



**TOWNSHIP OF PARSIPPANY-TROY HILLS
MORRIS COUNTY, NEW JERSEY**

**PUBLIC CONTRACTING REFORM ORDINANCE
ORDINANCE NO. 2010:02**

Be It Enacted by the Township Council of the Township of Parsippany-Troy Hills,
County of Morris:

Preamble

WHEREAS, large political contributions from those seeking to or performing business with a municipality, raise reasonable concerns on the part of taxpayers and residents as to their trust in government contracts; and

WHEREAS, pursuant to N.J.S.A. 40:48-2, a municipality is authorized to adopt such ordinances, regulations, rules and by-laws as necessary and proper for good government, as well as for the preservation of the public health, safety and welfare; and

WHEREAS, pursuant to P.L. 2005, c. 271, a municipality is authorized to adopt by ordinance measures limiting the awarding of public contracts to business entities that have made political contributions and limiting the contributions that the holders of a contract can make during the term of a contract; and

WHEREAS, in the interest of good government, the Mayor and Governing Body desire to establish a policy that will avoid the perception of improper influence in local elections; and

WHEREAS, certain clarifications are necessary to the ordinance approved by the Township Council in 2009, specifically Ordinance 2009:33, to make the political contribution limitations both reasonable and enforceable;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Governing Body of the Township of Parsippany-Troy Hills, in the County of Morris, and State of New Jersey, as follows:

SECTION 1

Definitions

- a) For purposes of this Ordinance a "Candidate Committee" shall mean any Candidate Committee or Joint Candidate Committee established for the candidacy to any elected office in the Township of Parsippany-Troy Hills pursuant to N.J.S.A 19:44A-1 et seq. and any New Jersey Election Law Enforcement Commission regulations promulgated thereto, N.J.A.C 19:25-1.1 et seq.

- b) For purposes of this Ordinance a “Political Party Committee” shall mean any Political Party Committee established pursuant to N.J.S.A 19:5-2 in the Township of Parsippany-Troy Hills and any New Jersey Election Law Enforcement Commission regulations promulgated thereto, N.J.A.C 19:25-1.1 et seq.
- c) For purposes of this Ordinance a “Continuing Political Committee” shall be defined as per the New Jersey Election Law Enforcement Commission regulations set forth at N.J.A.C 19:25-1.1 et seq.
- d) For purposes of this Ordinance a “professional business entity” shall mean an individual, firm, corporation, partnership, limited liability partnership, limited liability company, any and all labor unions (which shall include labor unions affiliated with the Township of Parsippany-Troy Hills and labor unions not affiliated with the Township of Parsippany-Troy Hills) or other entity contracting with the Township of -Troy Hills.

“Professional business entity” shall also mean, refer to and include all individuals who own 10% or more of the equity in the entities described in the preceding sentence, including their spouses and children living in the same residence. Thus, individuals with 10% or more ownership of or equity in a business entity may not avoid the contributions limitations by contracting with the Township of Parsippany-Troy Hills in his or her individual name.

- e) For purposes of this Ordinance the “Township of Parsippany-Troy Hills” shall mean the municipality of Parsippany-Troy Hills, and all agencies, boards, utilities, authorities, departments and instrumentalities thereof.

SECTION 2

Prohibition on Awarding Public Contracts to Certain Contributors

- (a) To the extent that it is not inconsistent with state or federal law, the Township of Parsippany-Troy Hills shall not enter into any agreement or otherwise enter into a contract for professional services with any professional business entity and/or contracts with labor unions if such professional business entity has made any contribution of money, or pledge of a contribution, including reportable in-kind contributions, in excess of the thresholds specified in subsection (b) within one calendar year immediately preceding the date of such contract or agreement to:
 - (i) a Campaign Committee of any municipal candidate or holder of public office in the Township of Parsippany Troy Hills having ultimate responsibility for the award of a contract, or
 - (ii) to any municipal Political Party Committee organized in the Township of Parsippany-Troy Hills, or
 - (iii) to any Continuing Political Committee that regularly engages in the

support of municipal elections in the Township of Parsippany-Troy Hills and/or municipal Political Party Committees organized in the Township of Parsippany-Troy Hills.

- (b) Any professional business entity under this section shall be permitted, without violating subsection (a) to:
- i) annually contribute a maximum of \$300 to the Candidate Committee of any municipal candidate or holder of public office in the Township of Parsippany-Troy Hills, and/or
 - ii) annually contribute a maximum of \$300 to a Political Party Committee organized in the Township of Parsippany-Troy Hills, and/or
 - iii) annually contribute \$500 to a Continuing Political Committee subject to this Ordinance.

Notwithstanding the limitations set forth above, any professional business entity under this section may not annually contribute in the aggregate in excess of \$2,500 to all Candidate Committees, Political Party Committees and Continuing Political Committees referenced in this Ordinance combined without violating this Ordinance.

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

- (1) The Township of Parsippany-Troy Hills Mayor or Governing body, if the contract requires approval or appropriation from the Mayor or Governing Body.
- (2) The Mayor of the Township of Parsippany-Troy Hills, if the contract requires approval of the Mayor, or if a public officer, board or agency that is responsible for the award of contract is appointed by the Mayor or the Council.

SECTION 3

Contributions Made Prior to the Effective Date

No contribution of money or any other thing of value, including reportable in-kind contributions, made by a professional business entity subject to this Ordinance to any Candidate Committees, Political Party Committees, and Continuing Political Committees referenced in this Ordinance shall be deemed a violation of this Ordinance if that contribution was made by the professional business entity prior to the effective date of this Ordinance.

SECTION 4

Contribution Statement by Professional Business Entity

- (a) Prior to awarding any contract or agreement to procure services with any professional business entity the Township of Parsippany-Troy Hills shall receive a sworn statement from the professional business entity, made under penalty of perjury, that the contracting party has not made a contribution in violation of this Ordinance.
- (b) The professional business entity shall have a continuing duty to report any violations of this Ordinance. The certification required under this subsection shall be made prior to entry into the contract with the Township of Parsippany-Troy Hills, and shall be in addition to any other certifications that may be required by any other provision of law.

SECTION 5

Return of Excess Contributions

A professional business entity, or municipal Candidate Committee, or Township of Parsippany-Troy Hills Political Party Committee or Continuing Political Committee referenced in this Ordinance, may cure a violation of this Ordinance, if within the later of: (i) sixty (60) days after the general election, or (ii) sixty (60) days after the applicable Election Law Enforcement Commission Report including the relevant contribution is filed, the professional business entity seeks and receives reimbursement of the contribution from the relevant municipal Candidate Committee, Township of Parsippany-Troy Hills Political Party Committee or Continuing Political Committee referenced in this Ordinance.

SECTION 6

Exemptions

- (a) The contribution limitations set forth in Section 2 do not apply to contracts which are required by law to be awarded to the lowest responsible bidder or to any non-professional service contracts.
- (b) This Ordinance shall only apply to professional service contracts. This Ordinance shall not apply to contracts specifically exempted from the requirement to be publically bid under N.J.S.A. 40A:11-5 et seq. and N.J.S.A. 58:27-19 et seq.; except professional services.
- (c) This Ordinance shall not apply to contracts awarded under exigent circumstances.

SECTION 7

Penalty

- (a) It shall be a breach of the terms of the Township of Parsippany-Troy Hills professional service agreement to knowingly and intentionally: (i) make or solicit a contribution in violation of this Ordinance; (ii) conceal or misrepresent a contribution given or received; (iii) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iv) make or solicit any contribution on the condition or with the agreement that it will be contributed to a Candidate Committee of any candidate or holder of the public office of Township of Parsippany-Troy Hills; (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 Ordinance; (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engage in any exchange of contributions to circumvent the intent of this Ordinance; or (viii) directly or indirectly, through or by any other person or means, do any act which would subject that entity to the restrictions of this Ordinance.
- b) Furthermore, any individual or professional business entity that violates (a) i-vii shall be disqualified from eligibility for future Township of Parsippany-Troy Hills contracts for a period of four calendar years from the date of the violation.

SECTION 8

Severability

If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof.

SECTION 9

Repealer

Ordinance 2009:33 is hereby repealed; and all ordinances or parts of ordinances which are inconsistent with any provisions of this ordinance are hereby repealed as to the extent of such inconsistencies.

SECTION 10

Effective Date

This ordinance shall take effect immediately upon its final passage, approval and publication as provided by law.

THIS IS TO CERTIFY THAT THE ABOVE IS A TRUE AND
LAWFUL COPY OF AN ORDINANCE ADOPTED BY THE
TOWNSHIP COUNCIL OF THE TOWNSHIP OF PARSIPPANY,
TROY HILLS, COUNTY OF MORRIS, STATE OF NEW JERSEY
AT ITS MEETING OF 3-16-10
Judith L. Silver
JUDITH L SILVER, TOWNSHIP CLERK