FILED
AUG 28 2006
NINA MITCHELL WELLS
SECRETARY OF STATE

I hereby certify the foregoing to be a true and exact copy of the original ordinance as adopted by the West Long Branch Borough Council on July 5, 2006.

BOROUGH CLERK

ORDINANCE NO. O-06-9

AN ORDINANCE ESTABLISHING A FAIR AND OPEN PROCESS FOR AWARDING CERTAIN CONTRACTS BY THE BOROUGH OF WEST LONG BRANCH

WHEREAS, the New Jersey Legislature has enacted legislation (N.J.SA. 19:44A-20.4, et. seq., also known as P.L. 2004, c. 19) which governs entities that issue governmental contracts which are, or are likely to result in the contractor receiving, $17,500.00 or more, and setting forth parameters as to how the seeking of such contracts should be announced to the public and then awarded; and

WHEREAS, the Legislature subsequently enacted additional legislation in December 2005 (P.L. 2005, c. 271), which legislation only applies to "non-fair and open" contracts exceeding $17,500.00; and

WHEREAS, the Finance Committee of the Borough Council, in conjunction with the Borough Clerk and Borough Attorney, have studied this matter at greater length, and have recommended to the Governing Body that it adopt a "fair and open" process for the award of contracts exceeding $17,500.00, and for all professional service contracts, and the Governing Body concurs with that recommendation;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of West Long Branch as follows:

SECTION 1. APPLICABLE CONTRACTS.

It shall be the policy of the Borough that all contracts awarded for $17,500.00 or more, contracts that may likely result in a total payment to the contractor of $17,500.00 or more, and all professional services contracts shall be required to comply with the process set forth in this ordinance.

SECTION 2. ADVERTISEMENT.

Prior to awarding any contract under the terms in Section 1 above, the Borough shall advertise in at least one of the duly-authorized newspapers of the Borough the fact that a contract, professional or otherwise, will be awarded, and that a contract will be awarded by the Governing Body.

SECTION 3. WEB PAGE.

A similar notice shall be placed on the Borough's web page.

SECTION 4. TIMING FOR ADVERTISEMENT.

Both of the notices in Sections 2 and 3 above shall be published/posted at least ten days prior to the planned award of the contract.

SECTION 5.

This ordinance applies to the award of contracts for both professional and non-professional services and includes, but is not limited to, the following services:

A. Municipal Attorney;

B. Municipal Prosecutor;

C. Zoning Board of Adjustment Attorney;

D. Planning Board Attorney;

E. Borough Engineer;

F. Borough Auditor;

G. Borough Appraiser/Tax Consultant;

H. Bond Counsel.

SECTION 6. EXEMPTIONS.

Each person or entity responding to a public solicitation for proposals for contracts shall submit his/her/its qualifications to the Borough official requesting the same in the advertisement. If there is no specific official named in the advertisement, the contractor's response shall be submitted to the Borough Clerk.

SECTION 7. CRITERIA FOR AWARDING OF CONTRACTS.

The criteria for evaluating persons and entities seeking contracts with the Borough shall be included and appear in the advertisement for the solicitation of interested applicants. The following criteria shall be listed in all such advertisements:

A. Knowledge of area of expertise;

B. Experience in West Long Branch and similar communities;

C. Resume of the contractor and his/her/its support staff;

D. Size of the contractor's business, and its capabilities;

E. References, including any from other municipalities where the contractor has performed similar services;

F. Street location of the contractor's office;

SECTION 8. OTHER CONTRACT CRITERIA.

In addition to the criteria set forth above, the Borough may add additional criteria in seeking applicants for any particular contract.

SECTION 9. AWARD BASED ON CRITERIA.

Each contract subject to this ordinance shall be awarded based upon the consideration of the criteria set forth in this ordinance and any additional contract criteria as set forth in Section 8 above, and the selection by the Borough shall be based solely on the Borough's evaluation of the submitted criteria. The Governing Body shall further consider the criteria above, together with the cost of such services, prior to making any contract award.

SECTION 10. ANNOUNCEMENT OF BIDDERS AND AWARD.

At the time the contract award is made, a public announcement shall be made of all of the proposals received for the position, which proposals shall be considered public records. The selection and award of the contract shall also be made publicly.

SECTION 11. PUBLIC OPENING OF R.F.P.'S.

When the proposals (also known as R.F.P.'s, or Requests for Proposals) are opened by the Clerk or other designated official, the opening shall be done publicly, with a municipal representative present.

SECTION 12. EXTENSION OF STATE LAW.

To the extent that this ordinance expands on any requirements of existing or subsequent state law, and is not inconsistent with the same, the provisions of this ordinance shall take precedence.

SECTION 13. EFFECTIVE DATE.

This ordinance shall take effect immediately upon passage and publication according to law.

Introduced: June 21, 2006
Passed: July 5, 2006
Adopted: July 5, 2006

Janet W. Tucci
MAYOR

Lori Cole
BOROUGH CLERK