TOWNSHIP OF HAMILTON
COUNTY OF MERCER, NEW JERSEY

ORDINANCE No. 03 037

1ST READING	Initiative Petition certified by Municipal Clerk's Office 8/12/03	DATE TO MAYOR	August 20, 2003
2ND READING & PUBLIC HEARING	August 19, 2003	DATE RESUBMITTED TO COUNCIL	
WITHDRAWN		DATE EFFECTIVE	September 9, 2003
LOST			

APPROVED AS TO FORM AND LEGALITY

TOWNSHIP ATTORNEY

FACTUAL CONTENTS CERTIFIED TO BY

TITLE

ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF ORDINANCES, HAMILTON TOWNSHIP, NEW JERSEY, CHAPTER 44, *ELECTIONS*, ARTICLE III, *PROHIBITION ON AWARDING PROFESSIONAL SERVICES CONTRACTS TO CERTAIN CONTRIBUTORS TO POLITICAL CAMPAIGNS*

Whereas the New Jersey Local Public Contracts Law, N.J.S.A. 40A:11-1 *et seq.*, permits a governing body to award professional services contracts without competitive public bidding; and

Whereas professional business entities make contributions to the election campaigns of the local government officials who are ultimately responsible for awarding professional services contracts; and

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

Whereas an initiative petition concerning the awarding of professional services contracts has been certified by the Municipal Clerk of the Township of Hamilton, pursuant to N.J.S.A. 40:69A-184 *et seq;*

Now, Therefore, Be It Ordained by the Council of the Township of Hamilton, in the County of Mercer and State of New Jersey, that the policy of the Township of Hamilton will be to set maximum amounts that a professional business entity may contribute annually to political campaigns, beyond which the professional business entity shall be ineligible to receive a professional services contract from the Township unless formal bids are received for such a contract.

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Chapter 44

ELECTIONS

ARTICLE III: Prohibition on Awarding Professional Services Contracts to Certain Contributors to Political Campaigns.

Sec. 44-30. Prohibition on awarding professional services contracts to certain contributors.

(a) Any other provision of law to the contrary notwithstanding, the Township or its purchasing agent, or the purchasing agent of any Township independent authorities, as the case may be, shall not enter into a professional services contract to procure services from any professional business entity, if that entity has made any contribution of money, or pledge of a contribution, including in-kind contributions, to a municipal campaign committee or fund of any candidate for, or holder of, a public office within Hamilton Township having ultimate responsibility for the award of the contract, or to any Hamilton Township municipal or Mercer County party committee, in excess of the monetary thresholds specified in subsection (d) within one (1) calendar year immediately preceding the date of the contract or agreement.

FILED
JAN 23 2006
SECRETARY OF STATE

EXPLANATION Matter underlined thus in this legislation is new matter.
Matter designated by brackets [thus] is to be omitted from the law.

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(b) No professional business entity which enters into negotiations for, or agrees to, any professional services contract with the Township or any department or agency thereof or of its independent authorities for the rendition of professional services, shall knowingly and intentionally make any contribution of money, or pledge of a contribution, including in-kind contributions, to a municipal campaign committee or fund of any candidate for, or holder of, a Hamilton Township public office having ultimate responsibility for the award of the contract, or to any Hamilton Township municipal or Mercer County party committee, between the time of first communications between that business entity and Hamilton Township regarding a specific professional services contract and the later of the termination of negotiations or the completion of the contract.

(c) For the purposes of this ordinance a "professional business entity" seeking a professional services contract means an individual, including the individual's spouse, if any, and any child living at home; person; firm; corporation; professional corporation; partnership; organization; or association. The definition of a "professional business entity" also 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 professional business entity.

(d) An individual meeting the definition of a "professional business entity" under this section may annually contribute in the year prior to local government contract negotiations a maximum of $400 each for a municipal campaign committee or fund of any candidate for, or holder of, the Hamilton Township public office having the ultimate responsibility for the award of a professional services contract, and a maximum of $400 to any Hamilton Township municipal or Mercer County party committee. However, any group of individuals 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 $2,500 to a municipal campaign committee or fund of all Hamilton Township candidates, Hamilton Township municipal and/or Mercer County party committees combined, in the year prior to local government contract negotiations.

(e) "Professional services" shall have the same meaning as set forth in the Local Public Contracts Act, N.J.S.A. 40A-11-1 *et seq.*

(f) The limitations set forth in (d) shall not apply in the event the subject contract is offered to the lowest responsible bidder after public advertising for bids and quotes, pursuant to the competitive contracting requirements of the Local Public Contracts Act, N.J.S.A. 40A:11-1 *et seq.*

Section 44-31. 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 the municipal campaign committee or fund of any Hamilton Township municipal candidate or office holder, or any Hamilton Township municipal or Mercer County party committee, shall be deemed a violation of this article, nor shall an agreement for property, goods, or services, of any kind whatsoever, be disqualified thereby, if that contribution was made by the professional business entity prior to the effective date of this article.

Section 44-32. Contribution statement by professional business entity.

(a) Prior to awarding any professional services contract to procure services with any professional business entity, the Township or any of its purchasing agents or agencies, as the case may

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be, shall receive a sworn statement from the professional business entity made under penalty of perjury that the professional business entity has not made a contribution in excess of the limits contained in Section 44-30(d).

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

Section 44-33. Return of excess contributions.

A professional business entity or Hamilton Township candidate or office holder, a Hamilton Township municipal or Mercer County party committee may cure a contribution in excess of the limits contained in Section 44-30(d), if, within thirty (30) days after the general election following any such contribution, the professional business entity notifies the Township Council in writing and seeks and receives reimbursement of the excess contribution from the municipal committee or fund of a Hamilton Township candidate or office holder, any Hamilton Township municipal or Mercer County party committee, as the case may be.

Section 44-34. Penalty.

(a) All Hamilton Township professional services contracts shall provide that it shall be a breach of the terms of the contract for a professional business entity to knowingly and intentionally exceed the contribution limits contained in Section 44-30(d) or to knowingly and intentionally conceal or misrepresent contributions given or received, or to knowingly and intentionally make contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution.

(b) Any professional business entity who knowingly and intentionally fails to reveal a contribution made in excess of the contribution limits contained in Section 44-30(d), or who knowingly and intentionally makes contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contributions, shall be disqualified from eligibility for future professional services contracts with the Township for a period of two (2) calendar years from the date of the violation.

Section 44-35. Severability.

If any provision of this article, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this article to the extent it can be given effect, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this article are severable.

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Section 44-36. Effective date.

This article shall become effective on January 1, 2004, and shall govern the awarding of all Township professional services contracts commencing on or after that date.

Any Ordinance or Ordinances in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

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PRESIDENT

MUNICIPAL CLERK

RECORD OF VOTE

First Reading							Second Reading						
COUNCIL	AYE	NAY	NV	AB	ORD	SEC	COUNCIL	AYE	NAY	NV	AB	ORD	SEC
Vincent Capodanno							Vincent Capodanno	✓					
Wayne P. DeAngelo							Wayne P. DeAngelo				✓		
Charles Plumeri							Charles Plumeri	✓					✓
Eileen P. Thornton							Eileen P. Thornton	✓				✓	
Daniel R. Benson							Daniel R. Benson	✓					

X - Indicates Vote A.B. - Absent N.V. - Not Voting ORD. - Moved SEC. - Seconded

REJECTED ____

APPROVED ✓

GLEN D. GILMORE, MAYOR

9/20/03
DATE

RECONSIDERED BY COUNCIL _____

OVERRIDE VOTE AYE ____ NAY ____

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