

ORDINANCE NO. 1192

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF WICKENBURG, ARIZONA AMENDING THE TOWN OF WICKENBURG CODE, CHAPTER 4 ADMINISTRATION, ARTICLE 4-4 PURCHASING, BY AMENDING SEVERAL SECTIONS AND ADDING A SECTION ON PURCHASING CARD AND GRANTS; PROVIDING FOR PENALTIES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR SEVERABILITY.

NOW THEREFORE BE IT ORDAINED by the Mayor and Common Council of the Town of Wickenburg, Arizona as follows:

Section 1. In General.

The Code of Wickenburg, Chapter 4 Administration, Article 4-4 Purchasing, is amended to read as follows (deleted text appears in strikeout; new text in ALL CAPS):

ARTICLE 4-4 PURCHASING

- 4-4-1 General Authority to Expend Funds
- 4-4-2 Special Council Approval Required
- 4-4-3 Purchase Orders Required
- 4-4-4 Delivery of Purchases
- 4-4-5 Petty Cash
- 4-4-6 Emergency Expenditures
- 4-4-7 Signatures and Ratifications
- 4-4-8 Quotation or Bid Requirements
- 4-4-9 Application to Employees and Professional Services
- 4-4-10 Change Orders
- 4-4-11 ~~Purchasing from Other Bids~~ COOPERATIVE PURCHASING
- 4-4-12 Sealed Bid Procedures
- 4-4-13 ~~Selection of Supplier~~ PURCHASING CARD
- 4-4-14 Selection of Supplier
- 4-4-15 GRANTS
- 4-4-16 Imposition of Additional Requirements
- 4-4-17 Enforcement
- 4-4-18 Audit of Records
- 4-4-19 Surplus Supplies and Equipment
- 4-4-20 ~~Section 3 Compliance for~~ Neighborhood Revitalization Procedures;
SECTION 3 COMPLIANCE AND FEDERAL COMPLIANCE
- 4-4-21 Conflict of Interest Procedures
- 4-4-22 Protest of Solicitations and Contract Awards
- 4-4-23 Stay of Procurement During Protest

- 4-4-2224 Resolution of Solicitation and Contract Award Protests
 4-4-2325 Remedies by The Town Clerk and/or Town Council

Section 4-4-1 General Authority to Expend Funds

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- C. All expenditures shall be charged to the appropriate Department budget and shall not cause that budget to be exceeded. It is the responsibility of the Department ~~Head~~ DIRECTOR to verify that the expenditure does not exceed the available budgeted funds. The Department ~~Head~~ DIRECTOR shall sign the invoice when received to confirm that the goods have been received or that the services have been satisfactorily completed and that the invoice is accurate.
- D. To prevent unforeseen events causing a line item within the approved annual budget from exceeding the budget, transfers between line items other than contingencies shall only be made within the same fund as set forth below:
1. A transfer from a capital item line (9#### accounts) requires Town Council approval prior to incurring the expense.
 2. A transfer other than from capital item lines, ~~up to \$5,000~~ within the same fund ~~requires approval by the Town Manager~~ MAY BE AUTHORIZED BY THE DEPARTMENT DIRECTOR prior to incurring the expense.
 3. A transfer ~~over \$5,000 within or~~ between funds requires approval by the Town Council prior to incurring the expense.
- E. Violation of this Article, including but not limited to the purchase of goods or services or the attempt to enter into contracts in violation of this Article, may result in disciplinary action.

Section 4-4-2 Special Council Approval Required

- A. Council approval shall be required for all purchases ~~from a sole source provider and for all purchases of more than fifty thousand dollars (\$50,000.00) AND GREATER.~~

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Section 4-4-3 Purchase Orders Required

- A. The purpose of a purchase order is to create an encumbrance in the general ledger to permit the remaining balance of budgeted line items to be monitored. When the invoice is received by accounts payable from the Department ~~Head~~ DIRECTOR, it shall be matched to the applicable purchase order and processed for payment. The encumbrance shall then be replaced by the actual expenditure. Violation of this Article may result in disciplinary action.
- B. All Town ~~purchases~~ EXPENDITURES OF \$1,000 OR MORE shall be by written Purchase Order except that purchase orders shall not be required:
1. For contracts approved by the Common Council; except purchase orders shall be ~~required~~ ISSUED for project specific contracts for budget monitoring purposes.
 2. ~~For purchases of less than two hundred dollars (\$200.00) upon approval of the Department Head of the Department for which the purchase applies.~~
 3. 2. For utility expenses for gas, electric, water, sewer, sanitation, INTERNET and telephone services.

- ~~4. For vehicle fuel which is required when outside of the Town limits.~~
- ~~5. For independent contractors who have a contract with the Town and provide an invoice for services.~~
- 3. FOR CUSTOMER REFUNDS.
- C. Blanket Purchase Orders may be issued on a fiscal year basis to a vendor used at least monthly. This blanket purchase order will be closed out on June 30th of each year.

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Section 4-4-5 Petty Cash

- A. A petty cash fund may be established at the discretion of the Finance Director in TO VARIOUS Departments TO BE USED for small purchases not exceeding ninety-nine dollars (\$99.00). ~~Purchases using the petty~~
- B. Petty cash fundS shall be used ~~only~~ for unanticipated items ~~for~~ HAVING an immediate need, INCLUDING EMPLOYEE REIMBURSEMENTS. EMPLOYEE REIMBURSEMENTS REQUIRE THE RECEIPT TO BE ATTACHED TO A COMPLETED EXPENSE REIMBURSEMENT REQUEST FORM. PETTY CASH FUNDS SHALL NOT BE USED TO CASH CHECKS, TO MAKE PERSONAL LOANS, OR FOR SALARY ADVANCES. ~~The petty cash fund shall not be used to circumvent the requirements of this Article.~~
- ~~B.~~ C. The custodian of the petty cash fund shall arrange for a secure, locked location for the fund. The fund shall be subject to an audit at any time by the Finance Director or a designated representative. The sum of unused cash and receipts shall equal the original advance.
- ~~C.~~ D. Petty cash shall not be disbursed by the custodian of the petty cash fund without a dated and itemized receipt. All receipts shall be signed by the custodian's Department Head DIRECTOR, NOTING ~~with the budget line to be charged.~~ The receipt shall be submitted within ~~seventy two (72) hours~~ TWO (2) BUSINESS DAYS OF THE purchase. ~~No expenditures from petty cash shall cause the budget line to be exceeded.~~
- ~~D.~~ Petty cash funds shall not be used to cash checks, to make personal loans or for salary advances.
- E. A request to replenish petty cash funds shall be made to Accounts Payable by the 15th day of every month, unless no disbursements have been made since the last request.

Section 4-4-6 Emergency Expenditures

- A. EMERGENCY EXPENDITURES ARE THOSE NEEDED FOR THE IMMEDIATE PRESERVATION OF THE PUBLIC PEACE, HEALTH, OR SAFETY, AND FOR WHICH COMPLIANCE WITH ~~Nothing in Article 4-4 shall be construed to prohibit emergency expenditures~~ ARE IMPRACTICAL OR CONTRARY TO THE PUBLIC INTEREST.
- B. The requesting Department ~~Head~~ DIRECTOR shall be responsible for determining the validity of all emergency purchase requests for goods or services. The Town Manager shall review the request and may authorize the emergency purchase without complying with the procedures of this Article.
- C. EMERGENCY EXPENDITURES UNDER \$50,000 AND NOT REQUIRING THE USE OF CONTINGENCY FUNDS MAY BE APPROVED BY THE TOWN MANAGER.

- D. EMERGENCY EXPENDITURES OF \$50,000 AND GREATER, OR REQUIRING THE USE OF CONTINGENCY FUNDS MAY BE AUTHORIZED BY THE TOWN MANAGER. However, when an emergency expenditure is made under the authority of this Section, a full written report specifying the nature of the emergency and the amount of the expenditure shall be made to the Council at the next regularly scheduled Council meeting.
- E. Invoices for the purchase of emergency goods or services shall be signed by both the requesting Department Head DIRECTOR and the Town Manager.

Section 4-4-7 Signatures and Ratification

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- B. All agreements and contracts of the Town OF \$50,000 OR MORE SHALL BE approved by the Town Council AND shall be signed by the Mayor or Vice Mayor, the Town Clerk, and the Town Attorney.
- C. All agreements and contracts of the Town LESS THAN \$50,000 DO not requiring REQUIRE Town Council approval AND shall be signed by the Town Manager or his designee.

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Section 4-4-8 Quotation or Bid Requirements

- A. Except as provided in Sections 4-4-9 through 4-4-15 17 of this Article, prior to purchases of goods or services, quotations or bids shall be sought according to the following schedule:

DOLLAR RANGE QUOTATION OR BID REQUIREMENTS	
\$0 - \$4,999.99	No quotations or bids required.
\$5,000 - \$9,999.99	Telephone Quotations shall be solicited. A minimum of three (3) when feasible.
\$10,000 5,000 - \$24,999.99	A MINIMUM OF THREE (3) Written Quotations shall be solicited and selection approved by Town Manager. A minimum of three (3) when feasible. SELECTION SHALL BE APPROVED BY THE DEPARTMENT DIRECTOR.
\$25,000 - \$49,999.99	Sealed Bids shall be solicited through newspaper advertising and the vendor list maintained by the Town Clerk's Office with a design towards obtaining the greatest number of bidders and bid responses. A MINIMUM OF THREE (3) WRITTEN QUOTATIONS SHALL BE SOLICITED. Selection shall be approved by the Town Manager.
\$50,000 and Above	Sealed Bids shall be solicited through newspaper advertising, from the vendor's lists maintained by the Town Clerk's Office with a design towards obtaining the greatest number of bidders and bid responses. Upon receipt of the bids, the responsible Department Head DIRECTOR shall prepare his/her written recommendation to the Common Council for award of the contract.

- B. Notwithstanding the provisions of Subsection A of this Section, no public official, ~~relative of a public official~~ or employee shall supply ANY EQUIPMENT, MATERIAL, SUPPLIES, ~~goods or services~~ to the Town unless pursuant to a sealed bid process, ~~except where such purchase~~ EXCEPT THAT SUPPLIES, MATERIALS, AND EQUIPMENT MAY BE PURCHASED FROM A MEMBER OF THE TOWN COUNCIL WHERE THE PURCHASE does not exceed three hundred dollars (\$300.00) in a single transaction, and the aggregate total of all transactions for the fiscal year does not exceed one thousand dollars (\$1,000). IN COMPLIANCE WITH A.R.S. § 38-503, THE TOWN COUNCIL SHALL ANNUALLY APPROVE A POLICY ALLOWING FOR SUCH PURCHASES FROM A MEMBER OF COUNCIL OTHERWISE THIS EXCEPTION SHALL LAPSE AND NO SUCH PURCHASE SHALL BE MADE PENDING COUNCIL APPROVAL OF SUCH POLICY.
- C. SOLE SOURCE PROCUREMENT SHOULD BE AVOIDED WHEN POSSIBLE BY USING GENERIC SPECIFICATIONS RATHER THAN NAME BRAND ONLY SPECIFICATIONS. NAME BRAND ONLY SPECIFICATIONS CAN USUALLY BE MULTI-QUOTED OR BID BY USING MULTIPLE DISTRIBUTORS. WHEN ONLY ONE VENDOR SELLS THE NAME BRAND ONLY MATERIAL OR SERVICE A LETTER FROM THE MANUFACTURER OR SERVICE PROVIDER INDICATING THE SOLE VENDOR IS REQUIRED. ~~Notwithstanding the provisions of Subsection A of this Section, a~~ A purchase from a sole source supplier of goods and services may be made without receiving quotations or competitive bids, ~~provided that a written report from the~~ THE requesting Department-Head-DIRECTOR SHALL SUBMIT A MEMORANDUM explaining the sole source request ALONG WITH THE MANUFACTURER OR SERVICE PROVIDER LETTER, TO THE TOWN MANAGER FOR APPROVAL. THE REQUESTING DIRECTOR MUST DEMONSTRATE THAT THERE WAS A SERIOUS, DILIGENT EFFORT TO IDENTIFY POTENTIAL SOURCES AND/OR TEST ALTERNATIVES AVAILABLE, ~~is signed by the Town Manager as being approved, and is then approved by Council. A sole source supplier means a vendor who is the only acceptable vendor able to furnish a certain good or service.~~ REQUESTS \$50,000 AND ABOVE ALSO REQUIRE COUNCIL APPROVAL. Once approved by Council, the Department-Head-DIRECTOR may proceed with the regular purchase procedure.
- D. Notwithstanding, the provisions of Subsection A of this Section, because fuel prices fluctuate daily and purchases need to be made quickly, purchases of fuel for the Airport or fuel facility will only require two (2) written quotations.
- E. When evaluating quotes and bids, except for public works projects as defined in title 34 of the Arizona revised statutes, a local preference will be used by deducting the local transaction privilege taxes (TPT) also known as sales tax from quotes received from local businesses.
1. A local business is defined as one having a fixed location within the town limits.
 2. To qualify for local preference, the local business must have a business license with the ~~town~~ TOWN of Wickenburg and a TPT license with the Arizona ~~department~~ DEPARTMENT of ~~revenue~~ REVENUE.

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Section 4-4-10 Change Orders

- A. Change orders which EXCEED A BID OR QUOTE PREVIOUSLY APPROVED BY COUNCIL BUT do not cause the project to go over the ORIGINAL budget previously approved ADOPTED by ~~council~~ COUNCIL may be approved and executed by the Town Manager PROVIDED THE CUMULATIVE CHANGE ORDER TOTAL DOES NOT EXCEED 20% OF THE ORIGINAL BID OR QUOTE.
- A. Change orders which will cause the project to go over the ADOPTED budget previously approved by ~~council~~ COUNCIL require approval of the Council.

Section 4-4-11 ~~Purchasing from Other Bids~~ COOPERATIVE PURCHASING

- A. Notwithstanding any other provision of this Article, the Town, by and through its authorized personnel, may purchase any goods or services for which funds have been duly appropriated, regardless of the amount of purchase from, or off of, any other governmental entity's master or specific bidding list if, in the opinion of the Town Manager, a separate bidding process is not likely to result in a lower price for such goods or services.
- B. COOPERATIVE PURCHASING SHOULD BE THE FIRST CHOICE OF PROCUREMENT WHEN A FORMAL BID IS REQUIRED, UNLESS IT IS BELIEVED THAT A FORMAL BID WOULD RESULT IN A MORE FAVORABLE PRICING.

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SECTION 4-4-13 ~~Selection of Supplier~~ PURCHASING CARD

- A. TOWN DEPARTMENTS ARE AUTHORIZED TO USE THE PURCHASING CARD (P-CARD) FOR CERTAIN PURCHASES UP TO \$5,000 PER TRANSACTION. MONTHLY SPENDING LIMITS VARY DEPENDING ON THE TYPES OF PURCHASES AN INDIVIDUAL MAY NEED TO MAKE. P-CARD SPENDING LIMITS APPLY TO THE TOTAL TRANSACTION INCLUDING TAXES, AND SHIPPING. ALL P-CARD TRANSACTIONS SHALL BE IN ACCORDANCE WITH APPLICABLE ACCOUNTING AND BUDGETING RULES.
- B. USING THE P-CARD FOR ANY OF THE FOLLOWING IS STRICTLY PROHIBITED:
 - 1. TO PURCHASE PROFESSIONAL SERVICES OF THE TYPE REQUIRING A FORM 1099. IN GENERAL, THE TYPES OF SERVICES THAT REQUIRE THE ISSUANCE OF A FORM 1099 INCLUDE PAYMENT OF RENT, MISCELLANEOUS INCOME TO INDEPENDENT CONTRACTORS, MEDICAL AND HEALTH CARE PAYMENTS, OR FEES PAID TO ACCOUNTANTS, ATTORNEYS, TEMPORARY HELP, ETC.
 - 2. TO WITHDRAW CASH FROM ATM'S OR OTHER SOURCES.
 - 3. TO PURCHASE TRAVELER'S CHECKS OR ANY OTHER NEGOTIABLE INSTRUMENT.
 - 4. TO PURCHASE ALCOHOLIC BEVERAGES OR ANY ILLEGAL SUBSTANCE.
 - 5. DIVIDING PURCHASE TRANSACTIONS TO CIRCUMVENT PURCHASE LIMITS IS PROHIBITED.

- C. DEPARTMENT DIRECTORS ARE RESPONSIBLE FOR ALL P-CARD ACTIVITY OF THEIR STAFF. THE DIRECTOR SHALL:
1. REVIEW ALL TRANSACTIONS AT LEAST WEEKLY TO VERIFY COMPLIANCE AND SUBMIT THE TRANSACTION FOR PROCESSING.
 2. RESOLVE ANY DISPUTED TRANSACTIONS AND DOCUMENT THE RESOLUTION THEREOF.
 3. RECOVER THE P-CARD UPON TERMINATION OF THE EMPLOYEE, AND NOTIFY THE FINANCE DIRECTOR TO CANCEL THE P-CARD.
- D. CARDHOLDER SHALL:
1. MAINTAIN ALL RECEIPTS DOCUMENT CHARGES OR CREDITS INCURRED ON THE P-CARDS. IF ORIGINAL DOCUMENTATION IS LOST, THE CARDHOLDER WILL CONTACT THE VENDOR TO OBTAIN A DUPLICATE RECEIPT.
 2. IMMEDIATELY SURRENDER THE P-CARD UPON RESIGNATION, RETIREMENT, OR TERMINATION FROM TOWN SERVICES.
 3. IF A P-CARD IS LOST, MISPLACED, STOLEN OR DESTROYED, THIS FACT MUST BE REPORTED IMMEDIATELY TO THE DEPARTMENT DIRECTOR AND FINANCE DIRECTOR, AND THE CARD WILL BE CANCELLED.

Section 4-4-14 ~~Imposition of Additional Requirements~~ SELECTION OF SUPPLIER

Purchase shall be from suppliers offering the lowest prices, except that the Town may purchase at other than a THE lowest offered price for reasons including quality, ability of a supplier to furnish the goods or services quoted or bid, or compatibility with existing equipment, structures, or ongoing service requirements. FEDERAL EXCESS AND SURPLUS PROPERTY WILL BE USED IN LIEU OF PURCHASING NEW EQUIPMENT WHENEVER SUCH USE IS FEASIBLE AND REDUCES PROJECT COSTS.

SECTION 4-4-15 ~~Enforcement~~ GRANTS

- A. GRANTS REQUIRING A TOWN MATCH SHALL BE APPROVED BY COUNCIL PRIOR TO APPLYING FOR SAID GRANT.
- B. GRANTS SPANNING MORE THAN THE CURRENT FISCAL YEAR SHALL BE APPROVED BY COUNCIL.
- C. THE PROVISIONS OF ARTICLE 4-4 PURCHASING MAY BE SUPERSEDED BY BIDDING, PROPOSAL, OR QUALIFICATION REQUIREMENTS FOR FEDERAL, STATE, OR COUNTY GRANTS.

Section 4-4-14 16 IMPOSITION OF ADDITIONAL REQUIREMENTS

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Section 4-4-15 17 ENFORCEMENT

- A. It shall be the duty of the Town Clerk OR DESIGNEE to enforce the provisions of this Article.

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Section 4-4-16 18**AUDIT OF RECORDS**

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Section 4-4-17 19**Surplus Supplies and Equipment**

~~All Departments and offices~~ DEPARTMENT DIRECTORS OR THEIR DESIGNEE shall submit to the Finance Director, at such time, and in such time, and such form as he/SHE shall prescribe, reports showing all supplies and equipment which are no longer used or which have become obsolete or worn out. The Finance Director or designee ~~Officer~~ shall dispose of such supplies and equipment pursuant to ARS §9-402.

Section 4-4-18 20**~~Section 3 Compliance For Neighborhood Revitalization~~
Procedures; SECTION 3 COMPLIANCE AND FEDERAL COMPLIANCE**

- A. PURPOSE: To establish procedures for procuring small, minority and women owned business enterprises and maintain compliance with Section 3 AND OTHER FEDERAL PROGRAMS, to ensure that the employment and other economic opportunities generated by federal financial assistance for Housing and Community Development AND OTHER FEDERAL programs shall, to the greatest extent feasible, be directed toward low and very low-income persons, particularly those who are recipients of government assistance for housing. Those considered as Section 3 residents reside in public housing and low-income persons who live in the area where a HUD-assisted project is located.

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Section 4-4-19 21**Conflict of Interest Procedures**

- A. PURPOSE: All COUNCIL MEMBERS AND Town employees shall not engage in on or off duty conduct which constitutes a conflict of interest with their Town duties and responsibilities. No COUNCIL MEMBER OR employee shall have a financial interest in any sale to the Town of land, materials, supplies, equipment or services, unless the sale complies with the bidding requirements of the conflict of interest statutes of the State of Arizona. Contracts or sales made by a person or entity with knowledge, express or implied, of a violation of this Section shall be voidable by the Town Manager.
- B. PROCESS:
1. CONFLICTS OF INTEREST:
 - a. No employee of the Town shall supply to the Town equipment, material, supplies or services, unless pursuant to an award of a contract after a public competitive bid. A request for proposals or quotes shall not be considered a competitive bid.
 - b. Any employee of the Town who has, or whose relative has, a substantial interest in any contract with, sale to, purchase from, or service to the Town shall notify the employee's ~~Department Head~~ DIRECTOR or Town Manager. The ~~Department Head~~ DIRECTOR or Town Manager shall require the employee to file a notice of such

interest with the Town Clerk and a copy of such notice with the Town Attorney and Town Manager. The Department ~~Head~~-DIRECTOR or Town Manager shall establish procedures to ensure the employee does not participate in any manner in such contract, sale, purchase or service.

- c. Any employee of the Town who has, or whose relative has, a substantial interest in any decision or action of the Town, other than as an employee, shall notify the employee's Department-~~Head~~ DIRECTOR or Town Manager. The Department ~~Head~~ DIRECTOR or Town Manager shall require the employee to file a notice of such interest with the Town Clerk and a copy of such notice with the Town Attorney and Town Manager. The Department-~~Head~~ DIRECTOR or Town Manager shall also establish procedures to ensure the employee does not participate in any manner in such a decision.

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Section 4-4-20-22 Protest of Solicitations and Contract Awards

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Section 4-4-21-23 Stay of Procurements During Protest

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Section 4-4-22-24 Resolution of Solicitation and Contract Award Protests

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Section 4-4-23-25 Remedies by the Town Clerk and/or Town Council

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Section II. Repeal of Conflicting Ordinance.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed.

Section III. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the 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.

PASSED AND ADOPTED by the Town Council of the Town of Wickenburg, Arizona, this 17th day of December 2018.

By:


Everett Sickles, Mayor

ATTEST:

By: 
Amy Brown, Town Clerk

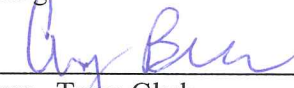
APPROVED AS TO FORM:

By: 
Trish Stuhan, Town Attorney
Gust Rosenfeld, PLC

Number of Councilmembers Present: 7
Number of Votes For: 7
Number of Votes Against: 0
Number of Abstentions: 0

CERTIFICATION

I HEREBY CERTIFY that the foregoing Ordinance Number 1192 was duly passed and adopted by the Common Council of the Town of Wickenburg, Arizona, at a regular meeting held on the 17th day of December 2018, and that a quorum was present at the meeting.


Amy Brown, Town Clerk