

**ORDINANCE NUMBER 2016-03**

**AN ORDINANCE OF THE TOWN OF PARADISE VALLEY, ARIZONA, RELATING TO PROCUREMENT AND MATERIALS MANAGEMENT; ADOPTING NEW LANGUAGE FOR THE CODE OF THE TOWN OF PARADISE VALLEY ARTICLE 3-8.**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN PARADISE VALLEY, ARIZONA THAT:**

Section 1: Article 3-8 Procurement and Materials Management is hereby repealed.

Section 2: Adopting 3-8 Procurement and Materials Management as follows:

<u>Section 3-8-1</u>	<u>Purpose</u>
<u>Section 3-8-2</u>	<u>Applicability</u>
<u>Section 3-8-3</u>	<u>Town Manager Authority and Duties</u>
<u>Section 3-8-4</u>	<u>Council Approval; When Required</u>
<u>Section 3-8-5</u>	<u>Informal and Formal Procurement Limits and Requirements</u>
<u>Section 3-8-6</u>	<u>Cooperative Purchasing</u>
<u>Section 3-8-7</u>	<u>Sole Source and Single Source Procurement; Excluding Technical Registrants</u>
<u>Section 3-8-8</u>	<u>Competition Impracticable Procurement</u>
<u>Section 3-8-9</u>	<u>Emergency Purchases; Procedure</u>

Section 3-8-1 Purpose

The purpose of this Code is to provide for oversight, accountability and good stewardship in the use of city resources. This Code shall govern the purchase of goods, services and construction for or on behalf of the Town, including, but not limited to, the purchase of equipment, material, supplies, services and public improvements.

Section 3-8-2 Applicability

1. The provisions of this Code apply only to procurements initiated after its effective date.
2. The provisions of this Code are applicable to every purchase of materials, services and construction with public monies from any source, including grants, and federal assistance monies except as otherwise provided in this section.
3. Contracts for construction and contracts for the services of architects or engineers or other technical registrants to be used in connection with construction contracts shall be governed by the provisions of A.R.S. Title 34, Public Buildings and Improvements.

Procedures and other provisions of this Code and rules established pursuant thereto, shall apply to such contracts only to the extent that they are not inconsistent with A.R.S. Title 34, Public Buildings and Improvements.

4. The following contracts are not subject to the provisions of this Code:
  - a. Professional Witnesses if the purpose of such contracts is to provide for professional services or testimony relating to an existing or probable judicial proceeding in which the Town is or may become a party to or to contracts for special investigative services for law enforcement purposes;
  - b. Agreements negotiated by the Town in settlement of a claim or litigation or threatened litigation;
  - c. Worker's compensation payments for medical and related expenses;
  - d. Intergovernmental agreements;
  - e. Election services;
  - f. Employment contracts;
  - g. Investments; and
  - h. The acquisition of an interest in real property.

#### Section 3-8-3 Town Manager Authority and Duties

1. The Town Manager shall serve as Procurement Officer and shall direct all purchases of goods, services, and construction made by or on behalf of the Town. The Town Manager may delegate authority for administration of this Code to members of Town staff.
2. The Procurement Officer shall:
  - a. Establish rules governing the procurement of materials, services and construction to be procured by the Town. Rules and procedures for the procurement of construction and professional design services shall be consistent with this Code and Arizona Revised Statutes, (A.R.S.) Title 34, Public Buildings and Improvements.
  - b. Procure all materials, services and construction required by the Town in accordance with the provisions of this Code and such procurement rules as are established.
  - c. Establish rules and procedures for the management of inventories of material and surplus personal property belonging to the Town.
  - d. Assure that Town procurements are conducted in fair and open manner and avoid collusive and restrictive bidding
3. The Town Manager, or his designee, shall approve or deny all purchase requests and shall report to the Council on administrative purchases.

#### Section 3-8-4 Council Approval; When Required

1. All non-budgeted expenditures of twenty-five thousand dollars (\$25,000) or more for procurement of materials, services and construction governed by this Code must be approved by Council, unless deemed urgent by the Town Manager. Urgent purchases

over \$25,000 will be reported to Council within 10 business days or the next Council meeting, whichever comes first, and shall not exceed \$50,000.

2. Expenditures of one hundred thousand dollars (\$100,000) for the purchase of specific items approved in the current budget adopted by Council do not require further Council approval.
3. Notwithstanding any other provision of this Section, a CIP or study expenditure of \$50,000 or more requires prior Council approval.
4. Purchases shall not be artificially divided or fragmented to circumvent the Council approval requirements or source selection procedures required by this Section.

#### Section 3-8-5 Informal and Formal Procurement Limits and Requirements

1. Informal Procurement. Procurement of materials, services and construction when the cost will not exceed fifty thousand dollars (\$50,000) shall be made using Informal Purchase Procedures as established by the rules and procedures adopted by the Procurement Authority. Informal Purchases should be based on reasonable and adequate competition under the circumstances.
2. Formal Procurement. Procurement of materials, services or construction when the cost is fifty thousand dollars (\$50,000) or greater shall be made using formal competitive selection criteria and procedures, including but not limited to Request for Proposal, Request for Qualification, Invitation to Bid, and as directed by sections 6 through 8 as established by the rules and procedures adopted by the Procurement Authority.

#### Section 3-8-6 Cooperative Purchasing

Pursuant to A.R.S. § 41-2632 the Procurement Officer or designee shall have the authority to participate with other Procurement Units, including political subdivisions of this state, the State, and the Federal Government, for the procurement of supplies or services in cooperative purchasing agreements without a formal bidding process whenever other governmental units have already done so for the same item or service.

#### Section 3-8-7 Sole Source and Single Source Procurement; Excluding Technical Registrants

Notwithstanding any other provision of this Code, a contract may be awarded for a material, service or construction item without competition if the Procurement Officer determines in writing that there is a sole or single source for the required material, service or construction item. The Procurement Officer may require the submission of cost or pricing data in connection with a purchase under this section. Sole or single source procurement shall be avoided, except when no reasonable alternative sources exist. A written determination of the basis for the sole or single source procurement, approved by the Procurement Officer, shall be included in the procurement file.

#### Section 3-8-8 Competition Impracticable Procurement

Notwithstanding any other provision of this Code, the Procurement Officer may make, or authorize others to make, procurements that do not comply with the competitive selection requirements in Section 5 if the Procurement Officer deems compliance with those provisions impracticable or disadvantageous to the Town's interest. Such procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the procurement and for the selection of the particular contractor, approved by the Procurement Office, shall be included in the procurement file.

Section 3-8-9 Emergency Purchases; Procedure

Notwithstanding any other provisions of this Code, the Procurement Officer may make or authorize others to make emergency procurements if there exists a threat to public health, welfare, or safety which makes compliance with competitive selection impractical or contrary to the public interest. Emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor, approved by the Procurement Officer, shall be included in the procurement file. Emergency purchases, which exceed the Formal Procurement limit, shall be reported to the Town Council.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of these amendments to the Town Code adopted herein by reference 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 thereof.

Section 4: This ordinance shall become effective in the manner provided by law.

PASSED AND ADOPTED by the Mayor and Council of the Town of Paradise Valley, Arizona, this 12<sup>th</sup> day of May, 2016.

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Michael Collins, Mayor

SIGNED AND ATTESTED THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2016.

ATTEST:

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Duncan Miller, Town Clerk

APPROVED AS TO FORM:

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Andrew M. Miller, Town Attorney