

Agreement # _____

AGREEMENT TO PROVIDE SERVICES

City Agreement No. _____

THIS AGREEMENT TO PROVIDE SERVICES (“Agreement”) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter “County”) and the City of Santa Barbara, a municipal corporation (“City of Santa Barbara”) wherein County agrees to provide, and the City of Santa Barbara agrees to accept, the services specified herein.

WHEREAS, within the boundaries of the City of Santa Barbara there are certain events which attract such large numbers of persons and vehicles, including the Old Spanish Days Fiesta celebration, that additional assistance from outside law enforcement agencies, including the Santa Barbara Sheriff’s Office, is required in order to provide adequate law enforcement and custody services; and,

WHEREAS, the City of Santa Barbara has requested the County, through its Sheriff’s Office, to assist in the provision of necessary law enforcement and custodial services pursuant to a contractual agreement; and,

WHEREAS, the County, through its Sheriff’s Office, has expressed willingness to provide law enforcement and custodial assistance on a cost reimbursement basis pursuant to contractual agreement; and

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. **DESIGNATED REPRESENTATIVE.** Sheriff Bill Brown at phone number (805) 681-4290 is the representative of County and will administer this Agreement for and on behalf of County. Kelly Gordon, Chief of Police, (805) 897-2395 is the authorized representative for the City of Santa Barbara. Changes in designated representatives shall be made only after advance written notice to the other party.
2. **NOTICES.** Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first class mail, postage prepaid, or otherwise delivered as follows:

To County: John Maxwell, Lieutenant
Sheriff’s Office, Contract Services Bureau
4434 Calle Real
Santa Barbara, CA 93110

To City of Santa Barbara: Joshua Morton, Commander
Santa Barbara Police Department
PO Box 539
Santa Barbara, CA 93102

or at such other address or to such other person that the parties may from time to time designate. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the U.S. mail.

3. **SCOPE OF SERVICES.** County agrees to provide services to the City of Santa Barbara in accordance with Exhibit A, "Statement of Work," attached hereto and incorporated herein by reference.
4. **TERM.** County shall commence performance on August 3, 2023, and end performance upon completion, but no later than June 30, 2024 unless earlier terminated.
5. **COMPENSATION OF COUNTY.** County shall be paid for performance under this Agreement in accordance with the terms of Exhibit B, "Compensation Methodology," attached hereto and incorporated herein by reference.
6. **STANDARD OF PERFORMANCE.** County represents that it has the skills and expertise necessary to perform the services required under this Agreement. Accordingly, County shall perform services in the manner and according to the standards observed by a competent practitioner of the same profession.
7. **OWNERSHIP OF EQUIPMENT.** County shall be the owner of all items incidental to the performance of this Agreement. No transfer of ownership of equipment from County to the City of Santa Barbara shall occur as a result of this contract.
8. **INDEMNIFICATION AND INSURANCE.** City of Santa Barbara agrees to the indemnification and insurance provisions as set forth in EXHIBIT C attached hereto and incorporated herein by reference.
9. **NONDISCRIMINATION.** County hereby notifies the City of Santa Barbara that County's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and the City of Santa Barbara agrees to comply with said ordinance.

In addition, County shall perform all work pursuant to this Agreement in compliance with Section 9.126.020 of the Santa Barbara Municipal Code (a copy of which is attached as Exhibit D), prohibiting unlawful discrimination in employment practices, and shall be bound by the terms of such ordinance.

10. **NONEXCLUSIVE AGREEMENT.** The City of Santa Barbara understands that this is not an exclusive Agreement and that County shall have the right to negotiate with and enter into contracts with others to provide the same or similar services.

11. **ASSIGNMENT.** The City of Santa Barbara shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of County and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

12. **TERMINATION.**

A. **By County.** County may, by written notice to City of Santa Barbara, terminate this Agreement in whole or in part at any time, whether for County's convenience or because of the failure of the City of Santa Barbara to fulfill the obligation herein.

1) For Convenience. County may terminate this Agreement upon thirty (30) days written notice. Following notice of such termination, County shall promptly cease work and notify City of Santa Barbara as to the status of its performance.

2) For Cause. Should the City of Santa Barbara default in the performance of this Agreement or materially breach any of its provisions, County may, at County's sole option, terminate this Agreement by written notice which shall be effective upon receipt by the City of Santa Barbara.

B. **By City of Santa Barbara.** Should County fail to provide the City of Santa Barbara all or any part of the services set forth in Exhibit A, the City of Santa Barbara may, at the City of Santa Barbara's option terminate this agreement if such failure is not remedied by County within thirty (30) days of written notice to County.

Notwithstanding any other payment provision of this Agreement, the City of Santa Barbara shall pay County for service performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made.

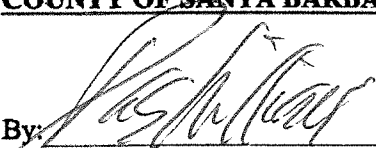
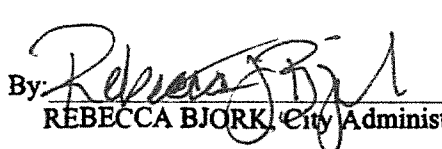
13. **SECTION HEADINGS.** The headings of the several sections, and any table of contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction of effect hereof.
14. **SEVERABILITY.** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
15. **REMEDIES NOT EXCLUSIVE.** No remedy herein conferred upon or reserved to County is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.
16. **TIME IS OF THE ESSENCE.** Time is of the essence in the Agreement and each covenant and term is a condition herein.
17. **NO WAIVER OF DEFAULT.** No delay or omission of County to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power of shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to County shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of County.
18. **ENTIRE AGREEMENT AND AMENDMENT.** In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.
19. **SUCCESSORS AND ASSIGNS.** All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.
20. **COMPLIANCE WITH LAW.** The City of Santa Barbara shall, at their sole cost and expense, comply with all County, State, and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this

Agreement. The judgment of any court of competent jurisdiction, or the admission of the City of Santa Barbara in any action or proceeding against the City of Santa Barbara, whether County be a party thereto or not, that the City of Santa Barbara has violated any such ordinance or statute, shall be conclusive of that fact as between the City of Santa Barbara and County.

21. **CALIFORNIA LAW.** The laws of the State of California shall govern this Agreement. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.
22. **AUTHORITY.** All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, the City of Santa Barbara hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which the City of Santa Barbara is obligated, which breach would have a material effect hereon.
23. **PRECEDENCE.** In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

This Agreement between the City of Santa Barbara and County of Santa Barbara regarding contracted law enforcement and custodial services as approved by the following parties:


IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on August 3, 2023.

<u>COUNTY OF SANTA BARBARA:</u> By:  DAS WILLIAMS Chair, Board of Supervisors	<u>CITY OF SANTA BARBARA:</u> By:  REBECCA BJORK, City Administrator
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ATTEST:
MONA MIYASATO
COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By: 

APPROVED AS TO CONTENT:
BILL BROWN, SHERIFF

By: 


APPROVED AS TO CONTENT:
KELLY GORDON, POLICE CHIEF

By: 

APPROVED AS TO FORM:
RACHEL VAN MULLEM
COUNTY COUNSEL

By: 
Paul Lee (Aug 2, 2023 15:05 PDT)
Deputy County Counsel

APPROVED AS TO FORM:
SARAH KNECHT
CITY ATTORNEY

By: 
Assistant City Attorney
John Daimas

APPROVED AS TO INSURANCE:
GREG MILLIGAN, ARM
COUNTY OF SANTA BARBARA
RISK MANAGER

By: *Samantha Francis*
Samantha Francis (Aug 3, 2023 08:35 PDT)
Risk Manager

APPROVED AS TO INSURANCE:
MARK HOWARD
CITY OF SANTA BARBARA
RISK MANAGER

By: *Mark Howard*
Risk Manager

APPROVED AS TO ACCOUNTING FORM:
BETSY M. SCHAFFER
AUDITOR-CONTROLLER

By: *C. Edinger*
Deputy

APPROVED AS TO INSURANCE:
GREG MILLIGAN, ARM
COUNTY OF SANTA BARBARA
RISK MANAGER

By: *Samantha Francis*
Samantha Francis (Aug 3, 2023 08:35 PDT)
Risk Manager

APPROVED AS TO INSURANCE:
MARK HOWARD
CITY OF SANTA BARBARA
RISK MANAGER

By: *Mark Howard*
Risk Manager

APPROVED AS TO ACCOUNTING FORM:
BETSY M. SCHAFFER
AUDITOR-CONTROLLER

By: *C. Edith*
Deputy

EXHIBIT A

STATEMENT OF WORK

The County agrees to provide special event law enforcement and custodial services for the City of Santa Barbara, from August 3, 2023 through June 30, 2024, for various special events including, but not limited to, the annual Old Spanish Days Fiesta celebration, athletic, business and/or entertainment events.

Written notice will be presented to County by the City of Santa Barbara for specific personnel requests, preferably thirty days in advance of the special event sponsored by the City of Santa Barbara. Untimely requests are subject to inability to accommodate the request. County deputies will be scheduled outside of their regular work calendar to serve supplemental law enforcement and booking/custodial requests. If the event is canceled by the City of Santa Barbara, a written notice from the City of Santa Barbara to the County must be received at least twenty-four hours prior to the event in order to avoid a two-hour minimum charge per deputy/custody deputy scheduled. If the Sheriff's Office determines additional personnel or specialized equipment or teams are necessary to fulfill the duties assigned to the Sheriff's Office pursuant to this Agreement, the Sheriff's Office will notify the City. The City agrees to not unreasonably withhold its consent. In the event that the city does withhold its consent, the Sheriff's Office may refuse to provide the additional personnel or specialized equipment.

The rendition of services to be performed by County under this Agreement, including the standards of performance, the discipline of all Sheriff's Office personnel and the control of all Sheriff's Office personnel employed under the Agreement shall be under, and remain under, the ranking Sheriff's Office personnel assigned.

No exemptions and exceptions to the services are to be performed.

EXHIBIT B

COMPENSATION METHODOLOGY

The City of Santa Barbara will reimburse the County for actual, additional personnel and supply costs incurred in the provision of the services described in Exhibit A. Costs will be tracked through the County's financial system and a summary invoice will be sent to the City of Santa Barbara within 30 days of the conclusion of the work performed. A minimum of two hours per officer will be assessed for each scheduled event unless the event is cancelled, and the County is informed at least twenty-four hours in advance. A detailed listing of these charges will be kept on file at the County office and made available to the City of Santa Barbara upon written request. These records will be maintained for a period of one year after the date of the original invoice.

The City of Santa Barbara may request and receive an estimate of costs based on number and rank of staff, hours of service and direct expense items requested. In no way will an estimate constitute a minimum or maximum allowable charge under the terms of this Agreement. The costs will be the salary of the actual employee hired at an overtime rate plus 14.29% of the salary which is the ICRP (indirect cost rate proposal as determined by the County Auditor's Office), and \$8.90 per hour for associated administrative costs. While efforts will be made to staff each event with the requested number and rank of personnel, the Sheriff's Office reserves the right to assign available staff of any rank if necessary.

The City of Santa Barbara's payment is due to the County within thirty (30) days of the date of the invoice. Payment will be made payable to: Santa Barbara County Sheriff, and mailed to Santa Barbara County Sheriff's Office, Attention: Business Office, P.O. Box 6427, Santa Barbara, CA 93160-6427.

If such payment is not delivered to the County office within thirty days after the date of the invoice, County is entitled to recover interest thereon. Said interest shall be at the rate of ten (10) percent per annum and commence thirty (30) days after the date of the invoice and continue until such time as the payment is delivered to the County office described on said invoice.

EXHIBIT C

INDEMNIFICATION AND INSURANCE PROVISIONS

A. INDEMNIFICATION

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the parties pursuant to California Government Code Section 895.6, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata, but instead all parties agree that pursuant to California Government Code Section 895.4, each of the parties hereto shall fully indemnify and hold each of the other parties, their officers, board members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by California Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No party, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of other parties hereto, their officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such other parties under this Agreement.

B. INSURANCE

Each party shall maintain its own insurance coverage, through commercial insurance, self-insurance or a combination thereof, against any claim, expense, cost, damage, or liability arising out of the performance of its responsibilities pursuant to this Agreement.

EXHIBIT D

SANTA BARBARA MUNICIPAL CODE

Section 9.126.020

NON-DISCRIMINATION

City of Santa Barbara NON-DISCRIMINATION AND HARASSMENT POLICY & EMPLOYEE COMPLAINT PROCEDURE

I. REASONS FOR THIS POLICY

The City of Santa Barbara is committed to a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits discriminatory practices, including harassment.

The City Council and the City Administrator recognize that discrimination and harassment create a negative atmosphere that reduces work productivity, undermines the integrity of the workforce and destroys professionalism. We all enjoy a more fulfilling work experience when we treat one another with respect, and appreciate the strength of our diversity.

Therefore, the City expects that all relationships among persons engaged in work for the City will be business-like and free of bias, prejudice, and harassment.

II. EQUAL EMPLOYMENT OPPORTUNITY

It is the policy of the City of Santa Barbara to ensure equal employment opportunity without discrimination or harassment on the basis of:

- **Age (40 and over)**
- **Ancestry**
- **Color**
- **Disability (mental and physical, including HIV and AIDS)**
- **Sex (male or female; includes pregnancy/childbirth)**
- **Gender identity and expression (including transgenderism)**
- **Marital Status**
- **Medical Condition (cancer and genetic characteristics)**
- **National Origin**
- **Race**
- **Religious Belief**
- **Sexual Orientation**

- These are referred to collectively in this policy as “protected classes” or “protected characteristics.”

The City prohibits any such discrimination or harassment. All employees are protected by this policy, and all are required to fully support and adhere to the provisions of this policy.

III. RETALIATION PROHIBITED

The City of Santa Barbara encourages reporting of all perceived incidents of discrimination or harassment. It is the policy of the City to investigate such reports. The City prohibits retaliation against any individual who reports discrimination or harassment or participates in an investigation of such reports.

IV. DEFINITIONS

A. Definition of Discrimination

Discrimination prohibited under this policy is discrimination in the terms, conditions, privileges or prerequisites of employment based on the actual or perceived **age (over 40), ancestry, color, mental or physical disability including HIV and AIDS, sex, gender identity and expression, marital status, medical condition (cancer or genetic characteristics), national origin, race, religious belief, or sexual orientation** of an employee or job applicant, or based on the employee or applicant's association with a person who has, or is perceived to have, any of those characteristics. Discriminatory conduct may include, but is not limited to:

- Advertising positions to encourage or discourage applicants based on membership in a protected class;
- Asking for information in a job application or interview about membership in a protected class;
- Making an employment decision (e.g., whether to hire, train, promote, transfer, discipline, terminate, etc.) based on membership in a protected class;
- Providing different pay, privileges, or working conditions (e.g., merit increases, job rotation, work assignments, overtime assignments, time off, etc.) to employees based on membership in a protected class;
- Harassing an employee based on membership in a protected class (see Definitions of Harassment, below);
- Retaliating against a person for making a good faith complaint about discrimination or harassment.

Discrimination laws cover not only intentional discrimination, but also neutral employment practices that have the effect of discriminating. This policy prohibits any policy, plan, program, custom or practice that has an unnecessary disparate impact upon protected classes of employees.

The definitions of the protected classes extend to the perception that an employee or applicant has the characteristics of the protected class, or is associated with someone with those characteristics.

B. Definitions of Harassment

1. Sexual Harassment

Sexual harassment constitutes sex discrimination. For the purposes of this policy, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal, visual or physical conduct of a sexual nature when, for example: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment. Even a person who is not the intended target of harassing conduct may be harassed by it under the definition above.

Sexual harassment need not be motivated by sexual desire or sexual gratification. Sexual harassment may exist even if there was a prior consensual relationship between the parties.

Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include, but are not limited to:

- Unwanted sexual advances or requests for sexual favors;
- Repeated pressure on an individual to socialize with or date another individual;
- Threatening to punish or offering to reward a person with employment benefits based on submission to demands of a sexual nature;
- Sexual jokes, language, and innuendo;
- Suggestive or obscene letters, notes, or invitations
- Commentary about an individual's attractiveness, body, sexual prowess, or sexual deficiencies;
- Insulting or obscene comments or gestures, leering, whistling;
- Unwanted touching, assault, impeding or blocking movements;
- Display (on walls, computers, etc.) or circulation in the workplace of sexually suggestive objects or pictures (including e-mail, posters, calendars, cartoons, photographs, or art work); and
- Other physical, verbal, or visual conduct of a sexual nature.

2. Harassment on the basis of any other protected characteristic

Harassment on the basis of any other protected characteristic is also strictly prohibited. Under this policy, harassment is verbal, visual, or physical conduct that ridicules, denigrates, or shows hostility or aversion toward an individual because of his /her actual or perceived **age (over 40), ancestry, color, mental or physical disability including HIV and AIDS, sex, gender identity and expression, marital status, medical condition (cancer or genetic characteristics), national origin, race, religious belief, or sexual orientation** or because of his/her association with a person who has, or is perceived to have, any of those characteristics, and that has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Even a person who is not the intended target of harassing conduct may be harassed by it under this definition.

Harassing conduct includes, but is not limited to:

- Epithets, slurs, or negative stereotyping;
- Threatening, intimidating, or hostile acts;
- Denigrating jokes; and
- Written or graphic material (e-mail, posters, calendars, cartoons, photographs or art work) that denigrates or shows ridicule, hostility or aversion toward an individual or group and that is placed on walls, computers, or elsewhere on the City's premises or circulated in the workplace.

3. Inappropriate Behavior

Instances of behavior of the type described above are inappropriate in the workplace and inconsistent with this policy. Such behavior may subject an employee to counseling, additional training, and/or discipline under this policy even if they do not have the purpose or effect to constitute prohibited harassment under this policy or the law.

V. INDIVIDUALS AND CONDUCT COVERED

These policies apply to all applicants and employees, whether related to conduct engaged in by fellow employees or someone not directly connected to the City (e.g., an outside vendor, consultant or customer).

Conduct prohibited by these policies is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings and City business-related social events.

This policy should not, and may not, be used as a basis for excluding or separating individuals of a particular gender, or any other protected characteristic, from participating in business or work-related social activities or discussions. In other words, no one should make the mistake of engaging in discrimination or exclusion in order to avoid allegations of discrimination or harassment. The policies of the City prohibit disparate treatment on the basis of gender or any other protected characteristic. The prohibitions against harassment, discrimination and retaliation are intended to complement and further those policies, not to form the basis of an exception to them.

VI. CONCLUSION

The City of Santa Barbara has developed this policy to ensure that all of its employees can work in an environment free from harassment, discrimination, and retaliation. In the event that charges are substantiated against an employee for violation of this policy, ignorance of this policy will not constitute an excuse or a defense to disciplinary action.

The City will make every reasonable effort to ensure that all employees are familiar with this policy and aware that any complaint in violation of such policy will be investigated and resolved appropriately. City employees' right to raise issues of discrimination and harassment includes the right to seek relief through federal Equal Employment Opportunity Commission (EEOC) or the State of California Department of Fair Employment and Housing (DFEH). However, in order to give the City the opportunity to correct discriminatory or harassing situations, employees are encouraged to exhaust the City's Employee Complaint Procedure, described below.

VII. REPORTING HARASSMENT, DISCRIMINATION, OR RETALIATION

The City of Santa Barbara encourages reporting of all perceived incidents of discrimination, harassment, or retaliation based on membership in a protected class, regardless of the offender's identity or position. Individuals who believe that they have been the victim of such conduct, or have witnessed such conduct directed at another, should discuss it with someone trained to respond to such concerns.

The City encourages individuals who believe they are being subjected to discriminatory or harassing conduct to promptly advise the offender that his or her behavior is unwelcome and request that it be discontinued. Often this action alone will resolve the problem. The City recognizes and respects, however, that an individual may have reasons for not wanting to address the offender directly, and may prefer to pursue the matter through the early intervention (informal) or formal complaint procedures.

The City encourages the prompt reporting of complaints or concerns so that rapid and constructive action can be taken before relationships become irreparably strained. Therefore, while no fixed reporting period has been established under this policy, early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of discrimination or harassment. Employees should also be aware that certain statutes of limitations (time limits) apply to a legal cause of action (contact the EEOC or DFEH for more information).

A. The Early Intervention (Informal) Complaint Procedure

If an individual does not want to address the offender directly, or if such action does not successfully end the offensive conduct, an individual who believes he or she has been the victim of conduct prohibited by this policy (or believes he or she has witnessed such conduct) should discuss those concerns with any of the following people:

- His or her immediate supervisor,
- Any manager in the employee's Department,
- The Human Resources Manager or a Personnel Analyst,
- The EEO Officer in the City Administrator's Office.

These people receive training in the appropriate response to such concerns. The supervisor or manager who receives a complaint will notify both the Department Head and the Human Resources Manager (or the EEO Officer).

The person receiving the complaint will ask if the individual wants to proceed formally or through the early intervention (informal) process. The informal process is designed primarily to provide a means to resolve the problem at the earliest possible date. An informal response to the concern may, if the individual so requests, include a manager or supervisor:

- Talking to the alleged offender on the individual's behalf;
- Seeking the removal of offensive visual material or the discontinuation of offensive verbal practices in the workplace, as appropriate; and/or
- In instances in which an individual seeks only to discuss matters, counseling the employee about how to respond in an effective manner to end harassment.

An individual reporting harassment, discrimination, or retaliation should be aware, however, that the Human Resources Manager (or the EEO Officer) may decide it is necessary to take action to address such conduct beyond an informal discussion. This decision will be discussed with the individual. The best course of action in any case will depend on many factors and, therefore, the informal procedure will remain flexible. Moreover, the informal procedure is not a required first step for the reporting individual.

B. The Formal Complaint Procedure

The first step in a formal complaint is the same as in an informal complaint. Thus, if an individual does not want to address the offender directly, or if such action does not successfully end the offensive conduct, an individual who believes he or she has been the victim of conduct prohibited by this policy (or believes he or she has witnessed such conduct) should discuss those concerns with any of the following people:

- His or her immediate supervisor,
- Any manager in the employee's Department,
- The Human Resources Manager or a Personnel Analyst,
- The EEO Officer in the City Administrator's Office.

A supervisor or manager who receives a complaint will notify both the Department Head and the Human Resources Manager (or the EEO Officer), and ask the individual if he or she wants to proceed formally or informally.

Investigation

Any formally reported allegation of harassment, discrimination, or retaliation will be investigated promptly by one or more trained investigators. The investigation may include asking the individual to put a factual statement of the complaint in writing, individual interviews with the parties involved, a review of documents and, where necessary, interviews with individuals who may have observed the alleged conduct or may have other relevant knowledge.

If the complainant fails to provide adequate information to support an allegation of discrimination or harassment, the Human Resources Manager (or EEO Officer) may, with the approval of the Department Head, discontinue the investigation.

Conclusions

At the conclusion of the investigation, the Department Head and the Human Resources Manager (or EEO Officer) will review the findings, and a written report will be forwarded to the City Administrator and the City Attorney. The report will include the factual findings, a determination of whether a violation of the City's Non-discrimination and Harassment Policy occurred, and recommendations for corrective and disciplinary actions, if warranted.

Notification of Results and Appeal

The Human Resources Manager (or EEO Officer) will inform the parties involved of the factual findings of the investigation and whether remedial action will be taken. If a party to a complaint (either the complaining individual or the person accused of misconduct) does not agree with its resolution; that party may appeal to the City Administrator within seven days of receipt of the findings of the investigation. The City Administrator's decision will be final.

Responsive Action

Misconduct constituting harassment, discrimination or retaliation will be dealt with appropriately. Responsive action may include, for example, training, referral to counseling and/or disciplinary action such as warning, reprimand, withholding of a promotion or pay increase, reassignment, suspension without pay, or dismissal, as the City deems appropriate under the circumstances. For privacy reasons, the level of responsive action imposed on the offender will not be disclosed to the individual making the complaint.

C. Confidentiality, Retaliation, Malicious Complaints

The City will make every effort to ensure that confidentiality is maintained throughout the complaint and investigation process to the extent consistent with the law, adequate investigation, and appropriate corrective action. This means that the City will share confidential information only on a need-to-know basis.

Retaliation against an individual for reporting harassment or discrimination or for participating in an investigation of a claim of harassment or discrimination is a very serious violation of this policy and, like harassment or discrimination itself, will be subject to disciplinary action. Acts of retaliation should be reported immediately and will be promptly investigated and addressed.

This is a very important policy and the City takes complaints seriously. False and malicious complaints of harassment, discrimination or retaliation, as opposed to complaints made in good faith that happen to be erroneous or unsubstantiated, may be the subject of appropriate disciplinary action.

VIII. INSTRUCTIONS FOR MANAGERS AND SUPERVISORS

As a management or supervisory employee of the City of Santa Barbara, by nature of your position of authority, you have a responsibility to promote and enforce the Non-discrimination and Harassment Policy within the City. This duty extends to any situation that may violate this policy, whether the situation occurs within your area of responsibility or not, although the degree of your involvement may vary.

You are expected to be alert to any acts of discrimination or harassment and to take immediate and appropriate responsive action to prevent such harassment from continuing or reoccurring. This responsibility includes acts of harassment by managers, supervisors, co-workers, and by people who are not City employees, but are discriminating against or harassing an employee of the City during the performance of his or her job. This section of the policy is designed to provide you with the tools to respond appropriately to all such situations.

A. Your Duty to Ensure a Discrimination and Harassment Free Work Environment

Your duty to address discrimination and harassment does not begin with a complaint by an employee. A supervisor or manager shall take all necessary steps to prevent discrimination and harassment from occurring, including but not limited to:

- Understanding and being able to explain the City's Non-discrimination and Harassment Policy and Employee Complaint Procedure;
- Setting an example of acceptable conduct by not participating in or provoking discriminatory or harassing behavior;
- Demanding a working environment free from discriminatory intimidation, ridicule, or insult;
- Ordering the immediate removal of visuals of a sexual or discriminatory nature;
- Ordering the discontinuance of offensive verbal practice in the workplace;
- Expressing strong disapproval of discriminatory or harassing practices; and
- Being available to discuss an incident or concern about discrimination with any City employee.

A manager's or supervisor's failure to take appropriate action to prevent discrimination and harassment may subject the manager or supervisor to disciplinary action.

B. Consensual Sexual or Romantic Relationships

There are special risks in a sexual or romantic relationship between an employee and a supervisor or manager in a higher-level position within the same chain of command.

Such relationships may undermine the integrity of the supervisory relationship through real or perceived conflicts of interest, exploitation, favoritism, or bias for or against the supervised employee. It may affect other employees in the work environment through real or perceived unequal access or restricted opportunities.

Furthermore, the relationship may be less consensual than the individual in the higher-level position believes, especially in retrospect. A relationship might change, and conduct that was previously welcome may become unwelcome.

In order to promote the efficient operation of the City's business and to avoid misunderstandings, complaints of favoritism, other problems of supervision, security, and morale, and possible claims of sexual harassment, supervisors and managers are strongly advised not to date or pursue romantic or sexual relationships with employees whom they supervise or manage, directly or indirectly.

C. Your Duty to Respond to Complaints (Checklist)

Any City employee, not just the person allegedly being discriminated against or harassed, may initiate a complaint if he or she believes discrimination or harassment is occurring.

In all cases where an employee expresses concern to you about discrimination or harassment while at work, you should perform the functions on the following checklist:

During the Complaint Meeting:

- Take the complaint seriously, listen to the employee, take notes, and assure the employee that the City encourages and supports employees reporting this type of concern; remember that you are hearing only one side of the story and may or may not have all of the facts;
- Provide the employee with a copy of the City's NON-DISCRIMINATION AND HARASSMENT POLICY AND EMPLOYEE COMPLAINT PROCEDURE (available under Human Resources on the Intranet), if he or she does not have it already;
- Explain to the employee that he or she can request early intervention (informal) or formal review of the complaint;

[Explain that every effort will be made to resolve the complaint at the lowest level possible and consistent with the desires of the person bringing forward the complaint. However, under certain circumstances the City has an obligation to ascertain where discrimination and/or harassment exist, irrespective of whether a formal complaint is actually filed. The Human Resources Manager (or EEO Officer) has the discretion to determine that a formal review and investigation will be conducted.]

- Explain that the City will make every effort to keep the information confidential on a need-to-know basis, to the extent consistent with the law, adequate investigation, and appropriate corrective action, and ask the employee to do the same;
- Advise the employee that you will be contacting the Human Resources Manager (or EEO Officer) to determine what the next steps should be, and that you will keep the employee informed;
- Discuss whether intermediate measures are necessary to protect the employee from further harm pending resolution of the issue;

After the Meeting

- Immediately report any and all complaints to the Department Head (unless that person is alleged to be involved in the misconduct) and to the Human Resources Manager (or EEO Officer), regardless of whether the complaint is formal or informal;
- Provide any and all information that you may have related to the complaint to the Human Resources Manager (or EEO Officer);
- Follow the complaint all the way to resolution, as guided by the Human Resources Manager, EEO Officer, or the Human Resources Analyst assigned to the complaint;
- Document all interaction that you have related to the complaint, including counseling the complaining employee, warnings to the person accused of misconduct, orders to remove offensive materials, and any other corrective action taken;
- Ensure that the complaining employee is not subject to further discrimination/harassment or to retaliation.