to the eighteen (18) women, and to women who failed the test between 2005 and 2011 and were later hired by the City as entry-level police officers. This will give these women the seniority dates and pensions that they would have had if they had passed the physical test and been hired.
- And the City will provide \$700,000 for a Settlement Fund that will be distributed among all the women who failed the test between 2005 and 2011. This money will be divided between all the women who took and failed the test between 2005 and 2011, not just the eighteen (18) women who are hired.

Next Steps

1. If you believe you are entitled to relief and wish to request any type of relief under the terms of the settlement, you **MUST** fill out the **Interest In Relief Form** enclosed with this notice and return it by mail or e-mail no later than [insert date] to:

United States Department of Justice
Civil Rights Division
Employment Litigation Section
Attn: 2012 U.S. v. Corpus Christi Settlement
P.O. Box 14400
Washington, DC 20044-4400

OR

CorpusChristi.Settlement@usdoj.gov

2. You should indicate if you are interested in monetary relief and if: (i) you want to be considered for a police officer position in Corpus Christi with retroactive seniority relief, or (ii) you are now a Corpus Christi police officer and want to receive retroactive seniority relief. You do not have to request hiring relief or retroactive seniority relief in order to get monetary relief. If you wish to be considered for any of the relief discussed above, you may be required to provide additional information.
3. If you have any questions about how to submit a claim, or whether you may be eligible, you may consult with an attorney of your own choosing and at your own expense.
4. If you have any questions about how to submit a claim, or whether you may be eligible, you may also call the Employment Litigation Section of the Civil Rights Division of the Department of Justice at 1-800-556-1950, Box # 3. If you do call this number, please leave a voicemail message with your name, address, telephone number and a time when you can be reached. Your call will be returned as soon as possible.

SUBMITTING THE CLAIM FORM BY [insert date] , DOES NOT MEAN THAT YOU ARE ENTITLED TO OR WILL RECEIVE ANY RELIEF. HOWEVER, IF YOU FAIL TO SUBMIT A CLAIM FORM BY [insert date] YOU MAY BE BARRED FROM OBTAINING RELIEF.

Return this form to:

United States Department of Justice
Civil Rights Division
Employment Litigation Section
Attn: 2012 U.S. v. Corpus Christi Settlement
P.O. Box 14400
Washington, DC 20044-4400

OR

CorpusChristi.Settlement@usdoj.gov

SUBMITTING THE CLAIM FORM BY [insert date], DOES NOT MEAN THAT YOU ARE ENTITLED TO OR WILL RECEIVE ANY RELIEF. HOWEVER, IF YOU FAIL TO SUBMIT A CLAIM FORM BY [insert date] YOU MAY BE BARRED FROM OBTAINING RELIEF.

APPENDIX B

NOTICE OF FAIRNESS HEARING ON INDIVIDUAL RELIEF

Re: United States v. The City of Corpus Christi, Texas, Civ. Action No. 2:12-cv-00217 (NGR) (S.D. Tex.)

Dear _____:

On [insert date], the Court approved the Consent Decree in the United States v. The City of Corpus Christi, Texas. In the lawsuit, the United States alleged that the City had engaged in employment practices that violated Title VII of the Civil Rights Act of 1964, as amended (“Title VII”). The United States alleged that the City’s use of a physical ability test from 2005 to 2011 disproportionately excluded female applicants from employment as police officers and that use of the examination had not been shown to be job related and consistent with business necessity, as required by federal law.

You filed an “Interest In Relief Form” in this Case. This letter explains the relief the United States and the City will recommend you receive. The letter also explains how you can go about objecting to the United States’ and the City’s recommendation regarding your relief. If you do not object, you do not have to take any action at this time.

Under the Consent Decree:

- The City will no longer use its physical ability test and will replace it with one that meets the required legal standards.
- The City will hire eighteen (18) women who did not pass the test between 2005 and 2011 provided those women pass the City’s other selection requirements and successfully complete the Academy.
- The City will provide retroactive seniority and pension benefits to the eighteen (18) women, and to women who failed the test between 2005 and 2011 and were later hired by the City as entry-level police officers. This will give these women the seniority dates and pensions that they would have had if they had passed the physical test and been hired.
- And the City will provide \$700,000 for a Settlement Fund that will be distributed among all the women who failed the test between 2005 and 2011. This money will be divided between all the women who took and failed the test from 2005 to 2011, not just the eighteen (18) women who are hired.

Next Steps

1. Carefully review the form showing you what type of relief the United States and the City will recommend on your behalf.
2. If you agree with the relief, you do not have to take any action at this time.

3. If you do not agree with the relief, you have the right to submit a written objection to the determination regarding your relief. **Making an objection is voluntary, but if you do not object at this time, you may be prohibited from objecting in the future.**
4. The United States and the City now have requested that the Court hold a Fairness Hearing on Individual Relief. The Fairness Hearing on Individual Relief will be held on **[insert date]** at **[time]**, at the federal district courthouse located at **1133 North Shoreline Boulevard, Corpus Christi, Texas 78401. You have the right to attend this Fairness Hearing.** At the hearing, the Court will consider the United States' and the City's recommendations. The Court will consider your objection, if you file one, whether or not you attend the hearing.
5. If you have any questions about your individual relief, you may consult with an attorney of your own choosing and at your own expense.
6. If you have any questions about your individual relief, you may also call the Employment Litigation Section of the Civil Rights Division of the Department of Justice at 1-800-556-1950, Box # 3. If you do call this number, please leave a voicemail message with your name, address, telephone number and a time when you can be reached. Your call will be returned as soon as possible.

INSTRUCTIONS FOR FILING AN OBJECTION TO INDIVIDUAL RELIEF

1. If you wish to object in any respect to the United States' and the City's determinations regarding the relief to which you are entitled under the Consent Decree, you must do so in the manner described below. **Making an objection is voluntary, but if you do not object at this time, you may be prohibited from objecting in the future.** If you choose to make an objection, the judge will consider your objection before deciding whether or not to approve the types and amounts of relief to be provided to you and other individuals under the Consent Decree.
2. **All objections must be returned by [insert date]. If your objection is not returned by this date, your objection may not be considered and you may be prohibited from objecting at a later time. The date of return of the objection will be the date of the postmark by the United States Postal Service or e-mail date-stamp.**
3. **All objections must be made in writing.** Your objection should be made on the attached form, showing the caption of the case. You must fill out this form completely. You must include a description of the nature and basis of your objection. If you have retained an attorney to assist you in this matter, please indicate with your objection the name, address and phone number of your attorney. You may attach additional pages to the form if necessary.
4. You must submit your objection to:

United States Department of Justice
Civil Rights Division
Employment Litigation Section
Attn: 2012 U.S. v. Corpus Christi Settlement
P.O. Box 14400
Washington, DC 20044-4400

OR

CorpusChristi.Settlement@usdoj.gov
5. The court will hold the Fairness Hearing on Individual Relief on [insert date] at **[time]**, at the federal district courthouse located at **1133 North Shoreline Boulevard, Corpus Christi, Texas 78401**. You may attend this hearing if you wish, but need not attend the hearing in order to have the Court consider any written objections you submit.
6. If you have any questions concerning the procedure for submitting an objection, you may consult with an attorney of your own choosing and at your own expense, or you may call the Employment Litigation Section of the Civil Rights Division of the Department of Justice at 1-800-556-1950, Box # 3. If you do call this number, please leave your name, address, telephone number and a time when you can be reached. Your call will be returned as soon as possible.

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
 v.) Civil Action No.: 2:12-cv-00217 (NGR)
)
 THE CITY OF CORPUS CHRISTI,)
 TEXAS)
)
 Defendant.)

**OBJECTION TO UNITED STATES' DETERMINATION REGARDING
INDIVIDUAL RELIEF TO BE AWARDED UNDER THE CONSENT DECREE**

I am objecting to the United States' determinations regarding the relief to which I am entitled under the Consent Decree.

Name: _____ Attorney's name (if any): _____

Address: _____ Attorney's address: _____

Telephone: _____ Attorney's Telephone: _____

Nature and basis of my objection: _____

**YOU MUST ATTACH A COPY OF ANY DOCUMENTATION
THAT YOU HAVE THAT SUPPORTS YOUR OBJECTIONS.**

Are you requesting the opportunity for you (or your attorney if you have one) to state your objection in person at the Fairness Hearing on Individual Relief?

Yes No

YOU MAY USE ADDITIONAL PAGES TO EXPLAIN THE BASIS OF YOUR OBJECTION IF NECESSARY. **YOU MUST SEND YOUR OBJECTION TO THE DEPARTMENT OF JUSTICE AT THE ADDRESS PROVIDED IN THE INSTRUCTIONS. YOUR OBJECTION MUST BE POSTMARKED OR E-MAIL DATE-STAMPED BY [INSERT DATE] .**

APPENDIX C

Notice to Claimants Regarding Individual Relief Determination

Re: United States v. The City of Corpus Christi, Texas, Civ. Action No. 2:12-cv-00217 (NGR)
(S.D. Tex.)

Individual Relief Determination

1. The United States has made a preliminary determination that you [] are [] are not eligible for an award of monetary relief and that you should receive at least **[insert amount]**, minus withholding.
2. The United States has made a preliminary determination that you [] are [] are not eligible to be considered for an offer of hiring relief. This does not ensure that you will be hired by the City. However, if you are hired pursuant to the Consent Decree and successfully complete training and a probationary period, you will be given a retroactive hire date of **[insert date]**.
3. The United States has made a preliminary determination that you [] are [] are not a current police officer with the City who is eligible to be considered for an offer of retroactive seniority relief.
4. To the extent that the United States has determined that you are not eligible for an award of monetary relief or has determined that you are not eligible to be considered for hiring relief, the reason(s) for this determination are:

APPENDIX D

Letter to Claimants Regarding Acceptance of Relief and Release of Claims

Re: United States v. The City of Corpus Christi, Texas, Civ. Action No. 2:12-cv-00217 (NGR)
(S.D. Tex.)

Dear _____:

On [insert date], the Court determined each individual's eligibility for relief under the Consent Decree in the United States v. The City of Corpus Christi, Texas. In the lawsuit, the United States alleged that the City had engaged in employment practices that violated Title VII of the Civil Rights Act of 1964, as amended ("Title VII"). The United States alleged that the City's use of a physical ability test from 2005 to 2011 disproportionately excluded female applicants from employment as police officers and that use of the examination had not been shown to be job related and consistent with business necessity, as required by federal law.

The Court has determined that you are eligible for the following relief: [].

Enclosed, please find a copy of your "Acceptance of Relief and Release of Claims" form. In order to receive relief in this case you **MUST**:

1. Properly and completely fill out the enclosed form;
2. Initial the first two pages of the form;
3. Sign the form in the presence of a notary public;
4. Fill out and return the enclosed withholding forms so that appropriate taxes may be withheld; and
5. Return the forms to the Department of Justice no later than [insert date].

Please carefully review the enclosed documents. You may be barred from receiving any relief if you do not properly and completely fill out the enclosed forms, and return them by the above date. If you have any questions, you may consult with an attorney of your own choosing and at your own expense.

Sincerely,

The United States Department of Justice
Civil Rights Division
Employment Litigation Section

Enclosures

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
 v.) Civil Action No.: 2:12-cv-00217 (NGR)
)
 THE CITY OF CORPUS CHRISTI,)
 TEXAS)
)
 Defendant.)

ACCEPTANCE OF RELIEF AND
RELEASE OF CLAIMS

I, [insert name] , have received notice from the United States Department of Justice of the monetary relief award offered to me pursuant to the provisions of the Consent Decree entered by the Court on [insert date] in the above-named lawsuit.

The **MONETARY RELIEF AWARD** I am being offered consists of:

[insert amount] dollars (\$.), minus the appropriate withholdings for taxes, FICA, and Medicare.

I ACCEPT THIS AWARD.

[Add if applicable:

The **NON-MONETARY RELIEF AWARD** I am being offered consists of:

Consideration for an offer of employment to the position of police officer with the City of Corpus Christi with a retroactive hire date of [insert date] . I understand that I am not guaranteed a position as a Corpus Christi police officer, and my eligibility for an offer of employment is subject to the number of available positions and my satisfying all of the City's current requirements (except for any written examination or maximum age requirements if I passed the written examination and met the maximum age requirements at the time of my initial application) for appointment as a police officer.

I ACCEPT THIS AWARD.]

[Add if applicable:

The **NON-MONETARY RELIEF AWARD** I am being offered, as a current police officer with the City, consists of:

A retroactive hire date of [insert date].

 I ACCEPT THIS AWARD.]

INITIAL HERE: _____

In consideration for this award of the relief stated above, I release the City of Corpus Christi and all prior and current elected and appointed officials thereof, and their employees, agents, attorneys, successors, and assigns from all or any legal claims of discrimination on the basis of sex with respect to the hiring of females into the position of entry-level police officer in the Corpus Christi Police Department in violation of any federal or state statutes, regulations, or executive orders providing for or giving rise to claims or rights of action relating to equal employment, including Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, *et seq.*, that were, or could have been, the subject of the above-described lawsuit, of which I am aware, or through the exercise of reasonable diligence could have been aware, whether causing or contributing to physical pain, illness, injury or impairment, mental anguish, medical/psychological expenses, as well as all other expenses and compensation of any nature whatsoever. The above-named lawsuit was resolved by entry of the Consent Decree by the Court on [insert date].

The release of claims contained herein is not conditioned on my receipt of any other relief under the Consent Decree. Specifically, I understand that, although I may or may not be eligible for hiring relief with a retroactive hire date, I am not assured that I will be offered employment or hired under the Consent Decree even if I am eligible for such relief. This release of claims is not contingent on actually being offered an entry-level police officer position with the City of Corpus Christi, Texas or being hired into such a position.

I understand that **I must properly and completely fill out this Acceptance of Relief and Release of Claims form, initial the first two pages of this form, sign the form in the presence of a notary public, and return it to the Department of Justice no later than [insert date] in order to receive the relief award.**

I also understand that **I must complete and return the enclosed forms** so that appropriate withholdings for taxes, FICA, and Medicare may be made from the monetary award.

INITIAL HERE: _____

I HAVE READ THIS ACCEPTANCE OF RELIEF AND RELEASE OF CLAIMS FORM AND UNDERSTAND THE CONTENTS THEREOF. I SIGN THIS FORM OF MY OWN FREE ACT AND DEED.

Date Signed

Signature

(Street Address)

(City) (State) (Zip code)

(_____)_____
(Home Telephone)

(_____)_____
(Work/Mobile Telephone)

(Social Security Number)

City/County of _____
State of Texas

The foregoing instrument was acknowledged before me this ____ day of _____, 2012
by _____.

Notary Public

Notary registration number _____

My commission expires: _____, _____.

Seal:

Return this form to:

United States Department of Justice
Civil Rights Division
Employment Litigation Section
Attn: 2012 U.S. v. Corpus Christi Settlement
P.O. Box 14400
Washington, DC 20044-4400

OR

CorpusChristi.Settlement@usdoj.gov