# BOROUGH COUNCIL OF THE BOROUGH OF RIVERTON

# BURLINGTON COUNTY, NEW JERSEY

**ORDINANCE NO. 2023-04**

**AN ORDINANCE OF THE BOROUGH OF**

**RIVERTON, COUNTY OF BURLINGTON, STATE**

**OF NEW JERSEY, AMENDING CHAPTER 24, ARTICLE IV,**

**SECTIONS 24-9 AND 24-10 TO THE**

**CODE OF THE BOROUGH CONCERNING**

**PROFESSIONAL SERVICES CONTRACT**

**WHEREAS**, on April 3, 2023 Governor Murphy signed into law P.L.2023, c.30., Election Transparency Act (herein the “Act”), amending and supplementing the pay-to-play laws;

**WHEREAS**, the Act amends N.J.S.A. 19:44A-20.5 by removing the prohibition on business entities that hold or seek municipal contracts from making reportable contributions to municipal committees;

**WHEREAS**, pursuant to Section 25 of the Act, all existing and future municipal pay-to-play ordinances limiting the award of public contracts to business entities that have made reportable contributions and limiting contributions that holders of a public contract can make during the period of the contract are preemptive, effective January 1, 2023;

**WHEREAS**, the Borough of Riverton has existing provisions governing “Professional Services Contract” under Chapter 24, Article IV of the Borough Code; and

**WHEREAS**, the Council of the Borough of Riverton wishes to amend Chapter 24, Article IV, Sections 24-9 and 24-10 of the Borough Code to reflect the statutory changes made under the Act.

**NOW THEREFORE BE IT ORDAINED** by the Council of the Borough of Riverton, in the County of Burlington and State of New Jersey that:

# SECTION 1. Chapter 24, Article IV, Sections 24-9 and 24-10 of the Code of the Borough of Riverton are hereby amended and shall read as follows:

Chapter 24 Professional Services Contracts.

§ 24-9 Purpose and intent.

It is the purpose of this article that, notwithstanding that professional services contracts and certain other contracts for goods and services are exempt from the competitive bidding requirements of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., the Borough Council deems it appropriate, and in accordance with the provisions of the recently enacted Act, now codified at N.J.S.A. 19:44A-20.1 et seq., to henceforth award such contracts through a competitive, quality-based, fair and open process.

§ 24-10 Process for award of professional services contracts.

Pursuant to N.J.S.A. 19:44A-20.5, the Borough of Riverton, or any agency or instrumentality thereof, shall not enter into a contract, including a professional services contract, or such other contract which is exempt from public bidding requirements, having an anticipated value in excess of $17,500 as determined by the municipality, agency or instrumentality, with a business entity, except through a contract that is awarded pursuant to a fair and open process if, during the preceding one-year period, that business entity has made a contribution that is reportable by the recipient under N.J.S.A. 19:44A-1 et seq., to any candidate committee of any person serving in an elected public office of that municipality when the contract is awarded. The fair and open process shall be quality-based, and shall be as follows:

A. Professional services may be awarded by virtue of a publicly advertised request for qualifications ("RFQ") and/or request for proposals ("RFP") which will be issued as one document for those appointments which are made on an annual basis, such as, but not limited to, the positions of Borough Attorney, Borough Engineer, Borough Insurance Consultant and such similar statutory and/or ordinance public positions.

B. For said positions, no contract shall be awarded, unless and until the positions are:

(1) Publicly advertised in newspapers or on the Internet website maintained by the Borough in sufficient time to give notice in advance of the solicitation for the contracts;

(2) Awarded under a process that provides for public solicitation of proposals and qualifications including experience and quality of services.

(3) Awarded and disclosed under criteria established in writing by the Borough of Riverton prior to the solicitation of proposals or qualifications as set forth in this article; and

(4) Publicly announced when awarded; and, as to those RFQs and RFPs which prove to be unsuccessful, the Municipal Clerk shall retain a copy of same on file for a period of not less than 60 days.

C. For contracts which arise on an occasional basis, such as appraisals needed for the acquisition of land and/or open space, as well as title searches, surveying, and similar work associated with same; and comparable assignments, such planning services needed for Master Plan updates, appraisals, special counsel, special project engineer contracts, etc., professional services contracts may be awarded without following the foregoing provisions, as long as:

(1) The anticipated value does not exceed the threshold of $17,500 set forth above; and

(2) The Borough Finance Committee makes every effort to solicit at least two proposals for said work.

**SECTION 2.** If any section, paragraph, subsection, clause, or provision of this Amendment shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective;

**SECTION 3.** If any ordinances or parts thereof are in conflict with the provisions of this Ordinance those provisions shall be repealed to the extent of such conflict.

**SECTION 4.** This Ordinance shall take effect upon passage and publication in accordance within applicable law.

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| **INTRODUCTION  Roll Call Vote** | | | | | | |
| **Council Member** | **Motion** | **Second** | **Aye** | **Nay** | **Abstain** | **Absent** |
| Corbi |  |  |  |  |  |  |
| Fullerton |  |  |  |  |  |  |
| Quinn |  |  |  |  |  |  |
| Rafter |  | x |  |  |  |  |
| Scott | x |  |  |  |  |  |
| Wilburn |  |  |  |  |  |  |

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| --- | --- | --- | --- | --- | --- | --- |
| **ADOPTION  Roll Call Vote** | | | | | | |
| **Council Member** | **Motion** | **Second** | **Aye** | **Nay** | **Abstain** | **Absent** |
| Corbi |  |  |  |  |  |  |
| Fullerton |  |  |  |  |  |  |
| Quinn |  |  |  |  |  |  |
| Rafter |  |  |  |  |  |  |
| Scott |  |  |  |  |  |  |
| Wilburn |  |  |  |  |  |  |

**CERTIFICATION**

I, Michelle Hack, Municipal Clerk of the Borough of Riverton, County of Burlington, and State of New Jersey, do hereby certify the forgoing to be a true and correct copy of an Ordinance which was introduced by the Council of the Borough of Riverton at its meeting of June 20, 2023 with a second reading, public hearing, and final adoption held on July 16, 2023.

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**Michelle Hack,**

**Municipal Clerk**