

**ORDINANCE NO. 2395**

**AN ORDINANCE REQUIRING PUBLIC CONTRACTING REFORM,  
AMENDING ARTICLE I, "MAYOR AND BOROUGH COUNCIL," OF  
CHAPTER II, "ADMINISTRATION," OF THE "REVISED GENERAL  
ORDINANCES OF THE BOROUGH OF ROSELLE PARK, NEW JERSEY," IN  
ORDER TO CREATE A NEW SECTION THEREOF TO BE KNOWN AS  
SECTION 2-4, ENTITLED, "AWARDING OF PUBLIC PROFESSIONAL  
SERVICE CONTRACTS"**

**WHEREAS**, professional service contracts are exempt from public bidding requirements under the New Jersey Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

**WHEREAS**, it has become common for professional service providers to make substantial political contributions, whether directly or through intermediaries, including but not limited to Union County Party Committees, to the election campaigns of the local government elected officers who are ultimately responsible for awarding professional service contracts or other contracts or agreements which are not subject to public bidding; and

**WHEREAS**, local political contributions from professionals receiving discretionary contracts from the elected officials who receive such contributions may raise reasonable concerns on the part of taxpayers as to their trust in the process of local government, if not the quality or cost of services received; and

**WHEREAS**, pursuant to N.J.S.A. 40A:11-5 and N.J.S.A. 40:48-2, municipalities have the right to establish rules and procedures for contracting with professional business entities; and

**WHEREAS**, nothing contained herein shall be interpreted to impair in any way the right of a professional service provider secured by the First Amendment of the Constitution of the United States of America and further secured by Article 1, Paragraph 6 of the Constitution of the State of New Jersey to exercise its right to freedom of speech and its right to speak, write and publish its sentiments on all subjects.

**NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED**, by the Borough Council of the Borough of Roselle Park, in the County of Union and State of New Jersey, that the policy of the Borough of Roselle Park will be to create such a regulation which states that a professional service provider which makes political contributions in excess of \$200.00 to elected officials who are responsible for awarding professional service contracts shall be ineligible to receive a public professional service contract from the Borough of Roselle Park.

**BE IT FURTHER RESOLVED**, that Section 2-4 (Article I), entitled "Mayor and Borough Council," of Chapter II, "Administration," of the "Revised General Ordinances of the Borough of Roselle Park, New Jersey," is hereby amended and supplemented in order to create a new section thereof to be known as section 2-4, entitled, "Awarding of Public Professional Service Contracts" in order to establish a Borough policy for the awarding of public professional services contracts, to be located within a new section thereof to be known as Section 2-4 as follows:

**SECTION 2-4 AWARDING OF PUBLIC PROFESSIONAL SERVICE CONTRACTS.**

**Subsection 2-4.1 Prohibition on Awarding Public Contracts to Certain Contributors.**

- (a) Any other provision of law to the contrary notwithstanding, the Borough 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 services, including banking services/relationships or insurance coverage services, from any professional service provider, if that provider has solicited or made any contribution of money, or pledge of a contribution, including in-kind contributions in excess of \$200.00 to a campaign committee of any Borough of Roselle Park candidate or holder of the public office having ultimate responsibility for the award of the contract, or to any Borough of Roselle Park or Union County Party Committee, or to any political action committee (PAC) that is organized for the primary purpose of promoting or supporting Borough of Roselle Park municipal candidates or municipal officeholders, within one (1) calendar year immediately preceding the date of the contract or agreement.

- (b) No professional service provider which enters into negotiations for, or agrees to, any contract or agreement with the Borough 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 in excess of \$200.00, to any Borough of Roselle Park candidate or holder of the public office within the Borough having ultimate responsibility for the award of the contract, or to any Borough of Roselle Park or Union County Party Committee, or to any PAC that is organized for the primary purpose of promoting or supporting Borough of Roselle Park municipal candidates or municipal officeholders between the time of first communications between that service provider 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.
- (c) For purposes of this section, a “professional service provider” 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 service provider includes all principals who own one percent (1%) or more of the equity in the corporation or business trust, partners, and officers in the aggregate employed by the provider as well as any subsidiaries directly controlled by the service provider.
- (d) 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 Roselle Park Council, if the contract requires approval or appropriation from the Council or a public officer who is responsible for the award of a contract if that public officer is appointed by Council; or
  - 2. The Mayor of the Borough of Roselle Park, if the contract requires the approval of the Mayor or a public officer who is responsible for the award of a contract if that public officer is appointed by the Mayor; or
  - 3. Both number one and two.

#### **Subsection 2-4.2 Contributions Made Prior to the Effective Date.**

No contribution of money or any other thing of value, including in-kind contributions in excess of \$200.00, made by a professional service provider to any Borough of Roselle Park candidate for Mayor or Council, or municipal or county party committee or PAC referenced in this Ordinance shall be deemed a violation of this section, nor shall an agreement for property, goods, or services, of any kind whatsoever in excess of \$200.00, be disqualified thereby, if that contribution or agreement was made by the professional service provider prior to the effective date of this section.

#### **Subsection 2-4.3 Contribution Statement By Professional Service Provider.**

- (a) Prior to awarding any contract or agreement to procure services, including banking or insurance coverage services, with any professional service provider, the Borough or any of its purchasing agents or agencies, as the case may be, shall receive a sworn statement from the professional service provider made under penalty of perjury that the bidder or offeror has not made a contribution in excess of \$200.00 in violation of Subsection 2-4 hereof;
- (b) The professional service provider shall have a continuing duty to report any violations of this section 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 provisions of law.

#### **Subsection 2-4.4 Violations and Penalties.**

- (a) All Borough of Roselle Park professional service agreements shall provide that it shall be a breach of the terms of the government contract for a professional service provider, as defined in Subsection 2-4, to violate Subsection 2-4 or to knowingly conceal or misrepresent contributions given or received, or to make or solicit contributions through intermediaries or any Union County Party Committee for the purpose of concealing or misrepresenting the source of the contribution.
- (b) Any professional service provider, as defined in Subsection 2-4, who knowingly fails to reveal a contribution made in violation of this section, or who knowingly makes or solicits contributions through an intermediary, including but not limited to a Union County Party Committee, for the purpose of concealing or misrepresenting the source of the contribution, shall be disqualified from eligibility for future Borough of Roselle Park contracts for a period of four (4) calendar years from the date of the violation.

#### **Violations and Penalties.**

Any person violating any of the provisions of this section shall, upon conviction thereof, be liable to the penalty stated in Chapter I, Section 1-5.

**SECTION 2:** If any section or portion of a section of this Code shall be invalid for any reason, such invalidity shall not affect the validity of the remaining sections or portions of this Ordinance.

**SECTION 3:** All ordinances or parts of ordinances, to the extent that they are inconsistent herewith, are hereby repealed.

**SECTION 4:** This amendment to the Code of the Borough of Roselle Park shall become effective upon publication and in accordance with law.

Introduced: October 17, 2013

Adopted:

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Mayor

Attest: \_\_\_\_\_  
Borough Clerk