

ORDINANCE NO. 843

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF
PAYSON, ARIZONA, AMENDING CHAPTER 35 (PURCHASING) OF THE
TOWN CODE.

(PART 7 OF THE SYSTEMATIC CODE REVIEW AND UPDATE)

WHEREAS, on June 6, 2013, the Town Council directed the Town Attorney, working with the Town's Departments to systematically review the Town Code and to bring to the Council any recommended amendments to ensure consistency with State Law, internal consistency with other Town Ordinances/Code sections, and efficiency of Town operations; and

WHEREAS, Title III: General Provisions of the Town Code, Chapter 35 (Purchasing) has been reviewed by the Town Attorney, Town Manager, and the Assistant Town Manager; and

WHEREAS, the Town desires to amend Chapter 35 by this Ordinance and a companion Resolution has been prepared to amend Financial Policy 102 and repeal Admin Policy A202 to ensure consistency, and to improve the ability of the Town to procure goods and services in a impartial cost effective manner,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF
PAYSON, ARIZONA, DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 35.01 of the Town Code is amended and shall read as follows:

35.01 PROCUREMENT PURCHASING OF GOODS AND SERVICES.

The Council shall adopt a policy governing the procurement of goods and services.

~~Purchases of supplies, materials, equipment, insurance and contractual services, except for contractual services consisting of the rendering of professional services, including, but not limited to, that of an attorney, an accountant, an auditor, an appraiser, an architect, and an engineer, having an estimated cost in excess of \$25,000 per transaction shall be made as follows:~~

- ~~—(A) Based upon Sealed, competitive bids;~~
- ~~—(B) Through A joint purchase agreement or in conjunction with another public entity or agency provided one of the parties undertakes competitive bidding for the purchase;~~
- ~~—(C) From another public entity or agency;~~
- ~~—(D) Through the United States General Services Administration; or~~

*First Public Hearing*¹ JAN 09 2014 D. Z. A

~~(E) Utilizing a duly called for and received competitive bid received by another political subdivision of the state, including, but not limited to a county, a city, town or school district, for an identical item.~~

Section 2. Section 35.02 of the Town Code is amended and shall read as follows:

35.02 BIDS RESERVED.

~~Bids shall be opened publicly at the time and place stated in the invitation. Awards shall be made with reasonable promptness by giving written notice to the responsible bidder whose bid conforms to the invitation and will be the most advantageous to the town with respect to price, conformity to the specifications and other factors. However, all bids may be rejected if the Council determines that rejection is in the public interest.~~

Section 3. Section 35.03 of the Town Code is amended and shall read as follows:

35.03 DISBURSEMENT OF FUNDS

(A) Disbursement of funds shall be for public purposes only. Disbursements of such funds shall be to obtain goals sought by the Council, and not be for purposes primarily to benefit non-profit corporations. No donations, gifts or grants, whether by subsidy or otherwise, are permitted.

(B) No funds may be disbursed to non-profit corporations except by compliance with the following:

(1) The Council shall make a finding of fact, at a public meeting, of the following:

(a) The goal sought to be achieved by the disbursement of the funds is one which the Council would seek to attain whether or not the non-profit organization requested the right to perform the services in return for funds.

(b) The exact nature of the purpose to which the funds are to be used.

(c) That the consideration to be received by the town will be to the town residents and taxpayers alone. Funds will not be disbursed in return for consideration beneficial to anyone other than town taxpayers and residents.

(d) That the consideration to be received by the town is approximately equal in value to the amount of funds given.

(e) Each non-profit corporation requesting town funding shall provide the town with all state and federal tax numbers issued by the state and federal taxing authorities with each application for funds and prior to receipt of any funds from the town. Any changes in the non-profit corporation tax status as a non-profit corporation or any change of the tax numbers assigned to each non-profit corporation shall be reported to the town within five days of each change.

(2) ~~The requesting organization shall provide the factual basis for the finding required in subsection (1) above. non-profit corporation requesting funds from the town must provide the foundation from which the Council may determine the above findings of fact. The burden shall be placed upon the requesting organization. All discussion concerning funds shall be at a public meeting.~~

(3) No funds may be disbursed to a non-profit corporation except by written contract ~~executed by both the town and the corporation.~~ The contract must include a requirement that the corporation provide auditable records to the town, monthly or on another regular basis, as determined by the town. The contract shall also include the stipulation that a failure of the recipient corporation to provide the proper documents upon request would be a breach of contract. Likewise, any unauthorized or unexplained expenditures of the money given by the town would be considered a breach of contract. The town is to retain control over the monies expended and, in the event of a breach of the contract, the contract shall require that the remaining funds be returned to the town. Additionally, at the town's request, the full amount of the funds given by the town shall be returned to the town, minus any amount equal to the consideration already received by the town.

(4) All contracts shall be in compliance with the Gift Clause of the Constitution of the State of Arizona, Article 9, Section 7, and relevant Arizona case law.

Section 4. If any section, subsection, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of _____, 2014, by the following vote:

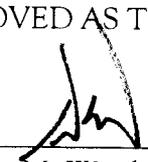
AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

Kenny J. Evans, Mayor

ATTEST:

Silvia Smith, Town Clerk

APPROVED AS TO FORM:



Timothy M. Wright, Town Attorney