ORDINANCE NO. 2006- 15

AN ORDINANCE OF THE TOWNSHIP OF STAFFORD, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING THE TOWNSHIP CODE OF THE TOWNSHIP OF STAFFORD SO AS TO AMEND CHAPTER 23, ENTITLED "ETHICS, CODE OF," ARTICLE IV, REQUIRING COMPETITIVE NEGOTIATION FOR PROFESSIONAL SERVICE CONTRACTS AND CERTAIN CONTRACTS OVER $17,500.

WHEREAS, the Township of Stafford adopted Chapter 23, Article IV, so as to create a competitive negotiation process for professional services contracts; and

WHEREAS, certain legislation, which became effective January 1, 2006, provides, in part, that all municipal contracts in excess of $17,500 that are not awarded as a result of a "fair and open process" are subject to the restrictions of N.J.S.A. 19:44A-20.5 to -22; and

WHEREAS, the Township desires to expand and modify the competitive negotiation process previously developed for professional services contracts and create a "fair and open process" for contracts in excess of $17,500 as defined under N.J.S.A. 19:44A-20.4 which are not otherwise subject to bid; and

BE IT ORDAINED, by the governing body of the Township of Stafford, County of Ocean, State of New Jersey, as follows:

SECTION 1. The Township Code of the Township of Stafford is hereby amended and supplemented so as to amend Chapter 23, entitled "Ethics, Code of," Article IV as follows:

Chapter 23

ETHICS, CODE OF

ARTICLE IV

Fair and Open Process for the Award of Certain Contracts

FILED
MAR - 3 2006
NINA MITCHELL WELLS
SECRETARY OF STATE

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§ 23-10 Definitions

PROFESSIONAL SERVICES - for purposes of this ordinance means, as defined by N.J.S.A. § 40A:11-2(6), services rendered or performed by a person authorized by law to practice a recognized profession, whose practice is regulated by law, and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. For purposes of this ordinance, however, professional services shall not include professional artistic services as defined at N.J.S.A. § 40A:11-2(6). Professional services shall include financial services or insurance services.

TITLE 19 CONTRACTS - means a contract or agreement, between the Township of Stafford and a business entity as defined within N.J.S.A. 19:44D-20.7, which has an anticipated value in excess of $17,500 as determined in advance and certified in writing by the Township Purchasing Agent, including but not limited to, professional services contracts, extraordinary unspecifiable contracts, other contracts exempt from bidding (value in excess of $17,500 but less than Township's bid threshold), and cooperative purchasing. Contracts awarded by competitive contracting pursuant to N.J.S.A.40A:11-4.1 *et seq.* and contracts which must be publicly bid under the Local Public Contracts Law are not included in the definition of Title 19 Contracts for purposes of this ordinance.

PUBLIC EXIGENCY - means as determined by the State Treasurer as applied to the award of Title 19 Contracts, and as determined by the governing body as applied to professional service contracts with a value of $17,500 or less.

§ 23-11 General Provisions

A. The municipality shall award all Title 19 contracts and all contracts for the provision of professional services on the basis of qualification based, competitive negotiation.

B. Professional Service contract and Title 19 contract requests for proposals shall be published by the posting of a public notice at least 10 days prior to the awarding of any Title 19 contract or contract for professional services.

C. The public notice shall be:

1. Prominently posted in the public place reserved for Sunshine Law notices;

2. Mailed, telephoned, telegrammed, faxed or hand delivered to at least two newspapers designated to receive such notices because they have the greatest likelihood of informing the

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public within the municipality, one of which shall be the official newspaper of the municipality, or on the Internet website maintained by Stafford Township; and

3. Filed with the clerk of the municipality.

D. The public notice shall, at minimum, include:

1. A description of the services or goods needed, including, where appropriate, a description of tasks involved.

2. Threshold qualification requirements setting the highest possible, minimum standards for qualifying to compete for the particular services, tasks and/or goods involved.

3. Notice that standardized submission requirements and selection criteria are on file and available at a stated location in the Township.

4. Deadline and place for all submissions, and the manner by which the contract shall be publicly opened and announced when awarded.

E. Standardized submission requirements shall include:

1. Names and roles of the individuals who will perform the task and a description of their experience with projects similar to the matter being advertised.

2. References and record of success.

3. Description of ability to provide the services in a timely fashion (including staffing, familiarity and location of key staff).

4. Cost details, including the hourly rates of each of the individuals who will perform services and time estimates for each individual, all expenses, and, where appropriate, total cost of "not to exceed" amount.

F. The selection criteria to be used in awarding a Title 19 contract or a contract or agreement for professional services shall include:

1. Full name and business address.

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2. Qualifications of the individuals who will perform the tasks and the amounts of their respective participation (professional services contracts only).

3. Any professional or business licenses held by the applicant in the State of New Jersey, or any other State, including a "Certificate of Good Standing," or other documents evidencing that the license is not presently suspended or revoked.

4. The number of licensed professionals employed by, or associated with, the applicant.

5. A listing of all degrees (college and/or graduate degrees) held by the applicant and any associated professionals in the business entity (professional services contracts only).

6. A listing of all public entities for whom the business entity has had a contractual relationship, either currently or previously, including the dates of service and the position held.

7. A listing of any professional affiliations or membership in any professional societies or organizations, including any offices or honors held (professional services contracts only.)

8. Experience and references.

9. Ability to perform the task in a timely fashion (professional service contracts shall including staffing and familiarity with subject matter.)

10. Cost consideration - including, but not limited to, historical costs for similar professional services, expertise involved and comparable costs for comparable public entities.

G. All submissions shall be kept on file during the term of the related contract, and shall be public records after the deadline for the submission of proposals and award of the contract.

H. Exceptions.

1. If public exigency requires the immediate delievery of goods or performance of emergency services, the Township Council may waive part or all of the requirements by a majority vote of the full council in the appointing resolution, setting forth with specificity the reasons such waiver is required.

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2. If requests for proposals have been advertised pursuant to this Article and (a) no responses have been received or (b) less responses were received than the number of positions needed or (c) responses received did not meet the minimum specifications or were otherwise nonresponsive, the governing body may negotiate with any qualified business entity and may award a contract upon adoption of a resolution by a two-thirds affirmative vote of the authorized membership of the governing body. The terms, conditions, restrictions and specifications set forth in the negotiated contract may not be substantially different from those which were the subject of request for proposals.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 4. This ordinance shall take effect after second reading and publication as required by law.

SECTION 5. This ordinance shall be forwarded to the Secretary of State in accordance with P.L. 2005, c. 271.

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NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Township Council on first reading at a meeting of the Township Council of the Township of Stafford held on the 7 day of Feb, **2006**, and will be considered for second reading and final passage at a regular meeting of the Township Council to be held on the 21st day of Feb. , **2006**, at 7:00 p.m., at the Municipal Building, 260 East Bay Avenue, Manahawkin, New Jersey, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.

Bernadette M. Park

BERNADETTE M. PARK, RMC, CMC
Township Clerk, Township of Stafford

MSD

CERTIFICATION

#837-4

I, **BERNADETTE M. PARK,** Municipal Clerk of the Township of Stafford, do hereby certify that the foregoing Ordinance was duly adopted on second reading by the Stafford Township Council at a meeting held on the 21st day of February, 2006.

Bernadette M. Park

BERNADETTE M. PARK, RMC/CMC
Municipal Clerk

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