



# A MODEL ORDINANCE REQUIRING COMPETITIVE NEGOTIATION FOR PROFESSIONAL SERVICE CONTRACTS

Be it Ordained by the Mayor and Council of \_\_\_\_\_, County of \_\_\_\_\_, and State of New Jersey as follows:

## Section 1. Short Title:

Competitive Negotiation Ordinance

## Section 2. Purpose:

**WHEREAS** this municipality has a strong commitment to open and fair competition; and

**WHEREAS** qualification based, competitive, negotiation procedures help to ensure open and fair competition through published rules and decision making criteria;

**THEREFORE**, it is accordingly found and determined that the paramount public interest is served by requiring that the township award all contracts or agreements to outside consultants for the provision of professional services on the basis of competitive negotiation.

## Section 3. Definitions:

1. "Professional services" for purposes of this ordinance means, as defined at 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.

## Section 4. General Provisions:

1. The municipality shall award all contracts or agreements for the provision of professional services on the basis of qualification based, competitive negotiation.
2. Professional Service contract requests for proposal shall be published by the posting of a public notice at least 10 days prior to the awarding of any contract for professional services.

3. The public notice shall be:
  - a. Prominently posted in the public place reserved for Sunshine Law notices;
  - b. Mailed, telephoned, telegraphed, or hand delivered to at least two newspapers designated to receive such notices because they have the greatest likelihood of informing the public within the municipality, one of which shall be the official newspaper of the municipality; and
  - c. Filed with the clerk of the municipality.
  
4. The public notice shall, at minimum, include:
  - a. A description of the professional services needed, including, where appropriate, a description of tasks involved.
  - b. Threshold qualification requirements setting the highest possible, minimum standards for qualifying to compete for the particular services and tasks involved.
  - c. Notice that standardized submission requirements and selection criteria are on file and available at a stated location in the township.
  - d. Deadline and place for all submissions.
  
5. Standardized submission requirements shall include:
  - a. 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.
  - b. References and record of success.
  - c. Description of ability to provide the services in a timely fashion (including staffing, familiarity and location of key staff).
  - d. 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.
  
6. The selection criteria to be used in awarding a contract or agreement for professional services shall include:
  - a. Qualifications of the individuals who will perform the tasks and the amounts of their respective participation.
  - b. Experience and references.
  - c. Ability to perform the task in a timely fashion, including staffing and familiarity with subject matter.
  - d. Cost competitiveness.

7. 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.
8. In the event that compliance with part or all of the requirements of this ordinance is impracticable as regards a particular contract or agreement, the township council may waive part or all of the requirements by a majority vote of the full council together with publication of a resolution setting forth with specificity the reasons such waiver is required.

**Section 5. Severability and Effectiveness Clause:**

If any sentence, paragraph or section of this ordinance, or the application thereof to any persons or circumstances shall be adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any sentence, paragraph or section of this ordinance shall lose its force and effect, such judgment or action shall not affect, impair or void the remainder of this ordinance.

**Section 6. Effective Date:**

This ordinance shall become effective on \_\_\_\_\_.

\_\_\_\_\_

Mayor

\_\_\_\_\_

Municipal Clerk

Introduced:

Adopted:

Veto or Approval:

Final Publication: