

CITY OF MODESTO

EQUAL OPPORTUNITY PLAN

FY 2008/2009 – FY 2012/2013

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EQUAL OPPORTUNITY PLAN

EXECUTIVE SUMMARY

FISCAL YEAR 2008/2009 – FISCAL YEAR 2012/2013

This document represents the City of Modesto's Equal Opportunity Plan (five year) for fiscal years 2008-2009 through 2012-2013. Described within this plan are the City's policies and plans which have been developed in accordance with existing laws in an effort to ensure that minorities, women, disabled individuals and members of other groups are afforded equal opportunity to compete for, obtain, and retain City employment. Included with this Plan as Exhibit "A" is the City's Policy Against Harassment and Discrimination, which is a key tool in helping create and maintain a workplace which values and respects all employees. The City is fully committed to the effective implementation of the Equal Opportunity Plan, and to continued progress toward the achievement of a workforce that is representative of, and reflects, the local labor market. The City's Equal Opportunity/Disability Commission is confident that the City can continue to recruit and retain qualified candidates and achieve full utilization of women, minorities, the disabled, and other protected groups.

State "Proposition 209" requires that the City of Modesto not discriminate against or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment or public contracting. The City is in compliance with Proposition 209, and is committed to the principles of equal opportunity and non-discrimination in all employment practices. The City will continue to recruit from all segments of the labor market and will continue to actively recruit women, minorities and disabled individuals.

I. BACKGROUND

The Federal Equal Employment Opportunity Act of 1972 made Title VII of the Civil Rights Act applicable to local governments and brought them under the jurisdiction of the Equal Employment Opportunity Commission. The Commission's previously issued Guidelines on Employee Selection Procedures and on Sex Discrimination then became applicable to the City of Modesto. Re-emphasizing their commitment to equal employment opportunity, the Modesto City Council approved the creation of an Affirmative Action Commission on April 7, 1987. This Commission is composed of representatives of the community and is charged with advising the City Manager and City Council on the development and implementation of the Equal Opportunity Plan for the City. Believing that a new name would more accurately reflect its mission, the Affirmative Action Commission recommended their name be changed to the Equal Opportunity/Disability Commission, which was approved by a City Council resolution on March 3, 1998.

Under Resolution 72-1028, the City of Modesto established its Affirmative Action Plan. In accordance with Federal Regulations 49, Part 23, Section 23.45, the City of Modesto established a policy to provide an equal opportunity for the participation of licensed minority and female contractors in all aspects of bidding, contracting and performing work that is financed by the Home Investment Partnership Act (HOME), Community Development Block Grant (CDBG) and Rental Rehabilitation Program (RRP).

On January 21, 1992, under Resolution 92-42, the City of Modesto established a policy to provide any qualified individual with a disability with assistance, services or benefits that are effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others; established a policy not to aid or perpetuate discrimination against a qualified individual with a disability by not funding any agency, organization, or person that discriminates on the basis of disability; and established a policy to make reasonable accommodations to the physical or mental limitations of qualified applicants or employees with disabilities, including job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or qualified sign language interpreters, and other similar actions, in accordance with the Americans With Disabilities Act of 1990.

With the passage of Proposition 209, the City reviewed its employment policies, affirmative action policies and other relevant policies and procedures and amended them as necessary to comply with Proposition 209. As part of that compliance effort, the City retitled the Affirmative Action Plan to Equal Opportunity Plan and clarified that the goals in the plan are targets, not fixed goals. The current plan eliminates goals and objectives and replaces them with utilization analysis.

II. INTRODUCTION

The Equal Opportunity Plan is a tool developed to assist in the implementation of the City's Equal Opportunity Policy. The document outlines overall City objectives, assigns specific responsibilities, and provides a system to monitor and measure progress. It provides for positive steps to correct underutilization and inequities in areas of employment and contract bidding. The utilization analysis and data contained in the document are planning objectives for City officials to strive to achieve.

City department directors, managers, and supervisors are responsible for insuring that all employees under their supervision have access to this Plan. New employees receive a full explanation of the employee's responsibilities and rights under the plan during new employee orientation.

Annually, the City's designated Equal Opportunity Officer will prepare an assessment of the City's progress and submit the report to the City Council. The annual assessment will measure the City's progress on the basis of employment decisions or actions. While the assessment cannot ensure compliance, it will measure progress through the improved utilization in the City's workforce of various ethnic groups and women. The assessment is one tool to evaluate whether the City's recruitment, hiring and retention practices are equally available to all candidates. It also measures and reports progress toward achieving a workforce that is representative of the labor market, and may assist in identifying areas of under utilization where current practices are not fully effective.

It is the City's goal that all individuals have the realistic opportunity to achieve a place in the work force that meets their interests, qualifications, and capabilities. The City has an ultimate goal to develop a City work force that is representative of the labor market in the community it serves. The utilization analysis information presented in this plan is to assist in identifying areas where the City workforce does not reflect the current labor market and where additional recruitment efforts may be necessary to reach all potential candidates. The City clearly understands that achieving a workforce which represents

the labor market depends upon the availability of qualified and interested applicants, the availability of hiring and promotional opportunities, the use of merit practices, and the availability of revenue to support the level of services and activities currently provided by the City. The overriding objective is to provide each person with a realistic opportunity to develop and succeed according to his or her potential.

In adopting this Equal Opportunity Plan, the City Council calls for the full cooperation of all managers and employees to carry out the Plan responsibilities in order to make "equal employment opportunity" a reality in the City of Modesto. We choose to embrace diversity as a sound business practice rather than a regulatory compliance matter. We understand that by implementing equal employment opportunity programs, by offering equal employment opportunities to all residents and by developing the abilities of all employees, we improve the service provided to our citizens and strengthen the entire community.

III. EQUAL OPPORTUNITY POLICY STATEMENT

The Modesto City Council is committed to the principles of equal opportunity and non-discrimination in all employment practices. We fully endorse the policy of equal opportunity and have committed the City of Modesto to provide employees and applicants equal employment opportunities in all departments within the City. The City's Equal Opportunity Plan aims at: identifying and eliminating the effects of any past discrimination; removing any artificial barriers to the employment of women, minorities and disabled persons; developing and implementing employment programs so that the employment of women, minorities and disabled employees at all levels of the City approximates the local labor market; and providing a continuing program of training for all employees.

The City will not participate in discriminatory practices in recruitment, testing, hiring, promotions, training, compensation, layoffs, terminations, or any other conditions of employment based on race, ancestry, color, national origin, religion or creed, disability (mental and physical, including HIV and AIDS) or perceived disability, medical condition (cancer and genetic characteristics), pregnancy-related condition, marital status, sex, sexual orientation, age (40 and above), or political affiliation or belief. Moreover, it is further stated that our non-discrimination policy includes prohibition of harassment (visual, verbal or physical) of an employee based on the conditions enumerated above. It is further stated that there shall be no retaliatory discrimination against those who file complaints against the City or because a person may have protested an alleged discriminatory practice and/or testified or participated in a discrimination investigation.

The City is in compliance with Section 504 of the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act (ADA) of 1990, as amended, and Title VII of the Civil Rights Act of 1964, to the end that no person in the United States shall, on the basis of proscribed grounds, be excluded from participation, be denied the benefits, or be otherwise subjected to discrimination under any program or activity in which the City receives Federal financial assistance. Further the City is in compliance with all state laws and regulations prohibiting harassment and discrimination.

In addition, the City is in compliance with the Uniformed Services Employment and Reemployment Rights Act (USERRA), which protects the job rights of individuals who

voluntarily or involuntarily leave employment positions to undertake military service or certain types of service in the National Disaster Medical System.

The City Manager is responsible for the implementation of the Equal Opportunity Plan. The plan includes goals and a monitoring system to measure progress. An active effort will be made to recruit women, minorities and disabled individuals for all employment opportunities within the City.

IV. CITY POLICY AGAINST HARASSMENT AND DISCRIMINATION

It is the policy of the City of Modesto that harassment is unacceptable and will not be tolerated. Further, it is the policy of the City of Modesto to treat its citizens, customers and employees with respect and dignity and to strive to provide a working environment free of discrimination and harassment. This policy applies to all employees, officials, agents and volunteers, and all non-employees who have contact with employees during working hours (See Exhibit A).

V. DISSEMINATION OF POLICY STATEMENT

The City of Modesto disseminates its equal opportunity policy through the following methods:

A. Internal Dissemination of Policy

1. All City department directors are informed of the intent of the Policy and their individual responsibility for its implementation.
2. The Policy and related activities are highlighted in City publications.
3. All new employees are informed of the policy at the time of induction and at orientation
4. All employee organizations are informed of the City's policies and commitment, and their cooperation is requested. A non-discrimination clause is included in all memoranda of understanding and all contractual provisions are reviewed to ensure they are non-discriminatory.
5. The Policy is posted in City facilities and the City's Intranet site.

B. External Dissemination of Policy

1. The Policy is incorporated into all job announcements.
2. The Policy is posted on the City's web site.

VI. ASSIGNMENT OF AND RESPONSIBILITY FOR THE EQUAL OPPORTUNITY PLAN

Each member of Management is responsible for furthering of the Equal Opportunity Plan in all phases of the City's employment practices.

Below is the description of the specific duties and responsibilities of the various City officials in the Equal Opportunity efforts:

- **The City Council** is responsible for the adoption of the City's Equal Opportunity Plan. The Council also provides a forum for public awareness of the City's plan and periodically reviews plan results.
- **The City Manager** is responsible for the City's personnel policies and for insuring discrimination-free processes. The City Manager will establish a positive tone to encourage department directors and other appointing authorities to make equal employment opportunities a part of their hiring decisions. The City Manager will monitor results and report progress to the City Council.
- **The Equal Opportunity/Disability Commission** is a citizens' body that advises the City Manager and encourages Equal Opportunity in the City of Modesto. The City Council shall appoint 11 Equal Opportunity/Disability Commissioners for a four-year term. Members shall not be City employees, and shall as a group, include members of protected classes including females, minorities, the disabled, and workers over 40 years. Members should have a background evidencing community involvement, understanding of business and employment practices, and awareness of the objectives and methods of equal employment opportunity.

The Commission is governed by its Rules of Procedures, initially adopted by the City Council, and which may be amended from time to time by the Commission.

The duties of the Equal Opportunity/Disability Commission are:

1. To advise the City Manager and the City Council in matters that relate to equal employment opportunity.
 2. To review the practices and procedures of the City that relate to equal employment opportunity.
 3. To review Workforce Analysis as provided by staff; to provide input and review data utilized in the analysis.
 4. To review Utilization Analysis of job groups and equal opportunity progress report.
 5. To recommend revisions to the Equal Opportunity Plan and review the accomplishments of the City of Modesto in achieving a workforce that is representative of, and reflects the local labor market.
- **The designated Equal Opportunity Officer** has the responsibility for the implementation of the Equal Opportunity Plan, and to:
 1. Develop policy statements, Equal Opportunity programs, internal and external communication techniques and monitoring systems for the Equal Opportunity Plan.
 2. Identify problem areas and assist managers in arriving at solutions to problems.
 3. Determine whether the City has made progress toward achieving a workforce that is representative of, and reflects, the local labor market.

4. Work with the Equal Opportunity Analyst who investigates complaints of harassment and discrimination and coordinates with specific agencies.
 5. Serve as liaison between the City, private and public employment services and community groups for the recruitment of minorities, women, and members of the disabled community.
 6. Review and conduct periodic audits of hiring, promotion, and disciplinary actions to ensure that they are non-discriminatory.
- **The City Attorney's Office** has the responsibility for receiving, reviewing, investigating and responding to complaints of harassment and discrimination.
 - **Department Directors** are generally the "appointing authority" in City government. They are responsible for hiring decisions, promotions, disciplinary actions and insuring that City and departmental personnel policies are enforced. They are responsible for their departments' employment decisions.
 - **The Director of Human Resources** is responsible for administering and maintaining a personnel system in which equal employment opportunity can become a reality. Specifically, the Director of Human Resources is responsible for recruitment and selection efforts, training, and any other matters of employment policy.
 - **Supervisors** are required to carry out their duties in directing, training, monitoring and evaluating subordinates without regard to non-job related criterion including those prohibited by this policy.
 - **Employees** have the responsibility of interacting with their fellow employees and the public in a respectful and non-discriminatory manner, so that an environment of inclusion and acceptance is modeled throughout the City's workforce.
 - **Employee organizations** have agreed to support the City's efforts in Equal Employment Opportunity and workforce diversification. Specific commitments will be included in each Memorandum of Understanding.

VII. COMPLAINT PROCEDURE

Intent: Any person who feels that he/she has encountered discrimination and/or harassment is encouraged to come forward and present that information. All complaints are kept confidential to the extent permitted by law. However, it should be noted that when a supervisor or other management employee is made aware of a situation of potential harassment or discrimination, he/she is required to take steps to verify whether or not the discrimination/harassment occurred and to take whatever action is necessary to correct the behavior which may include reporting the situation to the City Attorney's office. A prompt and appropriate investigation may require disclosure of the allegations, the person making the allegations and may necessitate the use of other parties to assist in the investigation.

It is the intent of this procedure to provide an effective means for resolving individual or group problems of a sensitive nature quickly and with a minimum of formal procedural requirements.

The City's complaint procedure is found as Exhibit B to this document.

VIII. WORKFORCE ANALYSIS

Minority Population of the Labor Area

The 2000 Census Data Labor Market Information for the City of Modesto includes all of Stanislaus County. Stanislaus County is the immediate labor market where the major portion of the City's workforce is most likely recruited. The latest available labor market data estimates by ethnic group for the Metropolitan Statistical Area (MSA), as provided by the U.S. Census Bureau, reflects the following:

STANISLAUS COUNTY

Total Labor Market Population: 197,306

ETHNIC GROUP	PERCENTAGE
BLACK	2.20
HISPANIC	27.90
ASIAN/NATIVE HAWAIIAN-PACIFIC ISLANDER	4.50
AMERICAN INDIAN/ALASKAN NATIVE	1.60
BALANCE ***	2.30
FEMALE	45.20

American Indian or Alaskan Native: A person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment.

Asian: A person having origins in any of the original peoples of the Far East, Southeast Asia or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand and Vietnam.

Black or African American: A person having origins in any of the black racial groups of Africa. Terms such as "Haitian" can be used in addition to "Black" or "African American."

Hispanic or Latino: A person of Cuban, Mexican, Puerto Rican, Cuban, South or Central America, or other Spanish culture or origin, regardless of race. The term, "Spanish origin" can be used in addition to "Hispanic" or "Latino."

Native Hawaiian or Other Pacific Islander: A person having origins in any of the original peoples of Hawaii, Guam, Samoa or other Pacific Islands.

White: A person having origins in any of the original peoples of Europe, the Middle East or North Africa.

*****Balance:** Beginning with the 2000 Census, the Census Bureau began reporting a Balance Category. This Category consists of individuals who self-identify in two or more of the most common racial combinations.

IX. UTILIZATION

City-Wide EEO-4 Categories

Local government agencies are required to maintain statistics on representation of women and minorities in the workplace by specified job categories. These are commonly referred to as EEO-4 categories. The 2000 Census data reflects revised job categories for state and local government agencies, and there have been significant changes in how jobs are allocated to categories. The Paraprofessional job category has been eliminated and those jobs formerly allocated to the Paraprofessional job category have been distributed among several different categories. The Protective Services job category has been split into Protective Services - Sworn and Protective Services - Non-sworn. The EEOC provided a "crosswalk" from Standard Occupational Codes to the EEO job category codes for state and local governments. All classes within the City have been re-evaluated and designated based on the crosswalk and revised job categories. Of the City's 287 regular classes, 129, or 45%, were allocated to a different job category, based on the EEOC's changes in designation. These changes must be implemented so that the City categorizes its workforce in the same manner that the Census Bureau categorizes the local labor market.

The City of Modesto has employees in all eight of the categories. The equal opportunity statistics and utilization analysis for the City workforce is based on these groupings. Each is explained briefly below:

Officials and Administrators

This job category includes occupations in which employees set broad policies, exercise overall responsibility for execution of these policies, or direct individual departments or special phases of the City's operations, or provide specialized consultation on a City-wide basis. Most of the incumbents in this category are the Department Directors, the City Manager, the Assistant Directors and the Deputy Directors. This category also includes a number of positions that are regulatory such as building and construction inspectors, assessors, auditors, investigators and managers. Note that both the Police Chief and the Fire Chief are no longer categorized as officials, but are included under Protective Services – Sworn.

Professionals

This job category includes occupations that require specialized and theoretical knowledge that is usually acquired through college training or through work experience and other training that provides comparable knowledge. Some of the incumbents in this category are the human resources professionals, some managers and supervisors of the organization, accountants, engineers, attorneys, and planners.

Technicians

This job category includes occupations that require a combination of basic scientific or technical knowledge and manual skill that can be obtained through specialized post-secondary school education or through equivalent on-the-job training. They include jobs such as laboratory analysts, civil engineering assistants, assistant buyers, and water resource specialists.

Protective Services - Sworn

This job category includes occupations in which workers are entrusted with public safety, security and protection from destructive forces. The Protective Services category is made up of sworn Police and Fire department employees, including the Fire Chief and the Police Chief.

Protective Services - Non-Sworn

This job category includes occupations that perform technical and support work in safety or law enforcement work, which does not require a sworn person. Examples include community service officers and animal control officers.

Administrative Support

This job category includes employees who are responsible for internal and external communications, recording, and retrieval of data and/or information and other paperwork required in an office. The incumbents in this category are mostly administrative office assistants, police clerks, account clerks, and accounting technicians.

Skilled Crafts

This job category includes occupations in which workers perform jobs that require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. It includes a variety of jobs such as electricians, tree trimmers, parks crewleaders, equipment operators, wastewater collection system operators, wastewater treatment plant operators, water distribution operators and several types of mechanics.

Service/Maintenance

This category includes occupations in which workers perform duties that result in, or contribute to, the comfort, convenience, hygiene or safety of the general public or which contribute to the upkeep and care of buildings, facilities or grounds of public property. This category is mostly composed of maintenance workers, custodians and other service or semiskilled staff.

X. UTILIZATION ANALYSIS

A. Anticipated Expansion, Contraction and Turnover of the City Workforce

Current work force review for the City of Modesto through fiscal year 2012-2013 indicates that the total City work force will likely decline for the first few years, and then remain relatively constant. Future workforce projections are difficult at this time. The current fiscal situation at all levels in the economy is resulting in significantly reduced tax revenues for local governments. It is likely that the City will postpone filling most vacancies until the fiscal situation improves and expansion will likely be limited to key areas rather than occur on a City-wide basis. For the first few years of this plan, the City workforce will most likely decline from its current level, but could increase in the final few years of the plan.

For planning purposes, we have estimated that turnover in the job categories will be in the 1% to 10% range for the foreseeable future. This is based on actual attrition rates (retirements, terminations, resignations) that occurred on a City-wide basis. Overall City attrition has averaged 6.6% to 9.8% with an average of 7.5% over the last few years on a City-wide basis.

B. Purpose and Basis of Utilization Analysis

In previous five-year plans, the City has established goals for hiring in each job category. Following the passage of Proposition 209, many public agencies eliminated goals in favor of utilization analysis. The City adopted that practice for the 2003-2008 Five-Year Plan and will continue that practice for the 2009-2013 Five-Year Plan. The long-range goal of the City's Equal Opportunity Plan is to achieve a workforce that is a representation of the workforce in our community, in each occupational group and at the various levels within each EEO4 category. Efforts to achieve that ultimate goal must be consistent with merit principles and will depend on the availability of qualified applicants and the limited opportunities to hire inherent under significantly reduced budgets. Utilization analysis will be conducted annually and used to measure progress toward employing a workforce that reflects the relevant labor market. For the plan, please note that we are reporting female and minority classes for compliance.

C. City-Wide Workforce Data and Census Data by EEO-4 Category

OFFICIALS AND ADMINISTRATORS

ETHNICITY	6/30/08 WORKFORCE	2000 CENSUS DATA
Black	2.3%	2.1%
Hispanic	12.2%	15.9%
Asian/Pacific Islander	3.8%	3.7%
American Indian/Alaskan Native	0.0%	1.6%
Female	47.3%	36.6%

PROFESSIONALS

ETHNICITY	6/30/08 WORKFORCE	2000 CENSUS DATA
Black	2.5%	2.1%
Hispanic	9.2%	11.2%
Asian/Pacific Islander	10.1%	5.1%
American Indian/Alaskan Native	0.0%	1.4%
Female	36.1%	56.1%

TECHNICIANS

ETHNICITY	12/30/08 WORKFORCE	2000 CENSUS DATA
Black	0.0%	4.2%
Hispanic	12.9%	17.9%
Asian/Pacific Islander	0.0%	6.1%
American Indian/Alaskan Native	0.0%	1.7%
Female	38.7%	49.2%

PROTECTIVE SERVICES - SWORN

ETHNICITY	6/30/08 WORKFORCE	2000 CENSUS DATA
Black	1.9%	4.7%
Hispanic	16.1%	14.5%
Asian/Pacific Islander	2.4%	2.4%
American Indian/Alaskan Native	1.4%	1.5%
Female	3.9%	16.8%

PROTECTIVE SERVICES – NON-SWORN

ETHNICITY	6/30/08 WORKFORCE	2000 CENSUS DATA
Black	0.0%	0.0%
Hispanic	17.0%	3.7%
Asian/Pacific Islander	8.5%	3.7%
American Indian/Alaskan Native	0.0%	0.0%
Female	78.7%	68.5%

ADMINISTRATIVE SUPPORT

ETHNICITY	6/30/08 WORKFORCE	2000 CENSUS DATA
Black	5.7%	2.7%
Hispanic	29.9%	22.8%
Asian/Pacific Islander	2.3%	4.1%
American Indian/Alaskan Native	1.1%	2.0%
Female	94.4%	69.1%

SKILLED CRAFT

ETHNICITY	6/30/08 WORKFORCE	2000 CENSUS DATA
Black	0.9%	1.0%
Hispanic	24.3%	28.6%
Asian/Pacific Islander	0.0%	2.5%
American Indian/Alaskan Native	0.9%	1.8%
Female	1.9%	4.9%

SERVICE/MAINTENANCE

ETHNICITY	6/30/08 WORKFORCE	2000 CENSUS DATA
Black	0.0%	2.3%
Hispanic	30.4%	41.1%
Asian/Pacific Islander	2.2%	5.1%
American Indian/Alaskan Native	1.1%	1.7%
Female	16.3%	39.7%

XI. UNDERUTILIZATION

Underutilization by EEO-4 Category - City Workforce

The following table shows the under-representation of women and minorities by EEO-4 category on a City-wide basis. In the eight categories as a whole, Women are underutilized in five, Blacks in three, Hispanics in five, Asian/Pacific Islanders in four, and American Indian/Alaskan Native in six.

Note that the Total Workforce information is based on City demographics and does not match the total Standard Metropolitan Statistical Area (SMSA) information contained in the previous table. The City workforce does not match the total labor market. For example:

- Sales workers comprise 10.6% of the total SMSA workforce, but the City does not employ anyone in that area
- Service and Maintenance workers constitute 36% of the total SMSA workforce, but account for less than 8% of the City workforce
- Protective Services - Sworn workers constitute only 0.056% of the SMSA workforce, but account for over 34% of the City's workforce.

OFFICIALS/ADMINISTRATORS (131)

Ethnicity	Workforce (FY 07-08)	2000 Census	Underutilized
Black	3	2	-1
Hispanic	16	17	1
Asian/Pacific Islander	5	4	-1
American Indian/Alaskan Native	0	1.7	1
Female	62	39	-23

PROFESSIONALS (119)

Ethnicity	Workforce (FY 07-08)	2000 Census	Underutilized
Black	3	2.5	-.5
Hispanic	11	13	2
Asian/Pacific Islander	12	6	-6
American Indian/Alaskan Native	0	1.6	1
Female	43	66	23

TECHNICIANS (31)

Ethnicity	Workforce (FY 07-08)	2000 Census	Underutilized
Black	0	1	1
Hispanic	4	5.5	1.5
Asian/Pacific Islander	0	2	2
American Indian/Alaskan Native	0	.5	.5
Female	12	15	3

PROTECTIVE SERVICES - SWORN (416)

Ethnicity	Workforce (FY 07-08)	2000 Census	Underutilized
Black	8	19	11
Hispanic	67	60	-7
Asian/Pacific Islander	10	10	0
American Indian/Alaskan Native	6	6	0
Female	16	70	54

PROTECTIVE SERVICES – NON-SWORN (47)

Ethnicity	Workforce (FY 07-08)	2000 Census	Underutilized
Black	0	0	0
Hispanic	8	2	-6
Asian/Pacific Islander	4	2	-2
American Indian/Alaskan Native	0	0	0
Female	37	33	-4

ADMINISTRATIVE SUPPORT (177)

Ethnicity	Workforce (FY 07-08)	2000 Census	Underutilized
Black	10	5	-5
Hispanic	53	42	-11
Asian/Pacific Islander	4	7.5	3.5
American Indian/Alaskan Native	2	4	2
Female	167	126	-41

SKILLED CRAFTS (210)

Ethnicity	Workforce (FY 07-08)	2000 Census	Underutilized
Black	2	2	0
Hispanic	51	62	11
Asian/Pacific Islander	0	5	5
American Indian/Alaskan Native	2	4	2
Female	4	10.5	6.5

SERVICE/MAINTENANCE (92)

Ethnicity	Workforce (FY 07-08)	2000 Census	Underutilized
Black	0	2	2
Hispanic	28	41	13
Asian/Pacific Islander	2	5	3
American Indian/Alaskan Native	1	2	1
Female	15	39	24

TOTAL WORKFORCE (1223)

Ethnicity	Workforce (FY 07-08)	2000 Census	Underutilized
Black	26	35	9
Hispanic	238	242	4
Asian/Pacific Islander	37	42	5
American Indian/Alaskan Native	11	19	8
Female	356	400	44

XII. CITY OF MODESTO EQUAL OPPORTUNITY PLAN STANDARDS

To ensure that the City Equal Opportunity Plan complies with federal and state guidelines for equal opportunity plans, the following program standards are followed:

A. Utilization Analysis

1. The designated Equal Opportunity Officer provides departments with information on the availability of underrepresented groups in the occupational categories used in each department.
2. Recruitment programs are planned and implemented with a goal of recruiting and retaining a workforce that reflects the local labor market.

B. Plan Monitoring

1. Annually, the designated Equal Opportunity Officer analyzes the City workforce against the 2000 census data and against previous workforce information. This analysis will reflect the City's progress in recruiting and retaining a workforce that reflects the local labor market. This report will be reviewed as appropriate, by the Commission, for progress in accomplishing recruitment objectives, to address problem areas identified since the last report, and review recommendations made by the Equal Opportunity Officer.
2. Information on equal opportunity is provided by the Human Resources Department, including new laws and court decisions.

C. Information on Plan and Progress

1. All employees are provided copies of the Policy Statement and discrimination complaint procedures at hire and at New Employee Orientation.
2. The name and telephone of the designated Equal Opportunity Analyst is publicized.
3. Internal publications and advertising are used to publicize equal opportunity commitment and progress, and to portray minority, female, and disabled employees in high level and non-traditional positions.
4. External communication, displays and other use of media uniformly demonstrate cultural awareness, with women and minorities proportionately represented.

D. Recruitment and Selection

1. Examination bulletins and training information are posted on employee bulletin boards.
2. Minority, women and disabled employees are represented in employee selection functions.
3. The Human Resources Department plans and conducts recruitments to ensure broad dissemination of information reasonably calculated to ensure that all members of the community including women, minorities and individuals with disabilities are informed and have an opportunity to apply.
4. City departments assist the Human Resources Department in special recruitment programs to acquaint minorities, women and disabled persons with employment opportunities. Departments will also send women, minority and disabled employees as speakers to schools, colleges or other recruitment sites to assist in this effort.
5. For those classes that are unique to a department, the department advises the Human Resources Department of minority, women and other professional associations or publications that might serve as recruiting sources.
6. The City strives to ensure that minorities, women and disabled applicants are represented in the pool for each recruitment. If, based on a sampling of recruitments, it is determined there is an absence of qualified minority and women applicants, the Director of Human Resources may recommend that the examination/application period be extended and a more intensive recruitment effort initiated.
7. The City may restructure the duties of positions for the reasonable accommodation of disabled individuals.
8. The City strives to recruit and hire individuals with disabilities.

E. Training

1. Training presentations are monitored periodically to ensure that the tone and language of the presentations are positive and consistent with Equal Opportunity policies.
2. The Equal Opportunity Policy shall be reviewed at New Employee Orientation.

3. Specific sexual (gender) harassment training opportunities will be presented as necessary.

F. Identification and Correction of Potentially Discriminatory Systems

1. Written City and departmental policies, personnel practices, and working rules are reviewed and revised as necessary to maintain job-relatedness.
2. Employee performance evaluations are reviewed for job-relatedness.
3. Specific documentation is prepared and analyzed for job-relatedness, on the reasons for probationary releases, suspensions and employer-initiated terminations.
4. The attrition rate for each sex/ethnic group is reviewed to determine if it is proportionate to their representation in the City and departmental work force.
5. Employees are informed of their rights under the City's discrimination and harassment complaint procedures.

G. Promotions

The City of Modesto will attempt to promote women, minorities and disabled persons employed by the City, as well as to recruit them. Women, minorities and the disabled are promoted on the basis of performance and the passage of various promotional tests.

H. Community Relations

The City has established the Council-appointed Human Relations Commission and the Equal Opportunity/Disability Commission. One of the responsibilities of these bodies is to ensure that lines of communication with the leaders of women, minority and disabled advocacy groups is established and maintained.

I. ADA Compliance

The designated Equal Opportunity Officer monitors and assists with physical accommodations and disability barrier removal within and outside of City facilities, in accordance with the City's Self-Evaluation and Transition Plan. Also, the Equal Opportunity Officer maintains a program of compliance with the Americans With Disabilities Act and the State Fair Employment and Housing Act to prohibit discrimination against qualified individuals with disabilities.

J. Audit of Departmental Progress

Department Directors monitor employment practices based upon statistical data of appointments, transfers, promotions and separations as provided by the designated Equal Opportunity Officer. This data will show ethnicity and sex of employees for statistical purposes only.

The Equal Opportunity Officer provides internal auditing to monitor City and departmental compliance and progress toward achieving a workforce that is representative of and reflects the local labor market.

Exhibit A

As amended on 12/7/04 by Council Resolution 2004-628

CITY OF MODESTO POLICY AGAINST HARASSMENT AND DISCRIMINATION

It is the policy of the City of Modesto that harassment is unacceptable and will not be tolerated. Further, it is the policy of the City of Modesto to treat its citizens, customers and employees with respect and dignity and to strive to provide a working environment free of discrimination and harassment. This policy applies to all employees, officials, agents and volunteers, and all non-employees who have contact with employees during working hours.

Any City employee who has been found, after an investigation, to have harassed another City employee, official, agent, volunteer, consultant or non-employee because of their race, color, ancestry, religion or creed, sex, national origin, marital status, age, physical or mental disability or perceived disability, medical condition, pregnancy-related condition, sexual orientation or political affiliation or belief will be subject to disciplinary action up to and including termination.

Definition of Harassment

Harassment based on a person's race, color, ancestry, religion or creed, sex, national origin, marital status, age, mental or physical disability, or perceived disability, medical condition, pregnancy-related condition, sexual orientation, or political affiliation or belief can constitute a violation of Title VII of the Civil Rights Act, the California Fair Employment Act and/or the City of Modesto's Equal Opportunity Policy. Harassment based on a person's race, color, ancestry, religion or creed, sex, national origin, marital status, age, mental or physical disability, or perceived disability, medical condition, pregnancy-related condition, sexual orientation, or political affiliation or belief occurs when:

1. The focus and/or content of the harassing act is race, color, ancestry, religion or creed, sex, national origin, marital status, age, physical or mental disability or perceived disability, medical condition, pregnancy-related condition, sexual orientation or political affiliation or belief; and,
2. The harassing act tends to create an intimidating, oppressive, hostile or offensive working environment or tends to otherwise interfere with an individual's emotional well being or ability to perform work.

Sexual harassment is a form of sex discrimination. It includes an unwelcome or unsolicited sexual advance, a request for sexual favors, and other verbal or physical conduct of a sexual nature, and can constitute a violation of Title VII of the Civil Rights Act, and Fair Employment Housing Act.

Conduct is considered sexual harassment when:

- a. Submission is made an express or implied term or condition of employment; or
- b. Submission to or rejection of the harassing act is used as a basis for employment or business decisions affecting an individual; or
- c. Such conduct may have the purpose or effect of interfering with an individual's work performance and/or may create an intimidating, hostile or otherwise offensive work or business environment.

Examples of Harassment

- Written examples include suggestive or obscene letters, notes, jokes, e-mails and invitations.
- Verbal examples include derogatory comments, slurs, jokes, and racial epithets.
- Physical examples include assault, touching, impeding or blocking movements.
- Visual examples include leering, gestures or displays of sexually suggestive objects or pictures, cartoons or posters.

Other examples include, but are not limited to, threats of reprisal, implying or actually withholding support for appointments, promotion or transfer, rejection during probation, punitive actions, changes of assignments, or suggesting that a poor performance report will be prepared if requests for sexual favors are not met.

The harassing act may be focused on an individual who is not physically present at the time, or who was present but did not actually see or hear the acts.

Retaliation

It is also a violation of this Policy for an employee to retaliate against the complainant(s), witness(es) or other parties to a complaint of discrimination or harassment. A verified allegation of retaliation will be treated the same as any other violation of this Policy and may result in action taken against the retaliator, even if the original complaint is not determined to have merit.

Responsibilities

1. Except as set forth below, the City Manager is responsible for enforcement of the City Policy Against Harassment and Discrimination.
2. The City Attorney is responsible for ensuring that all complaints of harassment are investigated thoroughly and promptly, including presentation of recommendations for any necessary action to the City Manager, Department Director, or Supervisor.
3. Every Department Director is responsible for informing all employees of the City Policy Against Harassment and Discrimination and for taking the steps necessary to set a positive example in the prevention of harassment.
4. Every Supervisor is responsible for taking immediate and appropriate corrective action upon the observation of any incident of harassment or upon receipt of an oral or written report of any occurrence of harassment.
5. Every City Employee is responsible for reporting any act of harassment to the immediate Supervisor or Department Director, or the City Attorney.

Complaint Resolution Procedures

City employees shall report any act of harassment to their immediate Supervisor or Department Director, and to the City Attorney. The City Attorney will investigate and attempt resolution of harassment complaints in accordance with the City's Complaint Process as outlined in Exhibit B to the City's Equal Opportunity Plan.

Exhibit B

As amended on 12/7/04 by Council Resolution 2004-628

**CITY OF MODESTO
COMPLAINT PROCEDURE
VIOLATION OF POLICY AGAINST HARASSMENT AND DISCRIMINATION**

1. **Intent** - Any person who feels that he/she has encountered discrimination and/or harassment is encouraged to come forward and present that information. All complaints are kept confidential to the extent permitted by law. However, it should be noted that when a supervisor or other management employee is made aware of a situation of potential harassment or discrimination, he/she is required to take steps to verify whether or not the discrimination/harassment occurred and to take whatever action is necessary to correct the behavior which may include reporting the situation to the City Attorney's office. A prompt and appropriate investigation may require disclosure of the allegations, the person making the allegations and may necessitate the use of other parties to assist in the investigation.

It is the intent of this procedure to provide an effective means for resolving individual or group problems of a sensitive nature quickly and with a minimum of formal procedural requirements.

2. **Scope** - This procedure should be used for perceived discrimination or harassment based on age (primarily 40 and over), ancestry, color, mental or physical disability including HIV and AIDS or perceived disability, marital status, medical condition (cancer and genetic characteristics), pregnancy-related condition, national origin, race, religion or creed, sex, sexual orientation or political affiliation or belief.
3. **Limitations** - This procedure for resolving complaints of discrimination and harassment is not intended to supplant or prohibit employees or applicants from filing complaints with the federal Equal Employment Opportunity Commission (EEOC), the state Department of Fair Employment and Housing (DFEH), other appropriate state or federal agencies, or with the courts.

PROCEDURE: The procedure for reporting incidents of discrimination or harassment is meant to be as flexible as possible. It is the goal that complaints be resolved informally, if possible. If informal resolution is not achieved, then a process for formal resolution is provided.

- A. Complainants should come forward as soon as possible after an incident of harassment or discrimination. Generally, an issue or concern should be raised no later than 30 days from the date the complainant knew or should have known about the incident.
- B. Complainants have the option of contacting their immediate supervisor for assistance or contacting the City Attorney. If an employee goes directly to a supervisor, the supervisor should notify the City Attorney that he/she has received the complaint. This can be done informally and will be kept confidential to the extent possible.

- C. Depending on the nature of the complaint, the supervisor must refer the complaint immediately to the City Attorney so that a formal investigation be conducted. Alternatively, the supervisor may conduct an informal investigation or may recommend an alternative means of dispute resolution. If the complainant declines the informal or alternative process, a formal investigation by the City Attorney will be initiated.
- D. The City Attorney should begin a confidential investigation of the complaint as soon as possible. A reasonable time line to begin an internal investigation would be two-five (2-5) working days, depending on employees' work schedules.
- E. The complainant should be assured that the matter will be kept confidential to the extent possible, but be advised that a full investigation will include advising the alleged discriminator/harasser of the charges and interviewing witnesses. The alleged discriminator/harasser should be cautioned that DFEH, EEOC and this Policy prohibit any retaliation against the complainant, witnesses or other parties to the complaint. A verified allegation of retaliation will be treated as a violation of this policy and the City may take action against the retaliator, even if the original complaint is not determined to have merit.
- F. The investigation may include witness interviews, review of documents or materials and discussions with the complainant and the alleged discriminator/harasser. Witnesses shall be directed to maintain confidentiality during the investigation and shall be admonished not to engage in retaliation against either the complainant or alleged discriminator/harasser.
- G. The investigation should be completed in a timely manner. If the investigation will require greater than 30 days, the investigator or department shall notify the complainant of the status of the investigation and anticipated completion date.
- H. The investigator will prepare a written report including a finding related to each allegation. The complainant and the alleged discriminator/harasser shall be notified of the findings. All witnesses shall be notified that the investigation has been concluded.
- I. If the investigator finds that discrimination or harassment has occurred, the department management, in consultation with the City Attorney and the Director of Human Resources, shall determine what remedial action is appropriate. Remedial action may include but is not limited to coaching the responsible employee, training, a record of discussion, written reprimand, or formal discipline.
- J. If the complainant has first taken their complaint to a supervisor and is not satisfied with the supervisor's or department's timeliness or efforts, he/she may then contact the City Attorney and the Director of Human Resources. He/she should notify the department that this is being done. If the supervisor or department cannot effect conciliation and negotiation within a reasonable amount of time, the complainant should contact the City Attorney. The City Attorney may assist the department in completing the investigation or in identifying an alternate investigator to complete the confidential investigation and come to a resolution.

- K. The complainant should be notified that he/she has the right to file a complaint with the federal Equal Employment Opportunity Commission (EEOC) or the state Department of Fair Employment and Housing (DFEH) or other appropriate state or federal agency or the court.
- L. Complaints against the City Attorney shall be made to and investigated by the City Manager in a manner consistent with this procedure who shall report his/her findings to the City Council who shall determine the appropriate remedial action.