

BOROUGH OF RIDGEFIELD
Bergen County, New Jersey

Meeting October 11, 2011

Proposed by Mayor Suarez

ORDINANCE NO. 2186

BE IT ORDAINED by the Borough Council of the Mayor and Council of the Borough of Ridgefield that an Ordinance entitled

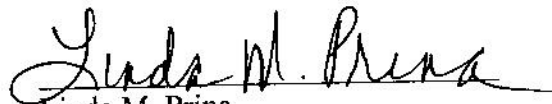
“PAY TO PLAY REFORM ORDINANCE”

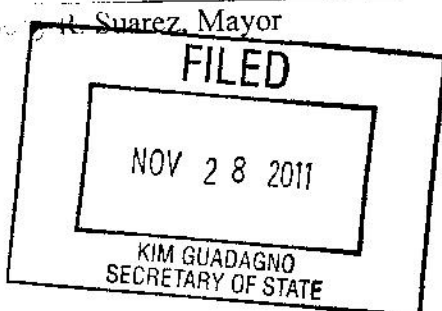
Read on the 26th day of September, 2011, do now pass a final reading and be adopted, and the Borough Clerk be and she is authorized and directed to publish once, the aforesaid title, together with a notice of the date of its passage on final reading and approval thereof in The Ridgefield News newspaper circulating in the Borough of Ridgefield.

COUNCIL VOTE

	YES	NO	ABSTAIN	ABSENT
Castelli	X			
Todd			X	
Vincentz	X			
Severino	X			
Acosta	X			
Jimenez	X			
Mayor Suarez				

Attest:


Linda M. Prina,
Acting Borough Clerk



BOROUGH OF RIDGEFIELD
Bergen County, New Jersey

Meeting September 26, 2011

Presented by Mayor Suarez

ORDINANCE NO. 2186

“PAY TO PLAY REFORM ORDINANCE”

WHEREAS, on June 27, 2011 the Mayor and Council of the Borough of Ridgefield adopted a Pay to Play Reform Ordinance; and

WHEREAS, the Mayor and Council wishes to clarify and strengthen the terms and provisions of said Pay to Play Reform Ordinance; and

WHEREAS, the Mayor and Council further wishes to add provisions on a related matter pertaining to contracts awarded to a fair and open process; and

WHEREAS, the Mayor and Council now wishes to adopt the new ordinance which clarifies and strengthens the existing reform ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Ridgefield as follows:

Section I:

Ordinance No. 2178 adopted on June 27, 2011 be and hereby is repealed in its entirety and replaced with the following:

Section II:

There is hereby established, by and within the Code of the Borough of Ridgefield, a new chapter to be entitled “Pay to Play Reform Ordinance”, and to receive a numbered chapter designation to be selected by the Borough’s Code publisher, and to read as follows:

§ - 1: Prohibition on awarding public contracts to certain contributors.

A. To the extent that it is not inconsistent with state or federal law, the Borough of Ridgefield and any of its purchasing agents or departments or instrumentalities of the municipality thereof, as the case may be, shall not enter into any agreement or otherwise contract to procure services from any professional business entity or vendor, including those awarded pursuant to any process including “a fair and open process”, if such professional business entity or vendor has solicited or made any contribution of money, or pledge of a contribution, including in-kind contributions, to (i) a campaign committee of any municipal candidate or holder of

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 Borough of Ridgefield Mayor or governing body, if the contract requires approval or appropriation from the Mayor or governing body.

(2) The Mayor of the Borough of Ridgefield, 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.

§ ____ - 2: Contributions made prior to the effective date.

No contribution of money or any other thing of value, including in-kind contribution, made by a professional business entity or vendor to any Borough of Ridgefield candidate for Mayor or governing body, or Borough of Ridgefield or county party committee, candidate committee, PAC or CPC referenced in this ordinance shall be deemed a violation of this ordinance, 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 or vendor prior to the effective date of this ordinance. For purposes of applying any of the provisions of this chapter, the effective date of the ordinance is deemed to be June 27, 2011.

§ ____ -3: Contribution statement by professional business entity.

A. Prior to awarding any contract or agreement to procure services with any professional business entity and any contract or agreement procure goods and services from a vendor, the Borough of Ridgefield or its purchasing agents and departments, as the case may be, shall receive a sworn statement from the professional business entity or vendor, made under penalty of perjury, that the bidder or offeror has not made a contribution in violation of Section 1 of this Article.

B. The professional business entity and vendor shall have a continuing duty to report any violations of this Article that may occur during the negotiation, proposal process or duration of a contract. The certification required under this section shall be made prior to entry into the contract or agreement with the Borough of Ridgefield, or prior to the provision of services or goods, as the case may be, and shall be in addition to any other certification that may be required by any other provision of law.

§ ____ -4: Return of excess contributions.

A professional business entity, vendor, or municipal candidate or office holder, or Borough of Ridgefield or county party committee, candidate committee, PAC or CPC referenced in this Article, may cure a violation of Section 1 of this Article, if, within thirty (30) days after the general election, the professional business entity or vendor notifies the municipality in writing and seeks and receives reimbursement of the contribution from the relevant municipal candidate or office holder, Borough of Ridgefield or county political party, candidate committee, PAC or CPC referenced in this Article.

public office having ultimate responsibility for the award of a contract, or (ii) to any Borough of Ridgefield or County party committee, or (iii) to any candidate committee, political action committee (PAC) or continuing political committee (CPC) that engages in, or whose primary purposes is the support of municipal or county elections and/or municipal or county parties in excess of the thresholds specified in subsection (d) within two (2) calendar years immediately preceding the date of the contract or agreement.

B. No professional business entity or vendor who submits a proposal for, enters into negotiations for, or agrees to any contract or agreement (including non-emergency contracts awarded by 40A:11 et. seq. or the "fair and open" process pursuant to 19:44A-20 et. seq.) with the municipality or any departments thereof, for the rendition of professional services or goods and services, as the case may be, shall knowingly solicit or make any contribution of money, pledge of contribution, including in-kind contributions, to (i) any municipal candidate or holder of public office having ultimate responsibility for the award of a contract, or (ii) to any Borough of Ridgefield or county party committee, or (iii) to any candidate committee, PAC or CPC that regularly engages in, or whose primary-purpose is the support of municipal or county elections and/or municipal or county parties, in excess of the thresholds specified in subsection (d), between the time of first communication between the professional business entity or vendor and the municipality regarding a specific professional services agreement or goods and services agreement, as the case may be, and the later of the termination of negotiations or rejection of any proposal, or the completion of the contract or agreement.

C. For purposes of this Article, a "professional business entity" and a "vendor", seeking a public contract shall mean an individual including the individual's spouse, if any, and any child living at home, person, firm, corporation, professional corporation, partnership, or organization, or association. The definition of a business entity and vendor includes all principals who own ten percent (10%) or more of the equity in the corporation or business trust, partners, and officers in the aggregate employed by the entity or vendor, as well as any subsidiaries directly controlled by the business entity or vendor. In addition, contributions made by a professional business entity and/or vendor to a joint candidate committee shall be deemed to be allocated equally among the number of candidates represented by the joint candidate committee.

D. Any individual meeting the definition of "professional business entity" and a "vendor", under this section may annually contribute a maximum of five hundred dollars (\$500) each for any purpose to any candidate for mayor or governing body, or five hundred dollars (\$500) to the Borough of Ridgefield party committee, or five hundred dollars (\$500) to the County party committee or to a PAC or candidate committee or CPC referenced in this Article without violating Subsections A or B of this section. However, any group of individuals meeting the definition of "professional business entity" or "vendor" under this section, including such principals, partners, and officers of the entity or vendor in the aggregate, may not annually contribute for any purpose in excess of two thousand dollars (\$2,000) to all Borough of Ridgefield candidates and office holders with ultimate responsibility for the award of the contract, and all Borough of Ridgefield or County political parties, candidate committee, PAC's and CPC's referenced in this Article combined, without violating Subsections A or B of this section.

§ ____-5: **Penalty.**

A. It shall be a breach of the terms of the Borough of Ridgefield professional service agreement or agreement for goods or services for a business entity to (i) make or solicit a contribution in violation of this Article; (ii) knowingly conceal or misrepresent a contribution given or received; (iii) make or solicit contribution through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iv) make or solicit any contribution the condition or with the agreement that it will be contributed to a campaign committee of any candidate or holder of the public office of the Borough of Ridgefield; (v) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of this Article; (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engage in any exchange or contributions to circumvent the intent of this Article; or (viii) directly or indirectly, through or by any other person or means, do any act which would subject that entity to the restriction of this Article.

B. Furthermore, any professional business entity who violates Subsection A (ii-viii) shall be disqualified from eligibility for future Borough of Ridgefield contracts for a period of four (4) calendar years from the date of the violation.

§ ____-6: **Notice to business entity.**

The Borough of Ridgefield and any of its purchasing agents or departments or instrumentalities of the municipality shall provide all business entities or vendors seeking to provide services or goods to the Borough a statement describing the requirements of this Article and a statement that compliance with the Article shall be binding upon the parties thereto upon submission of a proposal. Providing the business entity or vendor with a copy of this Article shall satisfy the requirements of this section.

§ ____-7: **Fair and Open Process:** Notwithstanding any other provision in this chapter, the Borough of Ridgefield shall observe state statutes respecting the process for award of certain professional services and other no bid contracts as set forth in the provisions of N.J.S.A. 19:44A-1, et. seq., specifically, provisions as to the requirement that certain contracts be awarded through a fair and open process. In connection with such fair and open process, the Borough shall follow the following guidelines.

A. General Standards:

(1) Professional services may be awarded by virtue of a publicly advertised 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 Borough Attorney, Borough Engineer, Borough Planner, Borough Labor Counsel, Planning Board Attorney, Planning Board Engineer, Zoning Board Attorney, Zoning Board Engineer and such other statutory and/or ordinance and/or resolution-created public positions.

(2) For said positions, no contract shall be awarded unless and until the positions are:

(a) Publicly advertised in newspapers and on the Internet Web site maintained by the Borough at least ten (10) calendar days in advance, which shall be deemed sufficient time to give notice in advance of the solicitation for the contracts;

(b) Awarded under a process that provides for public solicitations of proposals and qualifications including but not limited to the following:

1. Experience and reputation in the field;
2. Knowledge of the subject matter of the services to be provided to the Borough;
3. Knowledge of the Borough, its affairs and operations;
4. Availability to accommodate any required meetings of the Borough;
5. Compensation proposal;
6. Compliance with the minimum qualifications established by the Borough for the position;
7. Other factors determined to be in the best interest of the Borough, including quoted fees, where applicable;
8. The Mayor and Council may eliminate and/or supplement the guidelines contained above when they deem same to be in the best interests of the Borough of Ridgefield.

(c) The ultimate decision to award is decided by the governing body as it deems in its best interests and not subject to appeal.

(d) Awarded and disclosed under criteria established in writing by the Borough of Ridgefield prior to the solicitation of proposals or qualifications as set forth in this Ordinance;

(e) Publicly announced when awarded, and as to those RFPs which prove to be unsuccessful, the Borough Clerk shall retain a copy of same on file for a period of not less than sixty (60) calendar 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 as 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:

(a) The anticipated value does not exceed the \$17,500 threshold as set forth above; and

(b) The Purchasing Agent makes every effort to solicit at least two (2) proposals for said work.

B. Review of RFPs by review committee. A review committee shall be established by the Mayor consisting of not less than two (2) nor more than three (3) members of the Mayor and Council. The Mayor and Council may also appoint other Borough officials, such as the purchasing agent, to the review committee. The review committee shall evaluate the respective qualifications and/or proposals, taking into consideration the designated qualifications and/or

performances criteria, experience, reputation of vendor, quality of services, quoted fee and other relevant factors in making a recommendation of award to the governing body, and the designated representative of the review committee may, in his or her sole discretion may conduct negotiations with qualified vendors after receipt of proposals, in order to achieve the best possible contract terms and conditions for the Borough and its taxpayers. No contract shall be awarded, however, unless same is authorized by resolution duly adopted in public session by the governing body.

C. Contributions prohibited during term of contract. A business entity that has entered into a contract having an anticipated value in excess of \$17,500 with the Borough of Ridgefield, or any agency or instrumentality thereof shall not make such a contribution reportable by the recipient under N.J.S.A. 19:44A-1, et. seq. to any municipal committee of a political party in the Borough of Ridgefield if a member of that political party is serving in an elective public office of the Borough of Ridgefield when the contract is awarded or to any candidate committee of any person serving in an elective public office of the Borough of Ridgefield when the contract is awarded, during the term of that contract, except a contract that is awarded pursuant to a fair and open process, which permits campaign contributions of a reportable nature to any elective public official.

D. Contribution statement by professional business entity.

(1) Prior to awarding any contract or agreement to procure services, including 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 offeror has not made a contribution in violation of this Chapter;

(2) 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.

E. Contracts issued without use of the RFP process.

(1) In circumstances where the Mayor or designee or the governing body determines that the use of the RFP process is not appropriate, such as, but not limited to, contracts with other government agencies, and agreements with public utilities, the Purchasing Agent shall use his/her best efforts to obtain at least two (2) quotations for the work and shall require the contractor to fully comply with the provisions of N.J.S.A. 19:44A-20.27.

(2) No business entity which enters into negotiations for or agrees to enter into any contract or agreement with the Borough of Ridgefield or any department or agency thereof or of its independent authorities for the rendition of professional, banking or insurance coverage services, or any other consulting services, shall solicit or make any contribution of money, or pledge of a contribution, including in-kind contributions, to any Borough of Ridgefield municipal candidate

or holder of the public office having ultimate responsibility for the award of the contract, or campaign committee supporting such candidate or officeholder, or to any Ridgefield Borough party committee, 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. This specifically and only relates to contract dealt with under this specific subsection.

F. Emergency exceptions. Notwithstanding the foregoing, the governing body recognizes that the New Jersey Legislature has provided for certain emergencies and further recognizes that the procedure outlined above might not be capable of being achieved in the event of an emergency or other 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 governing body with regard to same. No such emergency contracts, however, may be awarded without a resolution establishing a basis for the deviation from the procedures outlined herein.

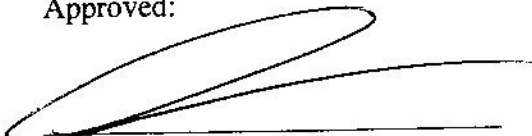
§ ____-8: Severability:

A. 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.

Section III: All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

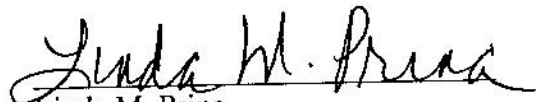
Section IV: This ordinance shall take effect immediately upon passage and publication according to law.

Approved:



Anthony R. Suarez, Mayor

Attest:



Linda M. Prina,
Acting Borough Clerk