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NINA MITCHELL WELLS
SECRETARY OF STATE

Certified to be a true copy
of Ordinance 1817-04
adopted on November 2, 2004

Kathleen S. Norcia
Municipal Clerk
Date: July 3, 2006

Township of Lawrence
State of New Jersey

Ordinance No. 1817-04

AN ORDINANCE AMENDING AND SUPPLEMENTING THE ADMINISTRATIVE CODE OF THE TOWNSHIP OF LAWRENCE TO PROHIBIT THE AWARDING OF PROFESSIONAL SERVICES CONTRACTS TO CERTAIN CONTRIBUTORS TO POLITICAL CAMPAIGNS

WHEREAS, professional business entities are exempt from public bidding requirements, and

WHEREAS, it has become common for professional business entities to make substantial political contributions to the election campaigns of the local government elected officers who are ultimately responsible for awarding professional service contracts or other contracts or agreements which are not subject to public bidding; and

WHEREAS, substantial local political contributions from professionals receiving discretionary contracts from the elected officials who receive such contributions raise reasonable concerns on the part of taxpayers as to their trust in the process of local government, if not the quality or cost of services received; and

WHEREAS, pursuant to N.J.S.A. 40A: 11-5 and N.J.S.A. 40:48-2, municipalities have the right to establish rules and procedures for contracting with professional business entities,

NOW, THEREFORE, BE IT ORDAINED that the policy of the Township of Lawrence will be to set maximum amounts professional business entities may contribute politically beyond which they become ineligible to receive a public professional service contract from the Township of Lawrence.

Section I. Prohibition on Awarding Public Contracts to Certain Contributors

(a) Any other provision of law to the contrary notwithstanding, the municipality or any of its purchasing agents or agencies or those of its independent authorities, as the case may be, shall not enter into an agreement or otherwise contract to procure professional, banking, insurance coverage services or any other no-bid consulting services, from any professional business entity, if that entity has solicited or made any contribution of money, or pledge of a contribution, including in-kind contributions, to a campaign committee of any Lawrence Township municipal candidate or holder of the public office having ultimate responsibility for the award of the contract, or to any Lawrence Township or Mercer County party committee, or to any political action committee that is organized for the primary purpose of promoting or supporting Lawrence Township municipal candidates or municipal officeholders (PAC) in excess of the thresholds specified in subsection (c) within one calendar year immediately preceding the date of the contract or agreement.

(b) No professional business entity which enters into negotiations for, or agrees to, any contract or agreement with the municipality or any department or agency thereof or of its independent authorities for the rendition of professional, banking or insurance coverage services or any other no-bid consulting services shall knowingly solicit or make any contribution of money, or pledge of a contribution, including in-kind contributions, to any Lawrence Township candidate or holder of the public office having ultimate responsibility for the award of the contract, or to any Lawrence Township or Mercer County party committee, or to any PAC that is organized for the primary purpose of promoting or supporting Lawrence Township municipal candidates or municipal officeholders between the time of first communications between that business entity and the Township regarding a specific professional services agreement and the later of the termination of negotiations or the completion of the contract or agreement.

(c) (i) Subject to the limitations in (ii), any entity meeting the definition of 'professional business entity' under this section may annually contribute a maximum of $400 for any purpose to each candidate, for mayor or council, and $500 to each Lawrence Township or Mercer County party committees, or to a PAC referenced in this ordinance, without violating subsection (a) of this section. However, (ii) any entity meeting the definition of 'professional business entity' under this section, including such principals, partners, and officers of the entity in the aggregate, may not annually contribute for any purpose in excess of a total of $2,500 to: all Lawrence Township candidates and officeholders with ultimate responsibility for the award of the contract and all Lawrence Township or Mercer County political parties and PACs referenced in this ordinance combined, without violating subsection (a) of this section.

(d) For purposes of this ordinance, a 'professional business entity' is any entity seeking or performing a public contract for professional, banking or insurance coverage services or any other no-bid consulting services and which may be an individual including the individual's spouse, if any, and any child living at home; a person; firm; corporation; professional corporation; partnership; organization; or association. The definition of a business entity includes all principals who own 10% or more of the equity in the corporation or business trust, partners, and officers in the aggregate employed by the entity as well as any subsidiaries directly controlled by the business entity.

(e) For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be the Township of Lawrence Council, if the contract requires approval or appropriation from the Council or a public office who is responsible for the award of a contract if that public officer is appointed by the Township of Lawrence Council.

Section II. Contributions Made Prior to the Effective Date

No Contribution of money or any other thing of value, including in-kind contributions, made by a professional business entity to any municipal candidate for Mayor or Council, or municipal or county party committee or PAC referenced in this ordinance shall be deemed a violation of this section, nor shall an agreement for property, goods, or services, of any king whatsoever, be disqualified thereby, if that contribution was made by the professional business entity prior to the effective date of this section.

Section III. Contribution Statement by Professional Business Entity

(a) Prior to awarding any contract or agreement to procure professional services, or banking or insurance coverage services or any other no-bid consulting services, with any professional business entity, the Township or any of its purchasing agents or agencies, as the case may be, shall receive a sworn statement from the professional business entity made under penalty of perjury that the bidder or officer has not made a contribution in violation of Section I of this ordinance;

(b) The professional business entity shall have a continuing duty to report any violations of this ordinance that may occur during the negotiation or duration of a contract. The certification required under this subsection shall be made prior to entry into the contract or agreement with the Township and shall be in addition to any other certifications that may be required by any other provision of law.

Section IV. Return of Excess Contributions

A professional business entity or Township candidate or officeholder or municipal or county party committee or PAC referenced in this ordinance may cure a violation of Section I of this ordinance, if, within 30 days after the general election, the professional business entity notifies the Township Council in writing and seeks and receives reimbursement of a contribution from the Township candidate or municipal or county political party or PAC referenced in this ordinance.

Section V. Penalty

(a) All Lawrence Township agreements with professional business entities shall provide that it shall be a material breach of the terms of the government contract for a professional business entity as defined in Section 1 (d) to violate, or to aide or abet a violation, of Section I (b) or (c) or to knowingly conceal or misrepresent contributions given or received, or to make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution.

(b) Any professional business entity as defined in section I (c) who knowingly fails to reveal a contribution made in violation of this ordinance, or who knowingly

makes or solicits contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution, shall be disqualified from eligibility for future Lawrence Township contracts for a period of four calendar years from the date of the violation.

Section VI. Severability and Repealer

(a) If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance. The drafters of this ordinance and the voters signing the initiative petition supporting the passage of this ordinance hereby declare that they would have signed the initiative petition supporting the passage of this ordinance and each section and subsection thereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases may be declared unconstitutional, invalid, or unenforceable.

(b) Ordinance No. 1778-04 is hereby repealed. And any ordinance inconsistent with the terms of this ordinance is hereby repealed to the extent of such inconsistency.

Section VII. Effective Date

This ordinance shall become effective twenty (20) days following the earlier of (a) final adoption thereof by the Municipal Council of Lawrence Township or (b) the date on which the passage of this ordinance as a public question is certified pursuant to N.J.S.A. 19:20-3 or other applicable law, and shall be published as required by law.

Adopted: November 2, 2004