ARTICLE V. SUPPLIER'S AND LESSEE'S EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

18-18 Declaration of policy.
18-19 Definitions.
18-20 Exemptions.
18-21 Requirements of suppliers and lessees.
18-22 Failure of suppliers or lessees to comply.
18-23 Administrative responsibility.
18-24 – 18-99 Reserved.

18-18 Declaration of policy.

It is the policy of the City of Phoenix that Arizona and out-of-State suppliers of goods or services to the City and lessees of real property from the City for a period in excess of six months adhere to a policy of equal employment opportunity to recruit, hire and promote regardless of race, color, religion, sex, national origin, age, or disability. SUPPLIERS OR LESSEES WHO EMPLOY MORE THAN THIRTY-FIVE PERSONS SHALL ALSO INCLUDE SEXUAL ORIENTATION AND GENDER IDENTITY OR EXPRESSION IN THEIR EQUAL EMPLOYMENT OPPORTUNITY POLICIES.

18-19 Definitions.

IN ADDITION TO THE DEFINITIONS SET FORTH IN 18-3, IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

~~*Age.* Age discrimination prohibitions shall apply to individuals who are at least forty years of age or older~~.

Business relationship. Any transaction between the City and one or more parties which includes but is not limited to bids, proposals, written quotes, contractual agreements or call for qualifications.

~~*Department.* The Equal Opportunity Department of the City of Phoenix.~~

~~*Disability.* A physical impairment that substantially restricts or limits an individual's general ability to secure, retain or advance in employment. Disability does not include any impairment caused by current or recent use of alcohol, drugs, controlled substances or chemical substances abuse~~

~~*Disabled individual.* For the purpose of this article as applicable to employers or employment practices, a disable individual is a person with a physical impairment who, with reasonable accommodation, is capable of performing the essential functions of the particular job in question within the normal operation of the employer's business in terms of physical requirements, education, skill and experience.~~

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Goods. Equipment, goods, commodities, operating supplies purchased by the City for the daily operation of business.

Lessees. For the purposes of this article, firms and/or individuals who lease real property directly from the City for a period, including renewal options, in excess of six months.

~~*Reasonable accommodation.* An accommodation which does not; (1) unduly disrupt or interfere with the employer's normal operations; (2) threaten the health or safety of the disabled individual or others; (3) contradict the business necessity of the employer; (4) impose undue hardship on the employer based on the size of the employer's business, the type of business, financial resources of the employer and the estimated cost and expense of the accommodation.~~

Services. Professional and nonprofessional services, including, but not limited to, employment services, technical services, computer services, maintenance contracts, architectural services, engineering services, legal services, financial services, medical services, consultant services, etc.

Sole source acquisition. An acquisition when there is clear and convincing evidence that there is only one source from which the City can obtain goods or services suitable for the City's intended purpose.

Suppliers. Firms, entities or individuals furnishing goods or services directly to the City.

18-20 Exemptions.

A. *Certain business transactions.* The requirements of this article do not apply to the following business transactions:

1. Petty cash or canteen fund purchases or purchases within the petty cash limits as defined by the City Manager in the City's administrative regulations.

2. Emergency purchases as defined by the City Manager in the City's administrative regulations.

3. Sole source purchases.

B. *Certain parties.* The requirements of this article shall not apply to the following parties engaged in any business relationship with the City:

1. Governmental agencies of the United States, any state or municipality, any county or school district or other entity created under the laws of the United States, this State or any other state as a public entity.

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2. Property owners renting property under the provisions of the United States Housing and Urban Development Section 8 program.

3. Boards and commissions of the City, County or State.

4. Professional organizations or associations, provided that the articles of the association, incorporation, or other governing documents of such organizations or associations does not permit discrimination among their membership on the basis of race, color, religion, sex, national origin, age, ~~or~~ disability, SEXUAL ORIENTATION, OR GENDER IDENTITY OR EXPRESSION.

5. Nonprofit corporations formed for the express purpose of assisting the City or any other Arizona municipality in the financing of public projects, purchases or other acquisitions.

C. *Applicability of exemptions.* Questions regarding exemptions will be referred to and decided by the Equal Opportunity Department, with the advice of the Law Department concerning the legal status of entities described in paragraph B above.

18-21 Requirements of suppliers and lessees.

A. *Required contract language.*

1. The following clause is required to appear in all contracts and leases between the City and suppliers and lessees covered by this article:

   Any supplier/lessee in performing under this contract shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The supplier and/or lessee will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability. Such action shall include but not be limited to the following: Employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship. The supplier further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract.

   Supplier/lessee further agrees that this clause will be incorporated in all subcontracts, job-consultant agreements or subleases of this agreement entered into by supplier/lessee.

DRAFT

2. IF THE SUPPLIER/LESSEE EMPLOYS MORE THAN THIRTY-FIVE EMPLOYEES, THE FOLLOWING LANGUAGE SHALL BE INCLUDED AS THE LAST PARAGRAPH TO THE CLAUSE ABOVE:

   THE SUPPLIER/LESSEE FURTHER AGREES NOT TO DISCRIMINATE AGAINST ANY WORKER, EMPLOYEE OR APPLICANT, OR ANY MEMBER OF THE PUBLIC, BECAUSE OF SEXUAL ORIENTATION OR GENDER IDENTITY OR EXPRESSION AND SHALL ENSURE THAT APPLICANTS ARE EMPLOYED, AND EMPLOYEES ARE DEALT WITH DURING EMPLOYMENT WITHOUT REGARD TO THEIR SEXUAL ORIENTATION OR GENDER IDENTITY OR EXPRESSION.

B. *Documentation.* Suppliers and lessees may be required to provide additional documentation to the Equal Opportunity Department affirming that a nondiscriminatory policy is being utilized.

C. *Monitoring.* The Equal Opportunity Department shall monitor the employment policies and practices of suppliers and lessees subject to this article as deemed necessary. The Equal Opportunity Department is authorized to conduct on-site compliance reviews of selected firms, which may include an audit of personnel and payroll records, if necessary.

18-22 Failure of suppliers or lessees to comply.

A supplier or lessee who fails to comply with the provisions of this Article shall be subject to those sanctions allowed by law, including, but not limited to, cancellation, termination, suspension of the contract or exclusion from bidding on City contracts for a period not to exceed two years.

18-23 Administrative responsibility.

A. *The Equal Opportunity Department.* The Equal Opportunity Department shall be responsible for administering the provisions of this article.

B. *City departments.* City departments shall include the requirements of this article as expressed in Section 18-21 in all invitations for bids, request for proposals, requests for quotations, contractual agreements, or request for qualifications.

18-24—18-99 Reserved.

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