REQUEST FOR QUALIFICATIONS

FOR THE PROVISION OF SERVICES-BOROUGH RISK MANAGER

ISSUE DATE: October 17, 2018

DUE DATE: November 19, 2018

Issued By:
Borough of Oakland

GLOSSARY

The following definitions shall apply to and are used in this Request for Qualifications:

"Borough"- refers to the Borough of Oakland

"Qualification Statement"- refers to the complete responses to this RFQ submitted by the Respondents.

"Qualified Respondent" – refers to those Respondents who (in the sole judgment of the Borough) have satisfied the qualification criteria set forth in this RFQ.

"RFQ"- refers to this Request for Qualifications, including any amendments thereof or supplements thereto.

"Respondent" or "Respondents"- refers to the interested firm(s) that submit a Qualification Statement.

SECTION 1

INTRODUCTION AND GENERAL INFORMATION

1.1. Introduction and Purpose.

The Borough is soliciting Qualifications Statements from interested persons and/or firms for the provision of legal services, as more particularly described herein. Through a Request for Qualification process described herein, persons and/or firms interested in assisting the Borough with the provision of such services must prepare and submit a Qualification Statement in accordance with the procedure and schedule in this RFQ. The Borough will consider only from firms that submit a Qualification Statement which includes all the information required to be included as described herein (in the sole judgment of the Borough). The Borough intends to qualify person(s) and/or firm(s) that (a) possesses the professional, financial and administrative capabilities to provide the proposed services, and (b) will agree to work under the compensation terms and conditions determined by the Borough to provide the greatest benefit to the taxpayers of Oakland.

1.2 Procurement Process and Schedule.

The selection of Qualified Respondents is not subject to the provisions of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et.seq. The selection is subject to the Borough's Pay to Play Law as adopted in Ordinance 12-Code-669, which is a local 'pay to play' ordinance authorized by NJSA 40A:11-51. This ordinance prohibits the awarding of contracts to subject contractors that have made disqualifying campaign contributions. The Borough has structured a procurement process that seeks to obtain the best services on behalf of the Borough while establishing a competitive process to assure that each person and/or firm is provided an equal opportunity to submit a Qualification Statement in response to the RFQ Qualification Statements will be evaluated in accordance with the criteria set forth in Section 2 of this RFQ, which will be applied in the same manner to each Qualification Statement received.

Qualification Statements will be reviewed and evaluated by the Borough and its legal and/or financial advisors (collectively, the "Review Team"). The Qualification Statements will be reviewed to determine if the Respondent has met the minimum professional, administrative and financial areas described in this RFQ. Under no circumstances will a member of the review team review responses to an RFQ for a job which they or their firm submitted a response. Based upon the totality of the information contained in the Qualification Statement, including information about the reputation and

experience of each Respondent, the Borough will (in its sole judgment) determine which Respondents are qualified (from professional, administrative and financial standpoints). Each Respondent that meets the requirements of the RFQ (in the sole judgment of the Borough) will be designated as a Qualified Respondent and will be given the opportunity to participate in the selection process determined by the Borough.

The RFQ process commences with the issuance of this RFQ. The steps involved in the process and the anticipated completion dates are set forth in Table 1, Procurement Schedule. The Borough reserves the right to, among other things, amend, modify or alter the Procurement Schedule upon notice to all potential Respondents.

All communications concerning this RFQ or the RFQ process shall be directed to the Borough's Designated Contact Person, in writing.

Designated Contact Person:

Mr. Richard Kunze
Borough Administrator
Office of the Borough Administrator
One Municipal Plaza
Oakland, NJ 07436

Qualification Statements must be submitted to, and be received by, the Borough, via mail or hand delivery, by 4:00 p.m. Prevailing Time on November 19, 2018. Qualification Statements will not be accepted by facsimile transmission or e-mail.

TABLE 1

ANTICIPATED PROCUREMENT SCHEDULE

ACTIVITY	**DATE**
1. Issuance of Request for Qualifications	October 17, 2018
2. Receipt of Qualifications Statements	November 19, 2018
3. Opening of Bids	November 19, 2018
4. Review Team Analysis of Bids	Nov. 20, 2018 to Jan 2, 2019
5. Borough Review of Review Team Recommendations	January 2, 2019
6. Designation of Qualified Respondents	January 9, 2019

Section 1.3 <u>Conditions Applicable to RFQ</u>.

Upon submission of a Qualification Statement in response to this RFQ, the Respondent acknowledges and consents to the following conditions relative to the submission and review and consideration of its Qualification Statement:

- This document is an RFQ and does not constitute an RFP
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- This RFQ does not commit the Borough to issue an RFP.

- All costs incurred by the Respondent in connection with responding to this RFQ shall be borne solely by the Respondent.

- The Borough reserves the right (in its sole judgment) to reject for any reason any and all responses and components thereof and to eliminate any and all Respondents responding to this RFQ from further consideration for this procurement.

- The Borough reserves the right (in its sole judgment) to reject any Respondent that submits incomplete responses to this RFQ, or a Qualification Statement that is not responsive to the requirements of this RFQ.

- The Borough reserves the right, without prior notice, to supplement, amend, or otherwise modify this RFQ, or otherwise request additional information.

- All Qualification Statements shall become the property of the Borough and will not be returned.

- All Qualification Statements will be made available to the public at the appropriate time, as determined by the Borough (in the exercise of its sole discretion) in accordance with law.

- The Borough may request Respondents to send representatives to the Borough for interviews.

- Any and all Qualification Statements not received by the Borough by 4:00 p.m. Prevailing Time on November 19, 2018, will be rejected.

- Neither the Borough, nor their respective staffs, consultants or advisors (including but not limited to the Review Team) shall be liable for any claims or damages resulting from the solicitation or preparation of the Qualification Statement, nor will there be any reimbursement to Respondents for the cost of preparing and submitting a Qualification Statement or for participating in this procurement process.

Section 1.4 Rights of Borough.

The Borough reserves, holds and may exercise, at its sole discretion, the following rights and options with regard to this RFQ and the procurement process in accordance with the provisions of applicable law:

- To determine that any Qualification Statement received complies or fails to comply with the terms of this RFQ.

- To supplement, amend or otherwise modify the RFQ through issuance of addenda to all prospective Respondents who have received a copy of this RFQ.

- To waive any technical non-conformance with the terms of this RFQ.

- To change or alter the schedule for any events called for in this RFQ upon the issuance of notice to all prospective Respondents who have received a copy of this RFQ.

- To conduct investigations of any or all of the Respondents, as the Borough deems necessary or convenient, to clarify the information provided as part of the Qualification Statement and to request additional information to support the information included in any Qualification Statement.

- To suspend or terminate the procurement process described in this RFQ at any time (in its sole discretion). If terminated, the Borough may determine to commence a new procurement process or exercise any other rights provided under applicable law without any obligation to the Respondents.

The Borough shall be under no obligation to complete all or any portion of the procurement process described in this RFQ.

1.5 Addenda or Amendments to RFQ.

During the period provided for the preparation of responses to the RFQ, the Borough may issue addenda that modify supplement or amend the provisions of this RFQ. Those addenda will be noticed by the Borough and will constitute a part of the RFQ. All responses to the RFQ shall be prepared with full consideration of the addenda issued prior to the proposal submission date.

1.6 Cost of Proposal Preparation.

Each proposal and all information required to be submitted pursuant to the RFQ shall be prepared at the sole cost and expense of the respondent. There shall be no claims whatsoever against the Borough, its staff or consultants for reimbursement for the payment of costs or expenses incurred in the preparation of the Qualification Statement or other information required by the RFQ.

1.7 Proposal Format.

Responses should cover all information requested in the Questions to be answered in this RFQ.

Responses which in the judgment of the Borough fail to meet the requirements of the RFQ or which are in any way conditional, incomplete, obscure, contain additions or deletions from requested information, or contain errors may be rejected.

SECTION 2

SCOPE OF SERVICES

It is the intent of the Borough to solicit Qualification Statements from Respondents that have expertise in the provision of professional services- Borough Risk Manager. Firms and/or persons responding to this RFQ shall be able to demonstrate that they will have the continuing capabilities to perform these services.

SECTION 3

SUBMISSION REQUIREMENTS

Section 3.1 General Requirements.

The Qualification Statement submitted by the Respondent must meet or exceed the professional, administrative and financial qualifications set forth in this Section 3 and shall incorporate the information requested below.

In addition to the information required as described below, a Respondent may submit supplemental information that it feels may be useful in evaluating its Qualification Statement. Respondents are encouraged to be clear, factual, and concise in their presentation of information.

Section 3.2 Administrative Information Requirements.

The Respondent shall, as part of its Qualification Statement, provide the following information:

1. An executive summary (not to exceed two (2) pages) of the information contained in all the other parts of this Qualification Statement.

2. An executed Letter of Qualification (See Appendix A to this RFQ).

3. Name, address and telephone number of the firm or firms submitting the Qualification Statement pursuant to this RFQ, and the name of the key contact person.

4. A description of the business organization (i.e., corporation, partnership, joint venture, etc.) of each firm, its ownership and its organizational structure.

    a) Provide the names and business addresses of all Principals of the firm or firms submitting the Qualification Statement. For purposes of this RFQ, "Principals" mean persons possessing an ownership interest in the Respondent. If the Respondent is a corporation, "Principals' shall include each investor who would have any amount of operational control over the Respondent and every stockholder having an ownership interest of 10% or more in the firm.

    b) If a firm is a partially owned or a fully-owned subsidiary of another firm, identify the parent company and describe the nature and extent of the parents' approval rights over the activities of the firm submitting a Qualification Statement. Describe the approval process.

    c) If the Respondent is a partnership or a joint venture or similar organization, provide comparable information as required in (b) above for each member of the partnership, joint venture or similar organization.

5. An executed Letter of Intent (See Appendix B).

6. The number of years your organization has been in business under the present name.

7. The number of years the business organization has been under the current management.

8. A statement that the Respondent is in compliance with all applicable affirmative action (or similar) requirements with respect to its business activities, together with evidence of such compliance.

9. Any judgments within the last three years in which Respondent has been adjudicated liable for professional malpractice. If yes, please explain.

10. Whether the business organization is now or has been involved in any bankruptcy or re-organization proceedings in the last ten (10) years. If yes, please explain.

11. Confirm appropriate federal and state licenses to perform activities (i.e.- Business Registration Certificate, etc.)

12. Completion of the Borough's Political Contribution Disclosure Form issued pursuant to Ordinance 12-Code-669 (see attached).

Section 3.3 <u>Professional Information Requirements</u>.

13. A narrative statement of the Respondent's understanding of the Borough's needs and goals, and how it would be able to meet the requirements in the scope of service.

14. Respondent shall submit a description of its overall experience in providing the type of services sought in the RFQ. At a minimum, the following information on past experience should be included as appropriate to the RFQ:

1. Description and scope of work by Respondent.
2. Name, address and contact information of references.
3. Explanation of perceived relevance of the experience to the RFQ.

15. Describe the services that Respondent would perform directly.

16. Describe those portions of the Respondent's services, if any, that are sub-contracted out. Identify all subcontractors the Respondent anticipates using in connection with this project.

17. Does the Respondent normally employ union or non-union employees?

18. Resumes of key employees.

19. List all immediate relatives of Principal(s) of Respondent who are Borough employees or elected officials of the Borough. For purposes of the above, "immediate relative" means a spouse, parent, stepparent, brother, sister, child, stepchild, direct-line aunt or uncle, grandparent, grandchild, and in-laws by reason of relation.

Section 3.4 Compensation proposal

20. The respondent must include their proposed rate schedule, including hourly rates or other proposed methods of compensation, as applicable.

SECTION 4

INSTRUCTIONS TO RESPONDENTS

4.1 <u>Submission of Qualification Statements</u>.

Respondents must submit an original and four (4) copies of their Qualification Statement to the Designated Contact Person:

Mr. Richard Kunze
Borough Administrator
Office of the Borough Administrator
One Municipal Plaza
Oakland, NJ 07436

Qualification Statements must be received by the Borough no later than 4:00 pm (prevailing time) on November 19, 2018, and must be mailed or hand-delivered. Qualification Statements forwarded by facsimile or e-mail <u>will not</u> be accepted.

To be responsive, Qualification Statements must provide all requested information, and must be in strict conformance with the instructions set forth herein. Qualification Statements and all related information must be bound, and signed and acknowledged by the Respondent.

SECTION 5
EVALUATION

The Borough's objective in soliciting Qualification Statements is to enable it to select a firm or organization that will provide high quality and cost effective services to the citizens of Oakland. The Borough will consider Qualification Statements only from firms or organizations that, in the Borough's judgment, have demonstrated the capability and willingness to provide high quality services to the citizens of the Borough in the manner described in this RFQ.

Proposals will be evaluated by the Borough on the basis of the most advantageous, all relevant factors considered. The evaluation will consider:

1. Experience and reputation in the field;
2. Knowledge of the Borough and the subject matter addressed under the contract;
3. Availability to accommodate the required meetings of the Borough;
4. Ability to meet timeframes for completion of projects or services as set by the Borough.
5. Compensation information.
6. Other factors demonstrated to be in the best interest of the Borough.

APPENDIX A

LETTER OF QUALIFICATION

(Note: To be typed on Respondent's Letterhead. No modifications may be made to this letter)

(insert date)

Attn: Mr. Richard Kunze
Borough Administrator
Borough of Oakland
One Municipal Plaza
Oakland, NJ 07436

Dear Mr. Kunze:

The undersigned have reviewed our Qualification Statement submitted in response to the Request for Qualifications (RFQ) issued by the Borough of Oakland ("Borough"), dated October 17, 2018, in connection with the Borough's need for Professional Services-Borough Risk Manager.

We affirm that the contents of our Qualification Statement (which Qualification Statement is incorporated herein by reference) are accurate, factual and complete to the best of our knowledge and belief and that the Qualification Statement is submitted in good faith upon express understanding that any false statement may result in the disqualification of (Name of Respondent).

(Respondent shall sign and complete the spaces provided below. If a joint venture, appropriate officers of each company shall sign.)

(Signature of Chief Executive Officer)	(Signature of Chief Financial Officer)
_____	_____
(Typed Name and Title)	(Typed Name and Title)
_____	_____
(Type Name of Firm*)	(Type Name of Firm)*
_____	_____
Dated: _____	Dated: _____

*If a joint venture, partnership or other formal organization is submitting a Qualification Statement, each participant shall execute this Letter of Qualification.

APPENDIX B

LETTER OF INTENT

(Note: To be typed on Respondent's Letterhead. No modifications may be made to this letter).

(insert date)

Attn: Mr. Richard Kunze
Borough Administrator
Borough of Oakland
One Municipal Plaza
Oakland, NJ 07436

Dear Mr. Kunze:

The undersigned, as a Respondent, has (have) submitted the attached Qualification Statement in response to a Request for Qualifications (RFQ), issued by the Borough of Oakland ("Borough"), dated October 17, 2018, in connection with the Borough's need for Professional Services-Borough Risk Manager.

(Name of Respondent) HEREBY STATES:

1. The Qualification Statement contains accurate, factual and complete information.

2. (Name of Respondent) agrees (agree) to participate in good faith in the procurement process as described in the RFQ and to adhere to the Borough's procurement schedule.

3. (Name of Respondent) acknowledges (acknowledge) that all costs incurred by it (them) in connection with the preparation and submission of the Qualification Statement and any proposal prepared and submitted in response to the RFP, or any negotiation which results therefrom shall be borne exclusively by the Respondent.

4. (Name of Respondent) hereby declares (declare) that the only persons participating in this Qualification Statement as Principals are named herein and that no person other than those herein mentioned has any participation in this Qualification Statement or in any contract to be entered into with respect thereto. Additional persons may subsequently be included as participating Principals, but only if acceptable to the Borough. (Name of Respondent) declares that this Qualification Statement is made without connection with any other person, firm or parties who has submitted a Qualification Statement, except as expressly set forth below and that it has been prepared and has been submitted in good faith and without collusion or fraud.

5. (Name of Respondent) acknowledges and agrees that the Borough may modify, amend, suspend and/or terminate the procurement process (in its sole judgment). In any case, the Borough shall have any liability to the Respondent for any costs incurred by the Respondent with respect to the procurement activities described in this RFQ.

6. (Name of Respondent) acknowledges that any contract executed with respect to the provision of (insert services) must comply with all applicable affirmative action and similar laws. Respondent hereby agrees to take such actions as are required in order to comply with such applicable laws.

(Respondent shall sign and complete space provided below. If a joint venture, appropriate officers of each company shall sign.)

(Signature of Chief Executive Officer)_____

(Typed Name and Title)_____

(Type Name of Firm)*_____

Dated: _____

*If a joint venture, partnership or other formal organization is submitting a Qualification Statement, each participant shall execute this Letter of Intent.

BOROUGH OF OAKLAND

POLITICAL CONTRIBUTION DISCLOSURE FORM

Contractor Instructions

Business entities (contractors) receiving contracts from the Borough of Oakland for the provision of:

- Professional, banking, insurance or other consulting services in any dollar amount or
- Any and all other goods or services in the aggregate annual amount of $17,500 or more, except those contracts awarded through formal bidding pursuant to NJSA 40A:11-4 or in the case of emergency pursuant to NJSA 40A:11-6.

are subject to the provisions of Borough of Oakland Ordinance 12-Code-669, which is a local 'pay to play' ordinance authorized by NJSA 40A:11-51. This ordinance prohibits the awarding of contracts to subject contractors that have made disqualifying campaign contributions.

Contractors must complete the attached form by:

- Providing their firm's contact information (part 1),
- Listing individuals that own 10% or more of the business entity (part 2)
- Listing reportable campaign contributions (part 3),
- Certifying that no disqualifying campaign contributions were made (part 4)

The law provides that at least 10 days prior to the award of such a contract, the contractor shall disclose contributions to:

- Any candidate, candidate committee or joint candidate committee of any candidate for elective municipal office in the Borough of Oakland
- Any person serving in an elective municipal office in the Borough of Oakland
- Borough of Oakland political committees or political party committees

- Continuing political committees or political action committees that engage in or have engaged in the support of Oakland elections and/or Borough of Oakland candidates, candidate committees, joint candidate committees, political committees, political parties or political party committees (PACs).

The disclosure must list reportable contributions to any of the above that exceed the following:

- More than $300 per calendar year to any candidate, candidate committee or any holder of elective municipal office in Oakland or
- More than $500 per calendar year to any joint candidate committee for elective municipal office in Oakland or
- More than $300 per calendar year to any political committee or political party committee of Oakland or
- More than $500 per calendar year to political action committees “PAC” that engaged in the support of Oakland municipal candidates as defined in section A of the ordinance,
- Not to exceed $2,500 to all of the above

made in the 12 months prior to contract award.

As defined, for purposes of reporting contributions, the contractor (business entity) includes a wide range of principals, partners, officers, shareholders and family members. Section 1C of the ordinance should be carefully reviewed to make sure all eligible individuals are identified.

The list of elected officials and candidates in part four of the certification is provided to assist the contractor in identifying contributions relevant to the proposed award of the contract. It is the contractor’s responsibility to identify the specific committees to which contributions may have been made and need to be disclosed. The disclosed information may exceed the minimum requirement.

Any business entity which violates the ordinance shall be ineligible to receive contracts from the Borough for a period of five years from the date of violations. Further, any business entity that fails to comply with the disclosure provisions may be subject to a fine imposed by ELEC which may be based upon the amount that the business entity failed to report.

The enclosed form, a content-consistent facsimile, or an electronic data file containing the required details (along with a signed cover sheet) may be used as the contractor’s submission and is disclosable to the public under the Open Public Records Act.

Any questions concerning this form or Ordinance 12-Code-669 should be directed to the Borough Administrator at 201-337-8111 ext. 2005.

BOROUGH OF OAKLAND

POLITICAL CONTRIBUTION DISCLOSURE FORM

Required Pursuant To Ordinance 12-Code-669

This form or its permitted facsimile must be submitted to the local unit no later than 10 days prior to the award of the contract.

Part I – Vendor Information

Vendor Name:		
Address:		
City:	State:	Zip:
Phone:	E-Mail:	

Part II – Ownership Disclosure Certification

☐ I certify that the list below contains the names and home addresses of all stockholders holding 10% or more of the issued and outstanding stock of the undersigned.

OR

☐ I certify that no one stockholder owns 10% or more of the issued and outstanding stock of the undersigned.

Check the box that represents the type of business organization:

☐Partnership ☐ Corporation ☐Sole Proprietorship ☐Limited Partnership ☐Limited Liability Corporation ☐Limited Liability Partnership ☐Subchapter S Corporation

Name of Stock or Shareholder	Home Address

Part III – Contribution Disclosure

Disclosure requirement: Pursuant to Borough of Oakland Ordinance 12-Code-669 this disclosure must include all reportable political contributions defined as:

- More than $300 per calendar year to any candidate, candidate committee or any holder of elective municipal office in Oakland or
- More than $500 per calendar year to any joint candidate committee for elective municipal office in Oakland or
- More than $300 per calendar year to any political committee or political party committee of Oakland or
- More than $500 per calendar year to political action committees "PAC" that engaged in the support of Oakland municipal candidates as defined in section A of the ordinance,
- Not to exceed $2,500 to all of the above

made in the 12 months prior to contract award.

☐ Check here if disclosure is provided in electronic form.

Contributor Name	Recipient Name	Date	Dollar Amount

☐ Check here if the information is continued on subsequent page(s)

Continuation Page

BOROUGH OF OAKLAND

POLITICAL CONTRIBUTION DISCLOSURE FORM

Required Pursuant To Ordinance 12-Code-669

Page of

Vendor Name:

Contributor Name	Recipient Name	Date	Dollar Amount
			$

☐ Check here if the information is continued on subsequent page(s)

Part IV – Vendor Contribution Certification

The undersigned, being authorized and knowledgeable of the circumstances, does hereby certify under penalty of perjury that _____ has not made any reportable contributions pursuant to Oakland Ordinance 12-Code-669 in the one year period preceding _____ to any of the following named office holders, candidates, candidate committees, joint candidates committee, political party committees or PACs as defined in Section 1A of Ordinance 12-Code-669 and will not make any such contributions that would bar the proposed award of contract.

Linda Schwager - Mayor	Christopher Visconti-Former Councilman
Eric Kumala – Councilman	Sandra Coira-Former Councilwoman
Robert Knapp - Councilman	
Lewis Levy - Councilman	
John P. Biale - Councilman	
Russell Talamini - Councilman	
Pasquale Pignatelli - Councilman	

Part V – Signature and Attestation:

The undersigned is fully aware that if I have misrepresented in whole or in part this affirmation and certification, I and/or the business entity, will be liable for any penalty permitted under law.

Name of Business Entity:

_____

Signed: _____

Print Name: _____

Title: _____

Date: _____

Subscribed and sworn before me this ___ day of _____, 2 ____.

_____
(Affiant)

(Notary Public)

_____
(Print name & title of affiant)

My Commission expires:

(Corporate Seal)

BOROUGH OF OAKLAND
BERGEN COUNTY, NEW JERSEY
ORDINANCE 12-CODE-669

ORDINANCE ESTABLISHING REGULATIONS AND RESTRICTIONS FOR ENTITIES AND INDIVIDUALS CONTRACTING WITH THE BOROUGH OF OAKLAND

WHEREAS, Pay-to-Play reform initiated by the State Legislature in 2005; and

WHEREAS, the Borough of Oakland deems it necessary to follow suit and adopt legislation dealing with Pay-to-Play issues for professional service contracts; 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 the public, health, safety and welfare; and

WHEREAS, the Council of the Borough of Oakland takes notice of the State of New Jersey's Best Practices list which includes an adoption of a comprehensive Pay-to-Play Ordinance as a Best Practice; and

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

WHEREAS, in the interest of good government, the people and the Council of the Borough of Oakland desire to establish a policy that will avoid the perception of improper influence in public contracting and local elections; and

WHEREAS, it is the policy of the Borough of Oakland to create such an ordinance which states that an entity which makes political contributions to municipal candidates and municipal political parties, committees and PAC's in excess of certain thresholds shall be limited in its ability to receive public contracts from the Borough of Oakland; and

WHEREAS, pursuant to N.J.S.A. 40A:11-51, a municipality is authorized to adopt by ordinance, measures limiting the awarding of public contracts to entities that have made political contributions and limiting the contributions that the holders of a contract can make during the term of the contract.

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Oakland, Bergen County, and State of New Jersey, as follows:

Section I: Prohibition on Awarding Public Contracts to Certain Contributors

A. Any other provision of law to the contrary notwithstanding, the Borough of Oakland or any of its purchasing agents or agencies**,** departments, instrumentalities or its independent authorities, as the case may be, shall not enter into an agreement or otherwise contract to procure:

- Professional, banking, insurance coverage or any other consulting services in any amount.
- Any and all other services not previously mentioned, including, but not limited to the provision of goods in an amount in excess of $17,500.00.

including those awarded pursuant to a “fair and open process”
if that entity has solicited or made any contribution of money, or pledge of a contribution, including loans, assumptions of liabilities and in-kind contributions, to any:

- candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in the Borough of Oakland or any person serving in an elective municipal office in the Borough of Oakland, or
- Borough of Oakland political committee or political party committee, or
- continuing political committee or political action committee that engages in or engaged in the support of Borough of Oakland elections and/or Borough of Oakland candidates, candidate committees, joint candidate committees, political committees, political parties, or political party committees, (hereinafter collectively "PAC"),

in excess of the thresholds specified in Subsection (D) within one (1) calendar year immediately preceding the date of the contract or agreement.

B. No entity which enters into negotiations for, or agrees to or enters into, any contract or agreement with the Borough of Oakland or any department or agency thereof or of its independent authorities for the rendition of:

- Professional, banking, insurance coverage or any other consulting services in any amount.

•Any and all other services not previously mentioned, including, but not limited to the provision of goods in an amount in excess of $17,500.00.

including those awarded pursuant to a "fair and open" process
shall solicit or make any contribution of money, or pledge of a contribution, including loans, assumptions of liabilities and in-kind contributions, to any:

- a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in the Borough of Oakland or any person serving in an elective municipal office in the Borough of Oakland, or
- Borough of Oakland political committee or political party committee, or
- "PAC", which meets the requirements set forth in Subsection (A) above,

in excess of the thresholds specified in Subsection (D) between the time of first communication between that entity and the Borough of Oakland or any of its departments, instrumentalities, purchasing agents or any independent authorities 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 Ordinance "entity" means:

- an individual or person acting on behalf of an individual, including the individual's spouse, if any, and any child or children; or other person directed by the individual,
- person,
- firm;
- corporation;
- professional corporation;
- partnership**;**
- sole proprietorship;
- limited liability company;
- limited liability partnership;

- trade or labor union; trade or labor organization; trade or labor association; union; organization; association;

- any political organization organized under 26 U.S.C. § 527 that is directly or indirectly controlled by the entity, person or individual, other than a candidate committee, election fund, or political party committee;

- any other legal commercial entity organized under the laws of the State of New Jersey or of any other state or foreign jurisdiction.

The definition of an entity includes all principals who own 10% or more of the equity, profits, assets, shares, stocks, ownership or income interests in the corporation, partnership, firm, or company or business trust, partners, shareholders and officers in the aggregate employed by the entity as well as any subsidiaries directly or indirectly controlled by the entity, person or individual.

D. The monetary thresholds of this Ordinance are:

- a maximum of $300 per calendar year each for any purpose to any candidate or candidate committee for elective municipal office in the Borough of Oakland or any holder of elective municipal office in the Borough of Oakland, or $500 per calendar year to any joint candidates committee for elective municipal office in the Borough of Oakland, or $300 per calendar year to any political committee or political party committee of the Borough of Oakland; and

- $500 maximum per calendar year to any "PAC" which meets the requirements set forth in Subsection (A) above.

However, any individual or group of persons meeting the definition of entity provided in Subsection (C) above shall not annually contribute for any purpose in excess of $2,500 to all Borough of Oakland candidates, candidate committees, joint candidates committees, and holders of elective municipal office, and all Borough of Oakland political committees and political party committees and all "PAC's" which meet the requirements set forth in Subsection (A)) above, combined without violating Subsections (A) and/or (B) above.

Section II: Anti-Circumvention Provisions. It shall be a material breach of the terms of the Borough's professional service agreement or agreement for goods or services for an entity to:

- make or solicit a contribution in violation of this Ordinance;

- knowingly conceal or misrepresent a contribution given or received;

- make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;

- make or solicit 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 Borough of Oakland, or any holder of elective municipal office in the Borough of Oakland, or any Borough of Oakland political committee or political party committee, or any "PAC";

- 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 entity itself, would subject that entity to the restrictions of this Ordinance;

- fund contributions made by third parties, including consultants, attorneys, family members, and employees;

- engage in any exchange of contributions to circumvent the intent of this Ordinance; or

- 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.

Section III: Contributions Made Prior to the Effective Date. No Contribution or solicitation of contributions made prior to the effective date of this Ordinance shall be deemed to give rise to a violation of this Ordinance.

Section IV: Contribution Statement by Entity. Prior to awarding any contract or agreement to procure professional, banking, insurance coverage, or any other consulting services in any amount or any and all other services not previously mentioned, including, but not limited to the provision of goods in an amount in excess of $17,500.00 with any entity, the Borough or any of its purchasing agents or agencies, departments, instrumentalities, or independent authorities, as the case may be, shall receive a sworn contribution disclosure statement from the entity detailing all reportable political contributions made within the immediately preceding 12 months and certifying under penalty of perjury that all reportable political contributions are set forth and that he/she/it has not made a contribution in violation of Section I of this Ordinance.

The Borough of Oakland or its employees, agents, or authorities shall be responsible for informing the Mayor and Borough Council, and simultaneously posting said contribution disclosure statement on the Borough website, informing all that the entity is not in violation of this Ordinance, . The entity shall have a continuing duty to report any

violations of this Ordinance that may occur during the negotiation or duration of a contract.

Section V: Penalty. Any entity which violates any of the provisions of this Ordinance shall be disqualified from eligibility for any and all future contracts with the Borough of Oakland, its departments, instrumentalities, purchasing agents or any independent authority created thereby for a period of five (5) calendar years from the date of the violation.

Section VI: Exemptions. The contribution limitations applicable under this Ordinance shall 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.

Section VII. Severability and Effectiveness Clause.

A. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

B. Any ordinance inconsistent with the terms of this Ordinance is hereby repealed to the extent of such inconsistency.

Section VIII. Effective Date. This Ordinance shall become effective immediately upon passage and publication in accordance with law.

Linda H. Schwager

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Linda H. Schwager, Mayor

ATTEST:

Lisa M. Duncan

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Lisa M. Duncan, Borough Clerk

This is to certify that this is a true copy as adopted by the Mayor and Council of the Borough of Oakland at a meeting held on July 11, 2012.

Lisa M. Duncan

Lisa M. Duncan, Borough Clerk