ARTICLE II Award of Municipal Contracts [Adopted 10-25-2004 by Ord. No. 2004-14]

§ 41-9. Prohibition on awarding public contracts to certain contributors.

A. Any other provision of law to the contrary notwithstanding, the Borough of New Providence 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 services, including but not limited to banking services/relationships or insurance coverage 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 successful candidate for or holder of the elected municipal office having ultimate responsibility for the award of the contract, or to any party committee of the Borough of New Providence or Union County of which the Mayor or any Councilperson is a member, or to any political action committee (PAC) that is organized for the primary purpose of promoting or supporting municipal successful candidates or municipal officeholders in the Borough of New Providence in excess of the thresholds specified in Subsection D within one calendar year immediately preceding the date of the contract or agreement. **[Amended 11-8-2004 by Ord. No. 2004-15]**

B. No professional business entity which enters into negotiations for, or agrees to, any contract or agreement with Borough of New Providence 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 consultants shall knowingly solicit or make any contribution of money, or pledge of a contribution, including in-kind contributions, to any successful candidate for or holder of the public office in the Borough of New Providence having ultimate responsibility for the award of the contract, or to any party committee in the Borough of New Providence or Union County of which the Mayor or any councilperson is a member, or to any PAC that is organized for the primary purpose of promoting or supporting successful municipal candidates or municipal officeholders in the Borough of New Providence between the time of first communications between that business entity and the Borough regarding a specific professional services agreement and the later of the termination of negotiations or the completion of the contract or agreement. **[Amended 11-8-2004 by Ord. No. 2004-15]**

C. For purposes of this article, a "professional business entity" seeking a public 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 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.

D. Any individual meeting the definition of "professional business entity" under this section may annually contribute a maximum of $400 each for any purpose to any candidate for Mayor or Council, or $500 to the party committee in the Borough of New Providence or Union County, or to a PAC referenced in this article, without violating Subsection A of this section. 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 all successful candidates and officeholders with ultimate responsibility for the award of the contract, and all political parties in the Borough of New Providence or Union County of which the Mayor or any Councilperson is a member, and PACs referenced in this article combined, without violating Subsection A of this section. **[Amended 11-8-2004 by Ord. No. 2004-15]**

E. For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be:

(1) The New Providence Borough Council, if the contract requires approval or appropriation from the Council.

(2) The Mayor of the Borough of New Providence, if the contract requires approval of the Mayor, or if a public officer who is responsible for the award of a contract is appointed by the Mayor.

§ 41-10. Contributions made prior to the effective date. [Amended 11-8-2004 by Ord. No. 2004-15]

No contribution of money or any other thing of value, including in-kind contributions, made by a professional business entity to any successful municipal candidate for Mayor or Council, or municipal or county party committee or PAC referenced in this article shall be deemed a violation of this section, 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 section.

§ 41-11. Contribution statement by professional business entity.

A. Prior to awarding any contract or agreement to procure services, including, without limitation, banking or insurance coverage services, with any professional business entity, the borough 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 offer or has not made a contribution in violation of § 41-9 of this article.

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 contract. The certification required under this subsection shall be made prior to entry into the contract or agreement with the Borough and shall be in addition to any other certifications that may be required by any other provision of law.

§ 41-12. Return of excess contributions.

A professional business entity or Borough candidate or officeholder or municipal or county party committee or PAC referenced in this article may cure a violation of § 41-9 of this article, if, within 30 days after the general election, the professional business entity notifies the Borough Council in writing and seeks and receives reimbursement of a contribution from the Borough candidate or municipal or county political party or PAC referenced in this article.

§ 41-13. Penalty.

A. All professional service agreements of the Borough of New Providence shall provide that it shall be a breach of the terms of the government contract for a professional business entity as defined in § 41-9C to violate § 41-9B 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 § 41-9C and D who knowingly fails to reveal a contribution made in violation of this article, 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 contracts from the Borough of New Providence for a period of four calendar years from the date of the violation.

§ 41-14. Severability and effectiveness clause.

If any sentence, paragraph or section of this article, or the application thereof to any persons or circumstances shall be adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any sentence, paragraph or section of this article shall lose its force and effect, such judgment or action shall not affect, impair or void the remainder of this article.

§ 41-15. Effective date.

This article shall become effective in accordance with law.