FILED
JAN 27 2006
SECRETARY OF STATE

TOWNSHIP OF DELRAN

ORDINANCE NO. 2005-35

AN ORDINANCE ADDRESSING LIMITATIONS ON POLITICAL CONTRIBUTIONS BY MUNICIPAL VENDORS AND ESTABLISHING A PROCEDURE FOR THE AWARD OF PROFESSIONAL SERVICE CONTRACTS

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., authorizes the award of certain Contracts without resort to competitive bidding; and

WHEREAS, notwithstanding that said law authorizes contracts to be awarded without competitive bidding, the Township Council of the Township of Delran wishes to go beyond the minimum requirements of the law, to provide assurances to the public that decisions on hiring certain individuals or firms to provide professional services to the Township, are made by employing objective quality-based criteria by which the governing body can properly evaluate the qualifications and credentials of vendors to whom said contracts are awarded; and

WHEREAS, the Mayor and Township Council of the Township of Delran are intent upon making every effort to ensure that the public has confidence in the honor and integrity of the individuals holding public office and positions, and that elected and appointed officials maintain the highest ethical standards in the conduct of public business on behalf of the residents and taxpayers of the Township of Delran; and

WHEREAS, while the Mayor and Township Council have often advertised for proposals for major Professional Service Contracts as a prelude to awarding same, it has determined that a more comprehensive procedure to review such proposals better serves the public interest; and

WHEREAS, the Mayor and Township Council are aware of the provisions of recently enacted N.J.S.A. 19:44A-20.5, which becomes effective January 1, 2006, and restricts the award of contracts where the vendor has made certain political contributions in the previous year; and

WHEREAS, the Mayor, in making appointments reserved to him by law, concurs in Council's approach to the approval of professional contracts;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Township Council of the Township of Delran, County of Burlington and State of New Jersey that the following standards and criteria are hereby adopted and shall be made applicable to all Contracts awarded by the Township Council, the Township Administrator, and any and all Boards, Authorities, Committees appointed, either through the authority of statute or Ordinance, by the Mayor, Council and/or Administrator.

I. AWARD OF PUBLIC PROFESSIONAL SERVICES CONTRACTS.

A. Purpose & Intent. It is the purpose of this Section that, notwithstanding that Professional Services Contracts and certain other Contracts for goods and services are exempt from the competitive bidding requirements of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., the Mayor and Township Council deem it appropriate, and consistent with the provisions of recently enacted New Jersey Legislation, now codified at N.J.S.A. 19:44A-20.1 et seq., to henceforth award such contracts through a competitive, quality-based, fair and open process.

B. Process for Award of Professional Services Contracts. The Township of Delran, or any agency or instrumentality thereof, shall not enter into a contract, including a Professional Services Contract, or such other contract which is exempt from public bidding requirements, having an anticipated value in excess of Fifteen Thousand Dollars ($15,000.00) as determined by the municipality, agency or instrumentality, with a business entity, except a contract

that is awarded pursuant to a fair and open process if, during the proceeding one year period, that business entity has made a contribution that is reportable by the recipient under N.J.S.A. 19:44A-1 et seq., to any municipal committee of a political party in that municipality if a member of that political party is serving in an elective public office of that municipality when the contract is awarded or to any candidate committee of any person serving in an elected public office of that municipality when the contract is awarded. The fair and open process shall be quality-based, and shall be as follows:

1. Professional Services may be awarded by virtue of a publicly advertised Request for Qualifications ("RFQ") and/or Request for Proposals ("RFP") which will be issued as one document for those appointments which are made on an annual basis, such as, but not limited to, the positions of: Township Attorney, Township Engineer, Township Planner, Planning Board Attorney, Planning Board Engineer, Zoning Board Attorney, Zoning Board Engineer and such similar statutory and/or ordinance public positions.

2. For said positions, no Contract shall be awarded, unless and until the positions are:

   (i) publicly advertised in newspapers or on the internet website maintained by the Township in sufficient time to give notice in advance of the solicitation for the Contracts;

   (ii) awarded under a process that provides for public solicitation of proposals and qualifications including experience and quality of services;

   (iii) awarded and disclosed under criteria established in writing by the Township of Delran prior to the solicitation of proposals or qualifications as set forth in this ordinance; and

(iv) publicly announced when awarded; and as to those RFQ's and RFP's which prove to be unsuccessful, the Municipal Clerk shall retain a copy of same on file for a period of not less than sixty (60) days.

3. For Contracts which arise on an occasional basis, such as appraisals needed for the acquisition of land and/or open space, as well as title searches, surveying, and similar work associated with same; and comparable assignments, such planning services needed for Master Plan updates, appraisals, special counsel, special project engineer contracts, etc., Professional Services Contracts may be awarded without following the foregoing provisions, so long as: (1) the anticipated value does not excess the Fifteen Thousand Dollars ($15,000.00) threshold set forth above, and (2), the Township Administrator makes every effort to solicit at least two (2) proposals for said work.

C. Review of RFP's/RFQ's by Departmental Review Committees. A Departmental Review Committee shall be established by the Township Administrator, consisting of not less than two (2) persons (which may included the Administrator) to prepare, process and evaluate any RFQ and/or RFP issued pursuant to the Professional Services Contracting procedures set forth above. Each Departmental Review Committee must prepare, prior to a Request for Proposals, a written cost estimate in order to allow for proper evaluation of the fee aspect of Proposals. Moreover, said Committee shall evaluate the respective Qualifications and/or Proposals, taking into consideration the designated qualifications and/or performance criteria, experience, reputation of vendor, quality of services, quoted fee and other relevant factors in making a recommendation of award to the Township Administrator, Mayor and Township Council; and the Township Administrator may, in his/her sole discretion, conduct negotiations with qualified vendors after receipt of proposals, in order to achieve the best possible contract

terms and conditions for the Township and its taxpayers. No Contract shall be awarded, however, unless same is authorized by Resolution duly adopted in public session by the Township Council.

D. Emergency Exceptions. Notwithstanding the foregoing, the Township Council recognizes that the New Jersey Legislature has provided for the occurrence of certain emergencies, and further recognizes that, therefore, the procedure outlined above, might not be capable of being achieved in the event of an emergency or similar time constraints. Thus, should a situation arise, and time does not permit resort to this procedure, and the immediate performance of services is necessary, then an award for same may be made in accordance with the provisions of the Local Public Contracts Law relating to emergency contracts, and such rules and regulations as may be promulgated, from time to time, by the Township Council with regard to same. No such emergency contracts, however, may be awarded without submission to the Township Clerk of a certification establishing a basis for the deviation from the procedures outlined herein.

II. REPEALER, SEVERABILITY AND EFFECTIVE DATE.

A. Repealer. Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.

B. Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the Township Council hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that it allows the Township to meet the goals of the Ordinance.

C. Effective Date. This ordinance shall take effect twenty days after final passage and publication of notice of adoption in the manner prescribed by law.

DATED: October 19, 2005

I hereby certify that the foregoing is a true copy of a Resolution/Ordinance duly adopted by the Governing Body of the Township of Delran, County of Burlington, State of New Jersey at a meeting held on October 19 2005

Bernadette P. McPhee
Township Clerk

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Township Clerk

/s/Mayor Joseph M. Stellwag