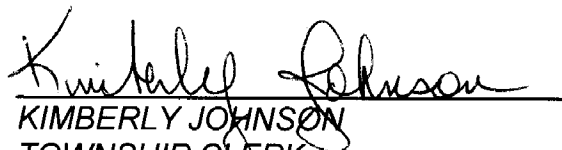


CERTIFICATION OF ORDINANCE

ORDINANCE NUMBER: # 9 -2011

ORDINANCE TITLE: AN ORDINANCE OF THE TOWNSHIP OF MULLICA, CREATING CHAPTER 6, "CONTRACTS" ESTABLISHING LIMITS ON POLITICAL CONTRIBUTIONS MADE BY THOSE INDIVIDUALS OR BUSINESS ENTITIES SEEKING TO OR PERFORMING BUSINESS WITH THE TOWNSHIP OF MULLICA

I, Kimberly Johnson, Township Clerk of the Township of Mullica hereby certify that the above Ordinance was duly adopted upon first reading on July 26, 2011 and further adopted after a public hearing on August 9, 2011 by the Township Committee. Final publication date was August 15, 2011. Ordinance took effect according to law. Presented to Mayor duly certified on August 12, 2011.


KIMBERLY JOHNSON
TOWNSHIP CLERK

**TOWNSHIP OF MULLICA
ORDINANCE # 9-2011**

**AN ORDINANCE OF THE TOWNSHIP OF MULLICA, CREATING CHAPTER 6,
“CONTRACTS” ESTABLISHING LIMITS ON POLITICAL CONTRIBUTIONS
MADE BY THOSE INDIVIDUALS OR BUSINESS ENTITIES SEEKING TO OR
PERFORMING BUSINESS WITH THE
TOWNSHIP OF MULLICA**

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

WHEREAS, the Township Committee of the Township of Mullica believes that it is important to promote public confidence in governmental function; 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 public health safety and welfare; and

WHEREAS, pursuant to N.J.S.A. 40A:11-51, et seq (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 Township Committee of the Township of Mullica desires to establish a policy that will avoid the perception of improper influence in local elections and enhance the transparency of government in Mullica Township,

NOW, THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Mullica, in the County of Atlantic, and State of New Jersey, as follow:

CHAPTER 6. CONTRACTS

Article 1. Political Contributions

Section 1. Definition of Terms.

For purposes of this Ordinance, a “professional business entity” and a “vendor” mean an individual, including the individual’s spouse, if any, and any child living at home; a person; a firm; a corporation; a partnership; an organization; or an association. The definition of a professional business entity and vendor includes all principals who own 10% or more of the equity in the firm, corporation, partnership, organization, or association, as well any subsidiaries directly controlled by the professional business entity or vendor. This definition shall include a provider of extraordinary unspecifiable services as defined in N.J.S.A. 40A:11-5(1) (a), but shall exclude non-profit corporations under Internal Revenue Code Section 501(c) (3), and their officers and board members.

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 Mullica and any of its purchasing agents or departments or instrumentalities of the Township thereof, as the case may be, shall not enter into any agreement with, 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) any Township Committee candidate or holder of public office having ultimate responsibility for the award of a contract, or (ii) to any Township of Mullica or Atlantic County political party committee, or (iii) to any continuing political committee (CPC) that regularly engages in the support of candidates for office in Mullica Township, in excess of the thresholds specified in subsection (c) within one calendar year 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 contracts awarded under the "Fair and Open" Process pursuant to 19:44A-20 et seq) with the Township 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 contributions, including in-kind contributions, to: (i) any Township Committee candidate or holder of public office having ultimate responsibility for the award of a contract, or (ii) to any Township of Mullica or Atlantic County political party committee, or (iii) to any CPC that regularly engages in the support of candidates for office in Mullica Township, between the time of first communication between that professional business entity or vendor and the Township 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. Anyone meeting the definition of professional business entity and vendor under this section may annually contribute a maximum of \$300 each or up to the amount of reportable contributions as may from time to time be established by the Election Law Enforcement Commission (ELEC) for any purpose to any candidate for Township Committee or current office holder, or \$300 to a Township of Mullica political party committee, or \$500 to the Atlantic County political party committee, or \$500 to a CPC referenced in this Ordinance, without violating subsection (a) of this section. However, any group of individuals meeting the definition of professional business entity or vendor under this section may not annually contribute for any purpose in excess of \$2,500 in the aggregate to all Township of Mullica candidates and officeholders with ultimate responsibility for the award of the contract, all Township of Mullica and Atlantic County political party committees, and any CPCs referenced in this Ordinance combined, without violating subsection (a) of this section.
- d. For purpose of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be the Township Committee of the Township of Mullica.

Section 3. Contributions Made Prior to the Effective Date.

No contributions of money or any other thing of value, including in-kind contributions, made by a professional business entity or vendor to any Township Committee candidate or holder of public office, Township of Mullica or Atlantic County political party committee, 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.

Section 4. Contributions Statement by Professional Business Entity and Vendor.

- a. Prior to awarding any contract or agreement to procure services with any professional business entity and any contract or agreement to procure goods and services from a vendor, the Township of Mullica 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 2 of this Ordinance.
- b. The professional business entity and vendor shall have a continuing duty to report any violations of this Ordinance that may occur during the negotiation, proposal process or duration of a contract. The certification required under this subsection shall be made prior to entry into the contract or agreement with the Township of Mullica, or prior to the provision of services or goods, as the case may be, 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, vendor, or Township candidate or officeholder, or Township of Mullica or Atlantic County political party committee or CPC referenced in this Ordinance, may cure a violation of Section 1 of this Ordinance, if, within 30 days after the date on which the applicable ELEC Report is published, 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 officeholder, Township of Mullica or Atlantic County political party or CPC referenced in this Ordinance.

Section 6. Exemptions.

- a. The contribution limits specified within this Ordinance do not apply to contracts or agreements awarded pursuant to a public bid or competitive contract process pursuant to State law or to those contracts awarded as emergency contracts when the public agency requires the immediate emergency services as determined by Resolution of the Mullica Township Committee after finding those facts which support a conclusion of imminent danger to the health and welfare of the Township of Mullica citizenry.
- b. The contribution limits specified within this Ordinance do not apply to contracts or agreements having an anticipated value in the aggregate of less than \$10,000 annually per

professional business entity or vendor, as determined in advance by the Township of Mullica.

Section 7. Penalty.

- a. It shall be a breach of the terms of the Township of Mullica professional service agreement or agreement for goods or services for a professional business entity or vendor to: (i) make or solicit a contribution in violation of this Ordinance; (ii) knowingly 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 campaign committee of any candidate or holder of the public office of the Township of Mullica; (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 professional business entity or vendor that violates Section 7 (a) ii-vii shall be disqualified from eligibility for future Township of Mullica contracts for a period of four calendar years from the date of the violation.
- c. Any professional business entity or vendor who violates Section 7(a)(i) shall have its contract with the Township of Mullica declared null and void at the option of the Township Committee, unless the violation is cured as provided in Section 5.

Section 8. Severability.

If any provision of this Ordinance, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Ordinance 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 provision of this Ordinance are severable.

Section 9. Incorporation by Reference.

The regulatory and penalty provisions of this Ordinance shall be incorporated by reference into all Township of Mullica contracts for professional services and extraordinary unspecifiable services.

Section 10. Repealer.

All Ordinance or parts of Ordinances which are inconsistent with any provisions of this Ordinance are hereby repealed as to the extent or such inconsistencies.

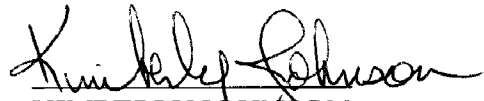
Section 11. Effective Date.


This Ordinance shall take effect upon adoption and publication according to law.

Introduction: July 26, 2011

Adoption: August 9, 2011

ATTEST:


KIMBERLY JOHNSON
MUNICIPAL CLERK


JIM BROWN
MAYOR