

DATE \_\_\_\_\_

NUMBER 69-2023

**TITLE:** AN ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF ORANGE TOWNSHIP, COUNTY OF ESSEX, STATE OF NEW JERSEY, AMENDING CHAPTER 4 OF THE MUNICIPAL CODE TO REPEAL VARIOUS PROVISIONS PREEMPTED BY REVISIONS TO THE NEW JERSEY CAMPAIGN CONTRIBUTIONS AND EXPENDITURES REPORTING ACT, N.J.S.A. 19:44A-1 ET SEQ., ENACTED THROUGH THE ELECTIONS TRANSPARENCY ACT, P.L.2023, C.30.

WHEREAS, under the New Jersey Campaign Contributions and Expenditures Reporting Act (“CCERA”), N.J.S.A. 19:44A-1 et seq., municipalities and other local government agencies throughout the State of New Jersey, including the City of Orange Township (“City”), traditionally developed and maintained separate policies limiting political contributions by individuals and businesses with public contracts; and,

WHEREAS, the City’s “Political Contributions Policy” was adopted by the Municipal Council on February 19, 2013, through Ordinance No. 2-2013, and is currently set forth in the Municipal Code under Part I (Administrative Legislation), Chapter 4 (Administration of Government), Article XVIA (Purchasing and Contracting), §§ 70.20 through 70.30;

WHEREAS, The Elections Transparency Act (“TETA”), P.L.2023, c.30, enacted into law on April 3, 2023, but effective retroactively to January 1, 2023, expanded the CCERA to expressly regulate political contributions in the context of local public contracting; and,

WHEREAS, the CCERA was specifically amended to include a provision declaring that all local “pay-to-play” policies “shall cease to be in effect and shall expire” on January 1, 2023—TETA’s effective date; and,

WHEREAS, by virtue of this new provision, the City’s Political Contributions Policy was preempted by State law, rendering all relevant sections of the Municipal Code without further effect.

**NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF ORANGE TOWNSHIP, ESSEX COUNTY, NEW JERSEY** as follows:

**SECTION 1 Amendment to Municipal Code.**

Part I (Administrative Legislation), Chapter 4 (Administration of Government), Article XVIA (Purchasing and Contracting) of the Municipal Code, as amended, is hereby further amended to repeal § 4-70.20 through and including § 4-70.30.

**SECTION 2 Severability of Ordinance Provisions.**

Each Section of this Ordinance is an independent Section and any part hereof found unconstitutional, void or ineffective for any cause shall not affect the validity or constitutionality of any other parts hereof.

**SECTION 3 Conflicts and Inconsistencies.**

(UNDERSCORES ARE ADDITIONS, ~~BRACED STRIKEOUTS~~ ARE DELETIONS)

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All other Ordinances and parts of Ordinances that conflict or are inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency.

**SECTION 4 Effective Date.**

Following final passage, this Ordinance shall take effect upon the expiration of 20 days after publication, unless otherwise provided by the Municipal Council.

**PURPOSE:** To comply with The Elections Transparency Act, P.L.2023, c.30.  
**FISCAL IMPACT:** None.

Adopted:

\_\_\_\_\_  
Joyce L. Lanier  
City Clerk

\_\_\_\_\_  
Tency A. Eason  
Council President

Approved:

\_\_\_\_\_  
Dwayne D. Warren, Esq., Mayor

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# 2015 New Jersey Revised Statutes

## Title 19 - ELECTIONS

### Section 19:44A-19.1 - Candidates for elective public office, solicitations on government property; prohibited, certain circumstances.

**Universal Citation:** NJ Rev Stat § 19:44A-19.1 (2015)

**19:44A-19.1 Candidates for elective public office, solicitations on government property; prohibited, certain circumstances.**

1. a. For the purposes of this section, the terms "contribution", "candidate", "candidate committee", and "joint candidates committee", shall have the meanings prescribed for those terms by section 3 of P.L.1973, c.83 (C.19:44A-3); and the term "property" means buildings used for the discharge of official government functions, business, duties, or purposes.

b. (1) No candidate for any elective public office, or any holder of that elective public office, or the candidate's agent or representative, while located on any property exclusively owned or leased by the State, or any agency of the State, or by any county, municipality, board of education of a school district, fire district, authority, or other State or local entity, district or instrumentality shall, directly or indirectly, solicit any contribution to or on behalf of any candidate for elective public office, or the candidate committee or joint candidates

committee of any such candidate.

The provisions of this subsection shall not apply to any casual or inadvertent communication otherwise made in connection with, but without intent to solicit, such a contribution.

(2) No person, while located on any property exclusively owned or leased by the State, or any agency of the State, or by any county, municipality, board of education of a school district, fire district, authority, or other State or local entity, district or instrumentality shall, directly or indirectly, make any contribution to or on behalf of any candidate for elective public office, or the candidate committee or joint candidates committee of any such candidate.

c. Any candidate for elective public office, or any holder of that elective public office, or their agent or representative, or any person, who is determined by the Election Law Enforcement Commission to have violated this act shall be liable to a penalty of not less than \$5,000 for each violation. Any penalty imposed pursuant to this section may be recovered by a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

d. In the event property exclusively owned or leased by the State, or any agency of the State, or by any county, municipality, board of education of a school district, fire district, authority, or other State or local entity, district or instrumentality or part thereof, is made available, through rent, reservation or otherwise, for the exclusive use of any group for a non-governmental purpose as a meeting location, the prohibition in subsection b. of this section shall not apply and the solicitation or making of contributions or funds of any nature from any or among or by the members of the group during the time the group is using the property made available as a meeting location is permitted.

e. The Election Law Enforcement Commission shall have the jurisdiction to enforce the provisions of this section for violations thereof on property exclusively owned or leased by the State, or any agency of the State, or by any county, municipality, board of education of a school district, fire district, authority, or other State or local entity, district or instrumentality.

L.2004, c.21, s.1; amended 2009, c.66, s.14; 2011, c.204.

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**TITLE: AN ORDINANCE AMENDING CHAPTER 4 OF THE MUNICIPAL CODE OF THE CITY OF ORANGE TOWNSHIP ENTITLED ADMINISTRATION OF GOVERNMENT DEALING WITH PURCHASING AND CONTRACTING**

WHEREAS, there exist a need to update the Municipal Code of the City of Orange Township in an effort to provide more detail into how the City purchases and awards contracts for goods and services within the City of Orange; and

WHEREAS, the City of Orange Township has determined that adoption of an Ordinance Amending the Municipal Code for Purchasing and Contracting is in the best interest of the City and its residents.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Orange Township that Chapter 4 of the Code is amended and supplemented as follows:

**I. ORDINANCE**

**Chapter 4 ADMINISTRATION OF GOVERNMENT**

**§ 4-70. Purchasing and contracting.**

**A. Definitions.**


For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein:

CITY PURCHASING AGENT -- The Purchasing Agent of the city or the authorized designee of the city, who has the authority, responsibility and accountability for the purchasing activity of the municipality, and may conduct any activities as may be necessary or appropriate to the purchasing function of the contracting unit.

CONTRACTUAL SERVICES -- All utility services; window cleaning service; leases for all grounds, buildings, office or other space required by the using agencies; and the rental, repair or maintenance of equipment, machinery and other city-owned real and personal property. The term shall not include professional and other contractual services which are in their nature unique and not subject to competition.

EMERGENCY -- A pressing need for public expenditure affecting the public health, safety or welfare that requires the immediate delivery of goods or the performance of services.

GOODS AND SERVICES -- Any work, labor, commodities, equipment, materials or supplies of any tangible or intangible nature, except real property or any interest therein, provided or performed through a contract awarded by the purchasing agent, including goods and property subject to N.J.S.A. 12A:2-101 et seq.

  
CITY ATTORNEY

**ORDINANCE NO. 2-2013**

**REGULAR MEETING - 1/15/2013**

**INTRODUCTION-FIRST READING**

**MOTION TO ADOPT: Corbitt**

**SECOND: Williams**

**YEAS: Corbitt, Gaunt-Butler, Jones-Bell, Marable, Williams & Council Pres. Eason**

**NAYS: None**

**ABSTENTIONS: Abdul-Rasheed**

**ABSENCES: None**

**REGULAR MEETING-2/19/2013**

**SECOND READING PUBLIC HEARING 2/ 19/2013**

**MOTION TO ADOPT: Corbitt**

**SECOND: Jones-Bell**

**YEAS: Corbitt, Gaunt-Butler, Jones-Bell, Williams & Council Pres. Eason**

**NAYS: Abdul-Rasheed & Marable**

**ABSTENTIONS: None**

**ABSENCES: None**

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LOCAL PUBLIC CONTRACTS LAW -- All references refer to N.J.S.A. 40A:11-1 et seq.

LOWEST PRICE -- The least possible amount that meets all requirements of the request of the city.

LOWEST RESPONSIBLE BIDDER OR VENDOR -- The bidder or vendor:

(i). Whose response to a request for bids offers the lowest price and is responsive; and

(ii). Who is responsible.

RESPONSIBLE BIDDER OR VENDOR -- Able to complete the contract in accordance with its requirements, including but not limited to requirements pertaining to experience, moral integrity, operating capacity, financial capacity, credit, and workforce, equipment, and facilities availability.

RESPONSIVE -- Conforming in all material respects to the terms and conditions, specifications, legal requirements and other provisions of the request as determined by the city.

STATUTORY CONSTRUCTION -- The provisions of this chapter shall be liberally construed to grant the municipality the greatest latitude authorized pursuant to the Local Public Contracts Law. Conflicts between this chapter and the Local Public Contracts Law shall be construed in favor of the Local Public Contracts Law.

USING AGENCY -- Any department, agency, commission, board or other unit in the city government including the Boards of Police, Fire and Water.

VOLUNTARY USING AGENCY -- Any autonomous unit in the city government which controls expenditures of funds appropriated to it by the city or other governmental unit.

A. B. Purchasing and contracting generally. [Amended 2-2-1982 by Ord. No. 2-82; 12- 16-1986 by Ord. No. 79-86; 10-3-1989 by Ord. No. 31-89]

(1) Contracting agent. The Business Administrator shall be the city contracting agent with exclusive authority to contract for commodities, equipment and services priced up to nine thousand two hundred dollars (\$9,200.), as permitted by the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) and available appropriations. The contracting authority may be delegated to a purchasing agent or others by administrative regulation, provided that any employee making or purporting to authorize purchases without express delegation shall be liable to pay for them. (Reserved).



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- (2) Contractors. Any person, business, corporation, partnership, bidder, government agency or their agents and assigns entering contracts with the City of Orange Township and owning real property located therein shall obtain a certification from the Director of Finance at the time of bidding or execution of contracts that their municipal property taxes and water and sewer charges are current. This provision is incorporated by reference into all bid specifications and conditions of sale promulgated by the city. Any person, business, corporation, partnership, bidder, government agency or their agents and assigns applying for certificates of habitability, permits or licenses for construction, demolition, electrical, plumbing or related work in the municipality shall obtain a certification from the Director of Finance that their municipal property taxes and water and sewer charges are current. Notwithstanding any laws or regulations to the contrary, these provisions are not exclusive and shall apply to all departments, divisions, agencies, boards and commissions of the City of Orange Township and shall be applicable to any person, business, corporation, partnership, bidder, government agency or their agents and assigns entering contracts, obtaining permits and licenses or otherwise doing business with the city.
- (3) Contracts awarded by Council. The Council shall, by resolution, establish the bid threshold, award contracts or reject bids for commodities, equipment and services priced over the limits set forth in N.J.S.A. 40A:11-3, Local Public Contracts Law, upon recommendation of the purchasing agent and pursuant to the requirements of the Local Public Contracts Law.
- (4) Mayor to execute contracts. The Mayor shall execute on behalf of the city, and the Clerk shall attest, all contracts and other legally binding obligations approved by the Council.
- (5) Supervision of Procurement Division of the Department of Finance; duties generally. The City Purchasing Agent shall be the head and have general supervision of the Procurement Division of the Department of Finance. He shall perform all duties required by law and shall have the powers and duties prescribed by this chapter. As a part thereof, he shall coordinate the central purchasing of municipal goods and services.
- (6) The City Purchasing Agent shall have civil service status and shall be appointed in the manner that all municipal employees are appointed.
- (7) The City Purchasing Agent shall give an official bond, approved as to form by the City Council, not less than \$50,000.
- (8) Scope of purchasing authority.
  - (a) Purchase or contract.

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- (i) The City Purchasing Agent shall have the power and it shall be his duty to purchase or contract for all goods and services needed by any using agency, for the internal management and operation of the Procurement Division of the Department of Finance. The Purchasing Agent is authorized to join with voluntary using agencies in cooperative purchasing plans and to delegate his rights to purchase to a voluntary using agency when the best interests of the city would be served thereby, provided that nothing herein shall prevent the Purchasing Agent from entering into cooperative purchasing plans and from delegating his rights to purchase to another governmental unit or independent governmental agency in accordance with state statutes when such an undertaking would be in the best interest of the city.
- (ii) The Purchasing Agent is also authorized to enter into joint agreements with other federal, state or local governmental contracting units for the provision and performance of goods and services, if such an undertaking is determined to be in the best interest of the city upon approval by resolution of the Council.
- (b) Purchases by other officials. All purchases for all using agencies shall be made by the City Purchasing Agent, except that using agencies are authorized to make emergency purchases of goods and services in accordance with the provisions of Local Public Contracts Law and §4-70.14 without regard to any restriction set forth in this chapter.
- (c) Unauthorized purchases. Except as provided in this chapter, no city officer or employee shall order the purchase of any goods and services or make any contract within the purview of this chapter other than through the Procurement Division of the Department of Finance. Unauthorized purchases of tangible goods shall be the responsibility of the employee who procured said goods and shall not bind the city.
- (9) Additional powers and duties. In addition to the purchasing authority conferred by this chapter, the City Purchasing Agent shall:
  - (a) Minimum expenditure. Act to procure for the city the highest quality in goods and services at least expense to the city.

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- (b) Encourage competition. Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases of goods and services.
- (c) Rules and regulations. Subject to the approval of the Mayor and City Council, where applicable, establish and amend all rules and regulations authorized by this chapter and all others necessary to its operation.
- (d) Purchasing analysis. Keep informed of current developments in the field of purchasing, prices, market conditions and new products, and secure for the city the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations having national recognition and by private businesses and organizations.
- (e) Forms. Prescribe and maintain such forms as he shall find reasonably necessary to the operation of this chapter.
- (f) Standard nomenclature. Prepare and adopt a standard purchasing nomenclature for using agencies and suppliers.
- (g) Vendors' catalog file. Prepare, adopt and maintain a vendors' catalog file. Such catalog shall be filed according to materials and shall contain descriptions of vendors, commodities, prices and discounts.
- (h) Bulk purchases. Exploit the possibilities of buying in bulk so as to take full advantage of discounts.
- (i) Federal tax exemptions. Act so as to procure for the city all federal tax exemptions to which it is entitled.
- (j) Cooperate with the Chief Financial Officer so as to secure for the city the maximum efficiency in budgeting and accounting.

C. Purchasing regulations.

- (1) ~~On or before October 15, 1976, the Mayor shall submit to the Council for adoption by resolution a complete system of regulations for centralized purchasing. The regulations shall fix procedures of the purchasing agent and all other city agencies such as to obtain proper quality at least cost, maintain ethical and financial integrity between vendors and the city and comply with requirements of the Local Public Contracts Law.<sup>28</sup>~~  
(Reserved).

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- (2) ~~Once adopted, the regulations may be revised by resolution. The Mayor shall present any proposed changes to the Council at a regular meeting. The Council may approve, reject or return them for revision at the next regular meeting. Failure to act at that meeting shall constitute approval, and revisions may then be put into effect at once. (Reserved).~~

§4-70.1. Requisitions and estimates. All using agencies, either by or with the authorization of the head of the department under which the using agency operates, shall file with the City Purchasing Agent detailed requisitions or estimates of their requirements in goods and services in such manner, at such time and for such future periods as the Purchasing Agent shall prescribe.

- A. Unforeseen requirements. A using agency shall not be prevented from filing, in the same manner, with the Purchasing Agent, at any time, a requisition or estimate for any goods and services the need for which was not foreseen when the detailed estimates were filed.
- B. Revision power of Purchasing Agent. The City Purchasing Agent shall examine each requisition or estimate and shall have the authority to revise it as to quantity, quality or estimated cost, but revision as to quality shall be in accordance with the standards and specifications established pursuant to this chapter.

§4-70.2. Encumbrance of funds.

Except in cases of emergency, the City Purchasing Agent shall not issue any order for delivery on a contract or open market purchase until the Chief Financial Officer shall have certified, after preaudit, that there is to the credit of the using agencies concerned a sufficient unencumbered appropriation balance, in excess of all unpaid obligations, to defray the amount of such order.

§4-70.3. Conflicts of interest.

Any purchase order or contract within the purview of this chapter in which the City Purchasing Agent or any officer or employee of the city is financially interested, directly or indirectly, shall be void.

§4-70.4. Gifts and rebates to city officers and employees.

The City Purchasing Agent and every officer and employee of the city are expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is or might be awarded, any rebate, gift, money or anything of value whatsoever, except where given for the use and benefit of the city, and no city officer or employee shall accept employment with any person, company, firm or corporation for the performance of work under any agreement with the city.

**§4-70.5. Competitive contracting.**

The Purchasing Agent is authorized to initiate competitive contracting for goods or services pursuant to N.J.S.A. 40A:11-9.

**§4-70.6. Advertisements for bids.**

- A. Except as otherwise provided by the provisions of the Local Public Contracts Law, no contract shall be entered into by the city for the doing of any work or for the furnishing of any materials, goods and services or labor or the hiring of teams or vehicles unless the city shall first publicly advertise for bids thereunder and the contract shall be awarded to the lowest responsible bidder who has submitted a responsive bid.
- B. The Purchasing Agent shall be accorded authority to implement this section and negotiate and award contracts pursuant to the provisions of N.J.S.A. 40A:11-3 in accordance with bidding threshold set by the Governor of the State of New Jersey. However, nothing in this Chapter shall preclude the Council from establishing by resolution a bid threshold lower than the threshold set by the Governor. If Council so elects to establish a bid threshold lower than the aforementioned threshold set by the Governor, then the Purchasing Agent shall be bound by the threshold established by Council.

**§4-70.7. Contents of advertisements for bids; publication.**

All advertisements for bids shall be completed in accordance with the Local Public Contracts Law.

**§4-70.8. Formal contract procedure.**

All goods and services for which public bidding is required or undertaken pursuant to this chapter shall be completed in accordance with the Local Public Contracts Law. Any formal contract as required under this section or the Local Public Contracts Law shall be executed by the Mayor and the City Clerk on behalf of the city, with the corporate seal affixed thereto.

- A. Notice inviting bids. Notice inviting bids shall be in accord with the requirements of §4-70.6 and shall include a general description of the articles to be sold.
- B. Bidders' list. The City Purchasing Agent shall also solicit sealed bids from all responsible prospective suppliers who have requested their names to be added to a bidders' list, which the Purchasing Agent shall maintain, by sending them a copy of such newspaper notice or such other notice as will acquaint them with the proposed purchase or sale.
- C. Bulletin board. The Purchasing Agent shall also advertise for bids by a notice posted on the public bulletin board in the City Hall.

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D. Bid deposits. In accordance with the Local Public Contracts Law, bid deposits shall be prescribed in the public notices inviting bids. Unsuccessful bidders shall be entitled to return of deposit where the Agent has required such. A successful bidder shall forfeit any deposit required by the City Purchasing Agent upon failure on his part to enter a contract.

E. Bid opening procedure.

(1) Presentation of sealed bids. Sealed bids shall be presented to and received by either the Purchasing Agent or the City Clerk, as designated in the bid specification, and at least one other city official or their authorized representatives. The time and place for receipt of sealed bids shall be specified in the advertisement for bids as approved by resolution of the Council.

(2) Opening. Bids shall be received and opened in public at the time and place stated in the public notice and advertisement for bids.

(3) Tabulation. A tabulation of all bids received shall be posted for public inspection.

F. Rejection of bids.

(1) The Council shall have authority to reject any or all bids.

(2) The Council may, by resolution approved by the majority of the governing body, disqualify a bidder who would otherwise be determined to be the lowest responsible bidder, if the governing body finds that it has had prior negative experience with the bidder as defined by the Local Public Contracts Law. The decision to disqualify shall be made within the discretion of Council in the best interests of the city.

(3) This section shall be construed to grant Council any and all authority it may have to reject bids under the Local Public Contracts Law or other applicable statute.

G. Award of contract.

(1) Lowest responsible bidder. Contracts shall be awarded by the Council to the lowest responsible bidder in accordance with the Local Public Contracts Law. "Lowest responsible bidder," in addition to price, shall be determined by the following criteria:

(a) The ability, capacity and skill of the bidder to perform the contract or provide the services required.

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- (b) Whether the bidder can perform the contract or provide the service promptly or within the time specified without delay or interference.
  - (c) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
  - (d) The quality of performance of previous contracts or services.
  - (e) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.
  - (f) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.
  - (g) The quality, availability and adaptability of the goods and services to the particular use required.
  - (h) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.
  - (i) The number and scope of conditions attached to the bid.
  - (j) The bid is responsive.
- (2) Performance bonds. The City Purchasing Agent shall have the authority to require a performance bond pursuant to the provisions of the Local Public Contracts Law.

H. Subdivision prohibited. No contract or purchase shall be subdivided to avoid the requirements of this chapter.

#### §4-70.9. Open market procedure.

All purchases of goods and services which do not exceed the bid threshold set forth in the Local Public Contracts Law may be made in the open market without newspaper advertisement and without observing the procedure prescribed by §4-70.8; except that the Chief Financial Officer's approval shall be affixed thereto and in the event the estimated value is \$1,000 or more, approval of the Mayor or his designee shall be affixed to the purchase order or formal written contract, as the case may be.

A. Minimum number of quotations. All open market purchases shall, wherever possible, be based on at least three competitive quotations and shall be awarded to the lowest responsible bidder in accordance with the standards set forth in §4-70.8G(1).

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B. Notice inviting quotations. The City Purchasing Agent shall solicit quotations by direct mail request to prospective vendors, by telephone and by public notice posted on the bulletin board of the City Hall.

C. Recording. The City Purchasing Agent shall keep a record of all open market orders and the quotations submitted in competition thereon, and such records shall also be open to public inspection.

#### §4-70.10. Consulting and professional contracts.

Consulting and professional contracts are subject to the provisions of the Local Public Contracts Law and shall be conducted in a manner appropriate to contracts of this chapter. Where budget provisions are made for hiring consultants and professional persons to perform services for the city, but are not otherwise subject to approval by a board, commission or agency of the city, the contract shall be subject to approval and execution by the Mayor and attested to by the City Clerk, including those contracts.

#### §4-70.11. Petty cash fund.

A. Established. There is hereby established a petty cash fund of \$300, which shall be known as the "Purchasing Agent's petty cash fund." From this fund shall be paid all purchases not in excess of \$25 each, made by the heads of using agencies for incidentals, with the approval of the City Purchasing Agent.

B. Monthly statement. At the end of each month the City Purchasing Agent shall render to the Chief Financial Officer a statement showing the actual expenditures for each using agency so made out of the Purchasing Agent's petty cash fund, and the City Treasurer shall reimburse the Purchasing Agent's petty cash fund for such expenditures in the same manner as other expenditures of such using agencies are paid.

C. Rules and regulations. The City Purchasing Agent shall promulgate rules and regulations for use of the Purchasing Agent's petty cash fund, subject to the approval of the Mayor, Council and the Chief Financial Officer.

D. Accounting and expenditure practices. All accounting and expenditure practices and rules and regulations of the City Purchasing Agent in regard thereto shall be in accord with the requirements of the Local Public Contracts Law and the regulations of the Department of Community Affairs, Division of Local Government.

#### §4-70.12. Central warehousing.

The City Purchasing Agent shall control and supervise storerooms and warehouses and shall administer the inventory revolving fund.



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- A. Inventory revolving fund. There shall be provided in each annual budget an amount required to provide the necessary funds to establish an inventory revolving fund.
- B. Accounting procedure. Requisitions from goods and services in a storeroom or warehouse shall be credited by the City Purchasing Agent to the inventory revolving fund by a charge against the appropriation of the using agency.
- C. Inventory. The City Purchasing Agent shall maintain a perpetual inventory record of all materials, goods and services or equipment stored in storerooms and warehouses of the city.

**§4-70.13. Available supplies.**

The head of the using agency shall have the authority to submit requisitions to the City Purchasing Agent for goods and services made available to the using agencies by the City Purchasing Agent.

**§4-70.14. Emergency purchases.**

A. Any contract may be negotiated or awarded without public advertising for bids and bidding therefor, notwithstanding that the contract price will exceed the bid threshold, when an emergency affecting the public health, safety or welfare requires the immediate delivery of goods or the performance of services; provided that the awarding of such contracts is made in the following manner:

(1) The Purchasing Agent shall be notified of such an emergency and the need for invoking this section. If an emergency exists, then the Purchasing Agent shall be authorized to award a contract or contracts for such purposes as may be necessary to respond to the emergent needs. Such notification shall be reduced to writing and filed with the Purchasing Agent.

(2) Implementation of emergency purchases shall be in accordance with N.J.S.A. 40A:11-6 and N.J.A.C. 5:34-6.1.

B. Agent's responsibility. The City Purchasing Agent shall keep a record of all emergency purchases and shall make an analysis of such purchases and report to the Mayor and the City Council whenever his analysis shall indicate that the emergency provision procedure is being used to circumvent the requirements of the Local Public Contracts Law or of this chapter otherwise applicable.

**§4-70.15. Inspection and testing of items purchased.**

The City Purchasing Agent shall inspect or supervise the inspection of all deliveries of goods and services to determine their conformance with the specifications set forth in the order or contract.

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- A. Inspection by using agency. The City Purchasing Agent shall have the authority to authorize using agencies having the staff and facilities for adequate inspection to inspect all deliveries made to such using agencies under rules and regulations which the Agent shall prescribe.
- B. Tests. The City Purchasing Agent shall have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with the specifications. In the performance of such tests, the City Purchasing Agent shall have the authority to make use of laboratory facilities of any agency of the city government or of any outside laboratory.

**§4-70.16. Disposition of surplus stock.**

- A. All using agencies shall submit to the City Purchasing Agent, at times and in such form as he shall prescribe, reports showing stocks of all goods and services which are still being used, no longer used or which have become obsolete, worn out or scrapped.
- B. The City Purchasing Agent shall have the authority to transfer surplus stock to other using agencies.
- C. The City Purchasing Agent shall have the authority to sell all goods and services which have become unsuitable for public use or to exchange the same for or trade in the same on new goods and services.
- D. Sales under this section shall be made by sealed bid or public auction to the highest responsible bidder pursuant to N.J.S.A. 40A:11-36 and in conformance with §4-70.8 or §4-70.9, whichever is applicable.

**§4-70.17. Contracts subject to fair and open process.**

- A. Contracts awarded having an anticipated value in excess of \$17,500 or such other dollar amount as shall be established in N.J.S.A. 19:44A-20.5 may be awarded pursuant to the fair and open process established in this chapter.
- B. All contracts awarded pursuant to the provisions of the Local Public Contract Law through public bidding, the competitive contracting process or N.J.S.A. 40A:11-1 et seq. shall be deemed to have satisfied the municipal standards for the fair and open process.
- C. The City of Orange Township, its boards and commissions shall not enter into a contract having an anticipated value which shall exceed \$17,500 or such other dollar amount as established by N.J.S.A. 19:44A-20.5 with a business entity, except a contract awarded in a fair and open process as defined by this chapter, if, beginning January 1, 2006, one year prior to the award of the contract (excluding year 2005 or earlier) that business entity has made a contribution that is reportable

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by the recipient under N.J.S.A. 19:44A-1 et seq. to any municipal committee of a political party in Orange if a member of that political party is serving in an elective public office of Orange when the contract is awarded or to any candidate committee of any person serving in an elective public office of Orange when the contract is awarded.

D. Prior to awarding any contract having an anticipated value exceeding \$17,500 or such other dollar amount as determined by N.J.S.A. 19:44A-20.5, except a contract awarded pursuant to the fair and open process as defined by this chapter or contracts defined in Subsection B of this section, the business entity shall be required to submit a written certification that it has not made a contribution that would bar the award of a contract pursuant to N.J.S.A. 19:44A-1 et seq.

**§4-70.18. Standards for fair and open process.**

**A. Notice.**

- (1) Notice shall be given in either an official newspaper of the City of Orange Township or on the City's official Web site.
- (2) Sufficient time of notice shall be publication of either a request for proposals or request for qualifications at least 10 calendar days prior to the designated date for receipt of proposals or qualifications in either the official newspaper or Web site. Nothing in this section shall prevent the City from establishing a date sooner, or period that the request for proposals or qualifications shall run.
- (3) Receipt of proposals or qualifications shall be the City's Purchasing Agent or his designee, and the date, time, place and manner of receipt shall be included in the notice.
- (4) Sufficient contents of notice shall include the following:
  - (a) Description of the goods or services;
  - (b) Contact information for obtaining the proposal or qualification document;
  - (c) Name of department requesting the proposal or qualifications;
  - (d) A statement that the proposal or qualifications are being solicited in a fair and open process in accordance with N.J.S.A. 19:44A-1 et seq.; and
  - (e) Date, time, place and manner for receipt of proposals or qualifications.

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- B.** Opening of requests for proposals or qualifications. All proposals or qualifications received shall be publicly opened and announced at the date, time and place set forth in the notice soliciting the proposals or qualifications.
- C.** Awarding of contract. The awarding of contracts or selection of business entities pursuant to this section shall be by resolution, which shall include a statement that the contract was awarded or business entities selected pursuant to the fair and open process.
- D.** Advertisement. The Purchasing Agent or his designee is authorized to advertise for requests for proposals or qualifications in the City's official newspaper or Web site. The Purchasing Agent shall determine in conjunction with the user agency, department, board or commission the criteria that will be used for the basis of the contract award, and this criteria shall not be required to be included in the public notice. The criteria established as the basis of the award shall be included in the document requesting proposals or qualifications.
- E.** Satisfaction of fair and open process. Any contract awarded satisfying the applicable standards of §4-70.18 shall be deemed to have met the City's requirement for fair and open process as authorized pursuant to N.J.S.A. 19:44A-1 et seq., which shall include N.J.S.A. 19:44A-20.5 and N.J.S.A. 19:44A-20.7.

**§4-70.19. Public exigency.**

Nothing contained in §§4-70.17 through 4-70.18 shall be construed as prohibiting the awarding of a contract when the public exigency requires immediate delivery of goods or performance of emergency services as determined by the State Treasurer or as determined in the applicable New Jersey statute, administrative code, rule or regulation.

**§4-70.20. Political Contributions Policy.**

It shall be the policy of the City of Orange Township to create a regulation which states that a business entity which makes political contributions to municipal candidates and municipal and county political parties in excess of certain thresholds shall be limited in its ability to receive public contracts from the City of Orange Township.

**§4-70.21. Definitions.**

The following definitions shall be applicable to terms in §4-70.20 et seq.:

**BUSINESS ENTITY**

- A.** For purposes of §4-70.20 et seq., one whose contributions are regulated by this article means:
- (1) An individual including the individual's spouse, and any child/children:

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- (2) A firm; corporation; professional corporation; partnership; limited liability company; organization; association; and any other manner and kind of business entity;
- (3) Any person who owns 10% or more of the equity or ownership or income interests in a person or entity as defined in sections Subsection A(1) and (2) above and their spouses and child/children;
- (4) All partners or officers of such an entity, in the aggregate, and their spouses and child/children;
- (5) Any person, subcontractor, subsidiary, corporation, firm, partnership, limited liability company, organization or association who has received or indefeasibly acquired the right to receive, from a person described in Subsection (1) above, more than \$100,000 in compensation or income of any kind (including, by way of illustration, and not limitation: wages, salaries, sums paid to independent contractors, benefits, dividends, profit-sharing, pension contributions, deferred contributions, stock, stock options or gifts), in any twelve-month period prior to the award of, or during the term of, a contract subject to this article; and
- (6) All persons who are "affiliate" of a business entity as defined in Subsections A(1), (2) and (5) above, as such term is used in 11 U.S.C. 101(2).

CAMPAIGN COMMITTEE -- Every candidate for the City of Orange Township elective municipal office; every candidate committee established by or for the benefit of a candidate for the City of Orange Township elective municipal office; every joint candidate committee established in whole or in part by or for the benefit of a candidate for the City of Orange Township elective municipal office; every political party committee of the City of Orange Township; every political party committee of the County of Essex; and every political committee, continuing political committee, or other form of association or organization that regularly engages in the support of candidates for the City of Orange Township or County of Essex elective offices or City of Orange Township or County of Essex political parties or political party committees. The terms in the foregoing paragraph have the meaning prescribed in N.J.A.C. 19:25-1.7.

CONTRIBUTION -- Has the meaning prescribed in N.J.A.C. 19:25-1.7. By way of illustration, and not limitation, this definition includes pledges, loans, and in-kind contributions.

CONTRACT OR AGREEMENT FOR PROFESSIONAL OR EXTRAORDINARY SERVICES -- All contracts or agreements for professional services and extraordinary unspecifiable services which exceeds the bid threshold as such term is used and applied in N.J.S.A. 40A:11-5.

§4-70.22. Awarding of public contracts to certain contributors.

- A. To extent that it is not inconsistent with state or federal law, the City of Orange Township and any of its departments, instrumentalities or purchasing agents shall not enter into any agreement or otherwise contract to procure "professional services," as such term is defined at N.J.S.A. 40A:11-2(6) and used at N.J.S.A. 40A:11-5(1)(a)(i), and/or banking, insurance or other consulting service (hereinafter "professional services"), nor "extraordinary unspecified services," as such term is defined at N.J.S.A. 40A:11-2(7) and used at N.J.S.A. 40A:11-5(1)(a)(ii), and/or media, public relations, lobbying, parking garage management or other consulting and/or management service (hereinafter "extraordinary unspecified services") from any business entity if such business entity has solicited or made any contribution to a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in the City of Orange Township or a holder of public office having ultimate responsibility for the award of a contract, or to any City of Orange Township or County of Essex political committee or political party committee or to any continuing political committee or political action committee that regularly engages in the support of the City of Orange Township or County of Essex elections and/or the City of Orange Township or County of Essex candidates, candidate committees, joint candidate committees, political committees, political parties, political party committees, (hereinafter "PAC"), in excess of the thresholds specified within one calendar year immediately preceding the date of the contract or agreement.
- B. No business entity who submits a proposal for, enters into negotiations for, or agrees to any contract or agreement with the City of Orange Township or any of its departments or instrumentalities, for the rendition of professional services or extraordinary unspecified services shall knowingly solicit or make any contribution, to a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in the City of Orange Township, or a holder of public office having ultimate responsibility for the award of a contract, or to any City of Orange Township or County of Essex political committee or political party committee, or any PAC between the time of first communication between that business entity and the municipality regarding a specific agreement for professional services or extraordinary unspecified services, and the later of the termination of negotiations or rejection of any proposal, or the completion of the performance or specified time period of that contract or agreement.
- C. The monetary thresholds of this article are a maximum of \$300 per calendar year each for any purpose to any candidate or candidate committee for mayor or governing body, or \$500 per calendar year to any joint candidates committee for mayor or governing body, or \$300 per calendar year to a political committee or political party committee of the City of Orange Township; \$500 maximum per calendar year to a County of Essex political committee or political party committee; and \$500 maximum per calendar year to any PAC. However, for each business entity party to a contract for professional or extraordinary unspecified

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services as defined in Subsection A, or engaged in negotiations for a contract defined in Subsection A, when such business entity's contribution is aggregated with all "persons" defined §4-70.21. Definitions, above, by virtue of their affiliation to that business entity party, a maximum of \$2,500 to all City of Orange Township candidates, candidate committees, joint candidate committees, and holders of public office having ultimate responsibility for the award of a contract, all City of Orange Township or County of Essex political committees and political party committees as described herein combined, without violating Subsection A of this section.

D. For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be the City of Orange Township Mayor or Governing body, if the contract requires approval or appropriation from the Mayor or Governing Body, or the Mayor of the City of Orange Township, 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.

E. Rules regarding subcontractors. No person may be awarded a subcontract to perform under a contract subject to §4-70.20 et seq. if the subcontract would be disqualified by Subsection A from receiving the contract at the time that the subcontract is awarded; nor may any person who would be disqualified by Subsection A from receiving the contract perform substantially all of obligations described in a contract for professional or extraordinary services that is subject to this article.

#### §4-70.23. Contributions made prior to effective date.

No contributions or solicitation of contributions made prior to the effective date of §4-70.20 et seq. shall be deemed to give rise to a violation of §4-70.20 et seq.

#### §4-70.24. Contract renewal.

No contract subject to this article may be renewed, extended, or materially modified unless the resulting renewal, extension, or modification would be allowable under the provisions of this article if it were an initial contract.

#### §4-70.25. Contribution statement by business entity.

A. Prior to awarding any contract or agreement to procure professional services or extraordinary unspecified services from any business entity, the City of Orange Township or its purchasing agents and departments, as the case may be, shall receive a sworn statement from said business entity which is the intended recipient of said contract that he/she/it has not made a contribution in violation of §4-70.22. The City of Orange Township, its purchasing agent and departments through the Mayor shall be responsible for informing the Council by forwarding



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the business entity's sworn statement to the municipal clerk for distribution to the governing body, that the aforementioned sworn statement has been received and that the Business entity is not in violation of §4-70.20 et seq., prior to awarding the contract or agreement.

- B. A business entity shall have a continuing duty to report to the Mayor and purchasing agent any contributions that constitute a violation of §4-70.20 et seq. that are made during the negotiation, proposal process or the duration of a contract. The City of Orange Township, its purchasing agents and departments through the Mayor shall be responsible for informing the governing body by notifying the municipal clerk within 10 business days after receipt of said report from the Business entity, or at the next Council's regular meeting following receipt of said report from the Business entity, or whichever comes first.
- C. The certification required under this subsection shall be made prior to entry into the contract or agreement with the City of Orange Township, 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 provisions of law.

#### **§4-70.26. Return of excess contributions.**

A business entity that is a party to a contract for professional services or extraordinary unspecified services may cure a violation of §4-70.22 if, within 30 days after the date on which the applicable ELEC report is published, said business entity notifies the Mayor and purchasing agent in writing and seeks and receives reimbursement of the contribution from the recipient of such contribution.

#### **§4-70.27. Exemptions.**

The contribution limitations prior to entering into a contract in §4-70.22A do not apply to contracts which are awarded to the lowest responsible bidder after public advertising for bids and bidding therefor within the meaning of N.J.S.A. 40A:11-4, or are awarded in the case of emergency under N.J.S.A. 40A:11-6. There is no exemption for contracts awarded pursuant to a "Fair and Open Process" under N.J.S.A. 19:44A-20 et seq.

#### **§4-70.28. Violations and penalties.**

- A. It shall be a material breach of the terms of the City of Orange Township agreement or contract for professional services or extraordinary unspecified services when a Business entity that is a party to such agreement or contract has:
- (1) Made or solicited a contribution in violation of §4-70.20 et seq.;
  - (2) Knowingly concealed or misrepresented a contribution given or received;
  - (3) Made or solicited contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;



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- (4) Made or solicited any contribution on the condition or with the agreement that it will be re-contributed to a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in the City of Orange Township, or a holder of public office having ultimate responsibility for the award of a contract, or any City of Orange Township or County of Essex political committee or political party committee, or any PAC;
- (5) Engaged or employed 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 professional business entity itself, would subject that entity to the restrictions of §4-70.20 et seq.;
- (6) Funded contributions made by third parties, including consultants, attorneys, family members, and employees;
- (7) Engaged in any exchange of contributions to circumvent the intent of §4-70.20 et seq.; or
- (8) Directly or indirectly, through or by any other person or means, done any act which if done directly would subject that entity to the restrictions of §4-70.20 et seq.

B. Furthermore, any business entity that violates §4-70.28A(1) through (8) shall be disqualified from eligibility for future City of Orange Township contracts for a period of four calendar years from the date of the violation.

C. Any person who knowingly, purposely, or willfully violates any provision of §4-70.20 et seq., or who conspires with another person to violate any provision of §4-70.20 et seq., or who, with the purpose of promoting or facilitating a violation of §4-70.20 et seq., solicits another person to commit it, or aids or agrees or attempts to aid another person in planning or committing it, shall be subject to punishment by one or more of the following: a fine not exceeding \$2,000, a term of incarceration not exceeding 90 days or by a period of community service not exceeding 90 days.

#### §4-70.29. Citizens' private right of action.

In addition to any rights that were heretofore available, or which may hereafter be available, to citizens, taxpayers, or associations, to challenge violations of §4-70.20 et seq., every person aggrieved by a violation of the article, or any taxpayer or resident of the City of Orange Township has the right, consistent with the applicable statute, law and rules of Court, to file charges in a court of competent jurisdiction, and/or to pursue a civil action for a violation of §4-70.20 et seq. in a court of competent jurisdiction, and to seek and obtain declaratory, injunctive, or other legal or equitable relief, including but not limited to, attorney's fees and costs, arising from or related to a violation of §4-70.20 et seq. in accordance with the appropriate statute, law or rules of Court.

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**§4-70.30. Indexing.**

The monetary thresholds provided in the definitions of "business entity" and "contract or agreement for professional or extraordinary services" in §4-70.21 of this Chapter shall be increased effective March 1 of each calendar year by the percentage increase, in the prior calendar year, of the consumer price index for all urban consumers (CPI-U) for the Northern New Jersey region, rounded to the nearest \$10. The Clerk of the City of Orange Township shall, by no later than April 1 of each calendar year, prepare and publish revised thresholds on the official municipal website and in an official municipal newspaper.

**II. SEVERABILITY**

If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Ordinance.

**III. INCONSISTENT ORDINANCE**

Any Ordinance inconsistent with this Ordinance is repealed, but only to the extent of such inconsistencies.

**IV. EFFECTIVE DATE**

This Ordinance shall take effect twenty (20) days after passage unless waived by Resolution of City Council.

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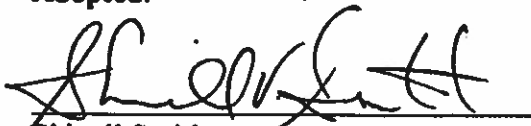
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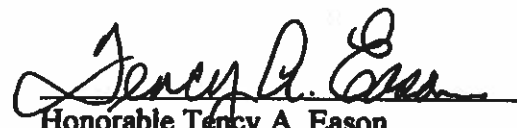
Approved as to Form & Legality

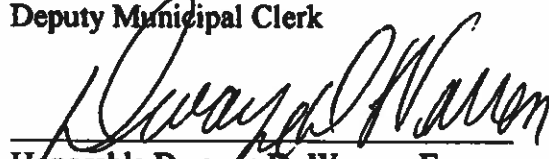
\_\_\_\_\_  
Department Head

\_\_\_\_\_  
Legal Counsel

Adopted: February 19, 2013

  
\_\_\_\_\_  
Shinell Smith  
Deputy Municipal Clerk

  
\_\_\_\_\_  
Honorable Tency A. Eason  
Council President

  
\_\_\_\_\_  
Honorable Dwayne D. Warren, Esq.  
Mayor

Purpose: To allow the City the benefit of having a uniform purchasing system.