

**CITY OF VENTNOR CITY
REQUEST FOR PROPOSALS & QUALIFICATIONS
FOR LABOR ATTORNEY UNDER THE FAIR AND OPEN PROCESS**

NOTICE IS HEREBY GIVEN that, in accordance with NJSA 19:44-20.5 et seq. through a competitive, fair and open process the City of Ventnor is requesting sealed proposals and qualifications for Labor Attorney/Counsel.

Proposal Documents may be obtained via the municipal website (www.ventnorcitey.org) or contacting City Hall at 609-823-7904 or emailing jcallaghan@ventnorcitey.org.

All Proposers must comply with City of Ventnor General Code Chapter 16, Awarding of Contracts to Political Campaign Contributors, a copy of which shall be provided in the qualification packet that can be obtained at the City Clerk's Office.

Respondents are required to comply with the requirement of NJSA 10:5-31 et seq. and NJAC 17:27 et seq. PL 2004, C.1 Successful contractors will also be required to comply with all terms imposed by NJ Election Law NJSA 19:44A-20.27 subject to campaign funding limits and with the City of Ventnor "Pay to Play" Ordinance 2008-01.

Proposals and Qualifications must be submitted in sealed envelopes containing **one (1) Original, and one (1) digital copy** to Janice K. Callaghan, City Clerk, no later than 12 Noon on **Tuesday, August 16, 2016.**

Said Letters and Proposals will be evaluated by the Board of Commissioners, taking into consideration the following factors:

- Qualifications, experience and reputation in the field by the firm and its personnel
- Knowledge of the City of Ventnor and subject matter to be addressed under the contract as well as Rules and Regulations promulgated by the NJ Civil Service Commission
- Availability to attend all required meetings or court proceedings (if applicable)
- Availability of personnel, facilities, equipment and other resources to provide such service
- Any other factors demonstrated to be in the best interests of the City of Ventnor.

**CITY OF VENTNOR
SOLICITATION OF PROFESSIONAL SERVICE CONTRACTS FOR LABOR ATTORNEY
UNDER THE FAIR AND OPEN PROCESS**

STANDARD SUBMISSION RULES AND INSTRUCTIONS

1. The City of Ventnor is soliciting proposals for the provision of professional services as Labor Attorney to the City for the one year contract (September 1, 2016 through August 31, 2017). Proposals will be accepted for such professional service as set forth in the Public Notice, a copy of which is attached hereto.
2. The applicant understands and agrees that its proposal is submitted on the basis of the requirements by the City. The applicant accepts the obligation to become familiar with these requirements.
3. Applicants are expected to examine the requirements with care. Ambiguities, errors or omissions noted by applicants should be promptly reported in writing to the City Administrator. In the event the applicant fails to notify the City of such ambiguities, errors or omissions, the applicant shall be bound by its proposal.
4. No oral interpretation of the meaning of the specifications will be made to any applicant. Every request for an interpretation shall be in writing, addressed to the Administrator. In order to be given consideration, written requests for interpretation must be received at least five (5) days prior to the date fixed for receipt of the proposals. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications and will be distributed to all prospected applicants in accordance with NJSA 40A: 11-23. All addenda so issued shall become part of the contract documents and shall be acknowledged by the applicant in the proposal. The City's interpretations or corrections thereof shall be final.
5. All proposals shall be addressed to Janice K. Callaghan, City Clerk at the City of Ventnor, 6201 Atlantic Ave, Ventnor, New Jersey 08406 and shall be received no later than **Tuesday, August 16, 2016** at 12noon. One original and one digital copy of the proposal shall be submitted.
6. The proposal shall be submitted in a sealed envelope bearing the name and address of the applicant written on the face of the envelope and clearly marked with the "Proposal for Labor Attorney".
7. It is the applicant's responsibility to see that proposals are presented to the City on the hour and at the place designated. Proposals may be hand delivered or mailed; however, the City disclaims any responsibility for proposals forwarded by regular or overnight mail. If the proposal is sent by overnight mail, the designation in paragraph 6 above must also appear on the outside of the delivery company envelope. **PROPOSALS RECEIVED AFTER THE DESIGNATED TIME AND DATE WILL BE RETURNED UNOPENED.**

8. All Proposals shall include, at a minimum, the name, address and all contact information of the person or firm making the proposal; a statement of qualifications, including all applicable professional licenses held; a statement of experience in rendering such professional services to public entities; references; and a proposal for compensation or a schedule of fees to be charged for such professional services.
9. All proposals will be evaluated by the Board of Commissioners of the City of Ventnor.
10. Proposals will be evaluated by the Board of Commissioners and Administration of the City of Ventnor on the basis of the proposals deemed to be most advantageous, price and other factors considered. The evaluation may consider:
 - a. Experience and reputation in the field of professional service;
 - b. Knowledge and experience with the City of Ventnor's Commission form of government;
 - c. Knowledge of the City of Ventnor and the subject matter to be addressed under the contract as well as Rules and Regulations promulgated by the New Jersey Civil Service Commission;
 - d. Availability to accommodate any required meetings;
 - e. Ability of the firm to perform the services on a timely basis, including staffing and familiarity with the subject matter;
 - f. Compensation proposal;
 - g. References;
 - h. Other factors, if determined to be in the best interest of the City of Ventnor and its agencies.
11. Any applicant successfully awarded a contract must agree to indemnify and hold the City harmless from any liability to subcontractors and suppliers concerning payment for work performed or goods supplied and must also add the City of Ventnor as a named insured to any applicable insurance policies.
12. The successful respondent will be notified of the award of contract upon favorable decision by the governing body.

**PROFESSIONAL SERVICES
GENERAL DESCRIPTION**

The following are brief description of some of the requirements necessary and may include other functions as may be directed by the City of Ventnor and their respective departments:

Labor Counsel

The City's general Labor Counsel may be an individually licensed attorney or law firm that is responsible for individual labor and employment matters, such as, employee claims against the City, defense of employees and/or officers of the City in labor-related matters, disciplinary proceedings against employees, and PERC and other employee or labor-related administrative proceedings, including assisting in the negotiation, ratification, enforcement and/or deference of collective bargaining agreements.

STATUTORY AND OTHER REQUIREMENTS

A. Mandatory Affirmative Action Certification

No firm may be issued a contract unless it complies with the affirmative action regulations of N.J.S.A. 10:5-32 et seq. (Pl. 1975, c.127).

1. Procurement, Professional and Service Contracts and all successful vendors must submit within seven days after the receipt of the notice of intent to award the contract or the receipt of the contract, one of the following;
 - a. A photocopy of a valid letter for an approved Federal Affirmative Action Plan (good for one year from the date of letter), or
 - b. A photocopy of an approved Certificate of Employee Information Report, or
 - c. If the vendor has none of the above, the public agency is required to provide the vendor with an initial Affirmative Action Employee Information Report (AA-302).

B. Stockholder Disclosure

Chapter 33 of the Public Laws of 1977 provides that no corporation or partnership shall be awarded any contract for the performance of any work or the furnishing of any materials or supplies, unless, prior to the receipt of the proposal or accompanying the proposal of said corporation or partnership, there is submitted a statement setting forth the names and addresses of all stockholders in the corporation or partnership who own ten percent or more of its stock or any class, or all individual partners in the partnership who own a ten percent or greater interest therein. Form of Statement is enclosed and shall be completed and returned with proposals.

C. Non-Collision Affidavit

The Non-Collusion Affidavit, which is enclosed with this RFP, shall be properly executed and submitted with the proposal.

D. New Jersey Business Registration Requirements Non-Construction Contracts

NJSA 52:32-44 requires that each vendor submit proof of business registration with the RFP package. Proof of registration shall be a copy of the Business Registration Certificate (BRC). A BRC is obtained from the New Jersey Division of Revenue on-line at www.nj.gov/njbgs or by phone at 609-292-1730.

E. Pay-To-Play Disclosure Certification and Form

Successful contractors must also be required to comply with all terms imposed by NJ Election Laws NJSA 19:44A-20.37 subject to campaign funding limits and with the City of Ventnor "Pay to Play" Ordinance #16-2004.

The City reserves the right to reject any or all proposals if the evidence submitted by, or investigation of such respondent fails to satisfy that such respondent is properly qualified to carry out the obligation of the RFP and to complete the work contemplated therein. The owner reserves the right to waive any minor informality in the RFP.

Notice of Award

The successful respondent will be notified of the award of contract upon a favorable decision by the Board of Commissioners.

CHECKLIST

The following items, as indicated below, shall be provided with the receipt of sealed submissions:

1. _____ Professional Service Proposal, Qualifications and Costs Submission Form
2. _____ Two copies of proposed CONTRACT
3. _____ Non-Collusion Affidavit (signed and notarized)
4. _____ Disclosure of Ownership Form (Signed)
5. _____ Professional Service Entity Information Form
6. _____ Business Registration Certificate
(copy, issued by the State of NJ Department of Treasury, Division of Revenue)
7. _____ Affirmative Action "For Goods and Professional Services"
8. _____ Pay-to-Play Statement
9. _____ Valid Certificate of Employee Information Report

I certify that I am an authorized representative of the firm or business named below and offer on behalf of the firm to provide the professional services set forth herein in accordance with this submission form and the terms of the solicitation and submission materials noted above. I further certify that the information contained in and attached to this submission is true to the best of my knowledge and belief, with the understanding that it will be relied upon as such by the public entity to which it is being submitted.

Firm: _____ Date: _____
Firm Name (Print or Type)

BY:

Signature/ Authorized Representative

Print Name and Title

Telephone # _____ Fax # _____

E-Mail _____

CITY OF VENTNOR, NEW JERSEY
PROFESSIONAL SERVICE CONTRACT
PROPOSAL/QUALIFICATION AND COSTS SUBMISSION FORM

Please provide the name and address of Submitting Firm, Individual or Entity:

Note: In responding to these questions you may attach additional sheets as necessary. Please be sure to CLEARLY reference all additional sheets or relevant attachments under the appropriate question or area. Material not clearly referenced will not be considered.

1. Is your firm willing and able to perform the scope of services set forth in the Notice of Solicitation for Professional Services and the Solicitation Package for Labor Attorney.

2. If the answer to question 1 is "No," then please explain any exceptions, clarifications or limitations to the scope of services that your firm is willing and able to provide?

3. Please provide the names and roles of the individuals who will perform the services, descriptions of their education and experience, degrees, licenses and certifications relevant to those services including specific experience with the Client/Owner to whom this submission is being sent (or with similar Client/Owners).

4. Please discuss your (the firm's) record of success in providing the same or similar services to those being requested.

5. Please provide references who can be contacted to substantiate the above noted experience or record of success for the same or similar service.

6. Please provide a list of your current municipal or public clients as well as past municipal clients.

NON-COLLUSION AFIDAVIT

STATE OF NEW JERSEY)

COUNTY OF _____)

I, _____ of the Municipality of _____
(Print Name) (Print)

In the County of _____ and the State of _____

of full age, being duly sworn according to law on my oath depose and say that:

I am _____ of the firm of _____
Print Title Print Name of Firm

the bidder making this Proposal enclosed and that I executed the said proposal with full authority to do so that said bidder has not, directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free, competitive bidding in connection with the above named project; and that all statements contained in said proposal and in this affidavit are true and correct, and made with full knowledge that the City of Ventnor relies upon the truth of the statements contained in said Proposals and in the statements contained in this affidavit in awarding the contract for the said project.

I further warrant that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by

Name of Firm NJSA 52:34-15

Print Address

Witness

Authorized Signature

Subscribed and sworn to before me
This ____ day of _____, 20____
State of _____
County of _____

Signature of Notary Public
My commission expires on _____

(SEAL)

CITY OF VENTNOR
STOCKHOLDER DISCLOSURE CERTIFICATION
This Statement shall be Included with Bid Submission

Name of Business _____

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

Sign and notarize the following form, and if necessary, complete the stockholder list.

STOCKHOLDERS:

Name: _____ Name: _____

Home Address: _____ Home Address: _____

Name: _____ Name: _____

Home Address: _____ Home Address: _____

Subscribed and sworn to before me this
_____ day of _____, 20_____

(Name of Business)

Notary Public
My commission expires on: _____

PROFESSIONAL SERVICE ENTITY INFORMATION FORM

If the Professional Service Entity is an *INDIVIDUAL*, sign name and give the following information:

Name: _____

Address: _____

Telephone No.: _____ Social Security No.: _____

Fax No.: _____ E-Mail: _____

If Individual has a TRADE NAME, give such trade name:

Trading As: _____ Telephone No.: _____

.....
If the Professional Service Entity is a *PARTNERSHIP*, give the following information:

Name of Partners: _____

Firm Name: _____

Address: _____

Telephone No.: _____ Federal I.D. No.: _____

Fax No.: _____ E-Mail: _____

Social Security No.: _____

Signature of authorized agent: _____

.....
If the Professional Service Entity is *INCORPORATED*, give the following information:

State under whose laws incorporated: _____

Location of principal office: _____

Telephone No.: _____ Federal I.D. No.: _____

Fax No.: _____ E-Mail: _____

Signature: By: _____ Title: _____

Address: _____

EXHIBIT A
MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127) N.J.A.C. 17:27

“GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS”

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to employ minority and women workers consistent with the applicable county employment goals established in accordance with N.J.A.C. 17:27-5.2, or a binding determination of the applicable county employment goals determined by the Division, pursuant to N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the applicable employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval
Certificate of Employee Information Report
Employee Information Report Form AA302

The contractor and its subcontractors shall furnish such reports or other documents to the Div. of Contract Compliance & EEO as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Div. of Contract Compliance & EEO for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27. 15**

AMERICANS WITH DISABILITIES ACT OF 1990
Equal Opportunity for Individuals with Disability

The contractor and the City of Ventnor, (Hereafter "owner") do hereby agree that the provisions of Title 11 of the Americans with Disabilities Act of 1990 (the "Act") (42 U.S.C. 5121 01 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant there unto, are made a part of this contract. In providing any aid, benefit, or services on behalf of the owner pursuant to this contract, the contractor agrees that the performance shall be in strict compliance with the Act. In the event that the contractor, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the contractor shall defend the owner in any action or administrative proceeding commenced pursuant to this Act. The contractor shall indemnify, protect, and save harmless the owner, its agents, servants, and employees from and against any all suits, claims, losses, demands, or damages, of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The contractor shall, at its own expense, appear, defend, and pay any and all charges for legal services and any and all costs and other expenses arising from action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the owner's grievance procedure, the contractor agrees to abide by any decision of the owner which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in violation of the ADA which has been brought pursuant to its grievance procedure, the contractor shall satisfy and discharge the same at its own expense.

The owner shall, as soon as practicable after a claim has been made against it, give written notice thereof to the contractor along with full and complete particulars of the claim. If any action or administrative proceeding is brought against the owner or any of its agents, servants, and employees, the *owner shall* expeditiously forward or have forwarded to the contractor every demand, complaint, notice, summons, pleading, or other process received by the owner or its representatives.

It is expressly agreed and understood that any approval by the owner of the services provided by the contractor pursuant to this contract will not relieve the contractor of the obligation to comply with the Act and to defend, indemnify protect, and save harmless the owner pursuant to this paragraph.

It is further agreed and understood that the owner assumes no obligation to indemnify or save harmless the contractor, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this Agreement. Furthermore, the contractor expressly understands and agrees that the provisions of this indemnification cause shall in no way limit the contractor's obligations assumed in this Agreement, nor shall they be construed to relieve the contractor from any liability, nor preclude the owner from taking any other provisions of the Agreement or otherwise at law.

DISCLOSURE OF CONTRIBUTIONS TO NEW JERSEY ELECTION LAW ENFORCEMENT COMMISSION (ELEC)

N.J.S.A. 19:44A-20.27 establishes a new disclosure requirement for business entities. It requires that, when a business entity has received in any calendar year \$50,000 or more in public contracts with public entities, it must file an annual report with the Election Law Enforcement Commission (ELEC). The report shall disclose any contribution of money or any other thing of value, including an in-kind contribution, or pledge to make a contribution of any kind:

- To a candidate for or the holder of any public office having ultimate responsibility for the awarding of public contracts, or,
- To a political party committee, legislative leadership committee, political committee
or continuing political committee.

The report will include all reportable contributions made by the business entity during the 12 months prior to the reporting deadline. ELEC will be promulgating a form and procedures for filing commencing in January 2007. ELEC can also impose fines for failure to comply with this requirement.

While the local unit has no role in this process, it is recommended that all bid or proposal specifications and contracts should include language notifying business entities of their potential obligation under the law. Such language could read as follows:

Starting in January 2007, all business entities are advised of their responsibility to file an annual disclosure statement of political contributions with the New Jersey Election Law Enforcement Commission (ELEC) pursuant to N.J.S.A. 19:44A-20.27 if they receive contracts in excess of \$50,000 from public entities in a calendar year. Business entities are responsible for determining if filing is necessary. Additional information on this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us.

ORDINANCE NO. 2008-01
OF THE CITY OF VENTNOR CITY

AN ORDINANCE FOR PUBLIC CONTRACTING REGARDING PAY TO PLAY
REFORM BASED UPON A MODEL PROVIDED BY CITIZENS CAMPAIGN

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

WHEREAS, pursuant to N.J.S.A. 40:48-2, a municipality is authorized to adopt such ordinances, regulations, rules and by-law as necessary and proper for good government, as well as the public health, safety and welfare; and

WHEREAS, pursuant to P.L.2005, c.271., a municipality is authorized to adopt by ordinance measures limiting the awarding of public contracts to business entities that have made political contributions and limiting the contributions that the holders of a contract can make during the term of a contract; and

WHEREAS, in the interest of good government, the Mayor and Commissioners desire to establish a policy that will avoid the perception of improper influence in local elections,

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Commissioners of the City of Ventnor City, in the County of Atlantic, and State of New Jersey, as follow:

Section 1. Prohibition on Awarding Public Contracts to Certain Contributors.

- (a) To the extent that it is not inconsistent with state or federal law, the City of Ventnor City and any of its purchasing agents or departments or instrumentalities of the municipality thereof, as the case may be, shall not enter into any agreement or otherwise contract to procure services from any professional business entity, including those awarded pursuant to any process including a fair and open process, if such professional business entity has solicited or made any contribution of money, or pledge of a contribution, including in-kind contributions as defined in NJAC 19:25-24.1 to (i) a campaign committee of any City of Ventnor City municipal candidate or holder of public office having ultimate responsibility for the award of a contract, or (ii) to any City of Ventnor City or Atlantic County party committee, or (iii) to any political action committee (PAC) that regularly engages in the support of municipal or county elections and/or municipal or county parties, in excess of the thresholds specified in subsection (d) within one calendar year immediately preceding the date of the contract or agreement. Nothing herein shall be construed to restrict volunteerism or membership of a political party or club.
- (b) No professional business entity or vendor who submits a proposal for, enters into negotiations for, or agrees to any contract or agreement (including non-emergency contracts awarded by 40A:11 *et seq* or the "Fair and Open" Process pursuant to 19:44A-20 *et seq* with the Municipality or any departments thereof, for the rendition of professional services, or goods and services, as the case may be, shall knowingly solicit or make any contribution of money, pledge of contribution, including in-kind contributions, to: (i) any City of Ventnor City candidate or holder of public office having ultimate responsibility for the award of a contract, or (ii) to any City of Ventnor City or Atlantic County party committee, or (iii) to any PAC that regularly engages in the support of municipal or county elections and/or municipal or county parties, between the time of first communication between that professional business entity or vendor and the municipality regarding a specific professional services agreement or goods and services agreement, as the case may be, and the later of the termination of negotiations or rejection of any proposal, or the completion of the contract or agreement.
- (c) For purposes of this ordinance, a "professional business entity" and a "vendor" seeking a public contract mean an individual including the individual's spouse, if any, and any child

living at home; person; firm; corporation; professional corporation; partnership; organization; or association. The definition of a business entity and vendor includes all principals who own 10% or more of the equity in the corporation or business trust, partners, and officers [in the aggregate] employed by the entity or vendor, as well as any subsidiaries directly controlled by the business entity or vendor.

- (d) Any individual meeting the definition of "professional business entity" or "vendor" under this section may annually contribute a maximum of \$300 each for any purpose to any candidate, for mayor or governing body, or \$300 to a local municipal party or \$500 to an Atlantic County party committee or to a PAC referenced in this ordinance, without violating subsection (a) of this section. However, any group of individuals meeting the definition of "professional business entity" or "vendor" under this section, including such principals, partners, and officers of the entity or vendor in the aggregate, may not annually contribute for any purpose in excess of \$2,500 to all City of Ventnor City candidates and officeholders with ultimate responsibility for the award of the contract, and all City of Ventnor City or Atlantic County political parties and PACs referenced in this ordinance combined, without violating subsection (a) of this section.
- (e) For purposes of this section , the office that is considered to have ultimate responsibility for the award of the contract shall be:
- (1)The City of Ventnor City Mayor or Governing body, if the contract requires approval or appropriation from the Mayor or Governing body.
- (2)The Mayor of the City of Ventnor City, 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.

Section 2. Contributions Made Prior to the Effective Date.

No contribution of money or any other thing of value, including in-kind contributions, made by a professional business entity or vendor to any City of Ventnor City candidate for Mayor or Governing Body, or City of Ventnor City or Atlantic County party committee or PAC referenced in this ordinance shall be deemed a violation of this ordinance, nor shall an agreement for property, goods, or services, of any kind whatsoever, be disqualified thereby, if that contribution was made by the professional business entity or vendor prior to the effective date of this ordinance.

Section 3. Contribution Statement by Professional Business Entity and Vendor.

(a)Prior to awarding any contract or agreement to procure services with any professional business entity and any contract or agreement to procure goods and services from a vendor, the City of Ventnor City or its purchasing agents and departments, as the case may be, shall receive a sworn statement from the professional business entity or vendor, made under penalty of perjury, that the bidder or offer or has not made a contribution in violation of Section 1 of this ordinance.

(b)The professional business entity and vendor shall have a continuing duty to report any violations of this ordinance that may occur during the negotiation, proposal process or duration of a contract. The certification required under this subsection shall be made prior to entry into the contract or agreement with the City of Ventnor City, or prior to the provision of services or goods, as the case may be, and shall be in addition to any other certifications that may be required by any other provision of law.

Section 4. Return of Excess Contributions.

A professional business entity, vendor, or municipal candidate or officeholder, or City of Ventnor City or Atlantic County party committee or PAC referenced in this ordinance, may cure a violation of Section 1 of this Ordinance, if, within 30 days after the date on which the applicable ELEC Report is published, the professional business entity or vendor notifies the municipality in writing and seeks and receives

reimbursement of the contribution from the relevant municipal candidate or officeholder, City of Ventnor City or Atlantic County political party or PAC referenced in this ordinance.

Section 5. Exemptions.

The contribution limitations prior to entering into a contract in Section 1(a) do not apply to contracts which are required by law to be awarded to the lowest bidder.

Section 6. Penalty.

(a) It shall be a breach of the terms of the City of Ventnor City professional service agreement or agreement for goods or services for a business entity to: (i) make or solicit a contribution in violation of this ordinance; (ii) knowingly conceal or misrepresent a contribution given or received; (iii) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iv) make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee of any candidate or holder of the public office of the City of Ventnor City; (v) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of this ordinance; (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engage in any exchange of contributions to circumvent the intent of this ordinance; or (viii) directly or indirectly, through or by any other person or means, do any act which would subject that entity to the restrictions of this ordinance.

(b) Furthermore, any professional business entity who violates (a) ii-viii shall be disqualified from eligibility for future City of Ventnor City contracts for a period of four calendar years from the date of the violation.

Section 7. Severability.

If any provision of this Ordinance, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Ordinance to the extent it can be given effect, or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby, and to this extent the provisions of this Ordinance are severable.

Section 8. Repealer.

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

Section 9. Effective Date.

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

First Reading: January 17, 2008

Publication: January 21, 2008

Final Reading &
Adoption: February 7, 2008

CERTIFICATION OF COMPLIANCE

I, _____ from the firm of _____
on this date of _____ do hereby confirm and attest that I have read and
understand the City of Ventnor's Ordinance 2008-01 contained herein and shall comply
herewith.

**REQUEST FOR PROPOSALS & QUALIFICATIONS
FOR LABOR ATTORNEY**

TO THE BOARD OF COMMISSIONERS OF THE CITY OF VENTNOR CITY:

The undersigned declares they have examined and fully understand the City's application process and other documents herein referred to, and if this proposal is accepted, to furnish and deliver services requested and to perform all work in accordance with the contract documents to be provided upon award.

FIRM: _____

ADDRESS: _____

TELEPHONE NO.: _____ **FAX NO.:** _____

EMAIL ADDRESS: _____

FEDERAL I.D. # OR SOCIAL SECURITY NO.: _____

SIGNATURE OF AGENT: _____

TYPE OR PRINT NAME OF AGENT: _____

(Name of Business)

AFFIX CORPORATE SEAL (IF CORPORATION)

Chapter 16

ETHICS

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[HISTORY: Adopted by the Board of Commissioners of the City of Ventnor City as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Ethics Board

[Adopted 9-19-1991 by Ord. No. 9114]

§ 16-1. Title.

The Board established by this article shall be known as the "Ventnor City Ethics Board," and any Code of Ethics established pursuant to this article shall be known as the "Ventnor City Ethics Code."

§ 16-2. Findings.

- A. Public office and employment are a public trust.
- B. The vitality and stability of representative democracy depends upon the public's confidence in the integrity of its elected and appointed representatives.
- C. It is desirous never to imperial the confidence that the public may have in any government officer or employee by allowing the perception of a conflict between the private interests and the public duties of said government officer or employee.

- D. Governments have a duty both to provide their citizens with standards by which they determine whether public duties are being faithfully performed and to apprise their officers and employees of the behavior which is expected of them while conducting their public duties.
- E. The State of New Jersey has adopted P.L. 1991, c. 29, known as the "Local Government Ethics Law."¹
- F. The City of Ventnor is desirous of establishing a Ventnor City Ethics Board and a Ventnor City Ethics Code which meets the new mandates of the State of New Jersey's Local Government Ethics Law.

§ 16-3. Purpose and authority.

- A. It is the purpose of this article to provide a method of assuring that standards of ethical conduct and financial disclosure requirements for officers and employees of Ventnor City shall be clear, consistent, uniform in their application and enforceable and to provide those officers or employees with advice and information concerning possible conflicts of interest which might arise in the conduct of their public duties.
- B. It is the further purpose of this article to implement the provisions of the Local Government Ethics Law, P.L. 1991, c. 29.
- C. this article is enacted under the authority of the Local Government Ethics Law, P.L. 1991, c. 29, and under the further authority granted to the City of Ventnor under the provisions of Titles 40 and 40A of the New Jersey Statutes.

§ 16-4. Definitions.

As used in this article, the following terms shall have the meanings indicated:

AGENCY — Any agency, board, governing body, including the chief executive officer, office, commission or other instrumentality within the City of Ventnor, and any independent local authority which perform functions other than of a purely advisory nature, but shall not include a school board.

BUSINESS ORGANIZATION — Any corporation, partnership, firm, enterprise, franchise, association, trust, sole proprietorship, union or other legal entity.

EMPLOYEE — Any person, whether compensated or not, whether part-time or full-time, employed by or serving on any agency, board, governing body, bureau, division, office, commission or other instrumentality within the City of Ventnor which performs functions other than of a purely advisory nature, who is not an officer, but shall not mean any employee of a school district.

GOVERNING BODY — The Commissioners, including the Mayor or other body, by whatever name it may be known, having charge of the finances of the City of Ventnor.

¹ Editor's Note: See N.J.S.A. 40A:9-22.1 et seq.

INTEREST — The ownership or control of more than 10% of the profits, assets or stock of a business organization, but shall not include the control of assets in a nonprofit entity or labor union.

MEMBER OF IMMEDIATE FAMILY — The spouse or dependent child of an officer or employee of the City of Ventnor residing in the same household as said officer or employee of said City of Ventnor.

OFFICER — Any person, whether compensated or not, whether part-time or full-time, who is one of the following:

- A. Elected to any office of any agency, board, governing body, office, commission or other instrumentality within the City of Ventnor and any independent local authority created by or appointed under the authority of the City of Ventnor which performs functions other than of a purely advisory nature.
- B. Serving on any agency, board, governing body, office, commission or other instrumentality within the City of Ventnor and any independent local authority created by or appointed under the authority of the City of Ventnor which performs functions other than of a purely advisory nature and which has the authority to enact ordinances, approve development applications or grant zoning variances.
- C. A member of a municipal authority.
- D. Any person who formulates management policies or practices and/or is charged with the responsibility of directing the effectuation of such management policies and practices.
- E. Any person whose functional responsibilities or knowledge in connection with the issues involved in the collective negotiations process would make his or her membership and any appropriate negotiating unit incompatible with his or her official duties.
- F. Any employee of a school district or member of a school board is specifically not considered an "officer" for the terms of this article.

OFFICER or EMPLOYEE — An officer or employee of the City of Ventnor.

§ 16-5. Ethical standards.

Officers and employees of the City of Ventnor shall meet the following ethical standards and comply with the following provisions:

- A. No officer or employee or member of his or her immediate family shall have an interest in a business organization or engage in any business, transaction or professional activity which is in substantial conflict with the proper discharge of his or her duties in the public interest.
- B. No officer or employee shall use or attempt to use his or her official position to secure unwarranted privileges or advantages for himself, herself or others.
- C. No officer or employee shall act in his or her official capacity in any manner where he or she, a member of his or her immediate family or a business organization in which he or

she has an interest has a direct or indirect financial or personal involvement that might reasonably be expected to impair his or her objectivity or independence of judgment.

- D. No officer or employee shall undertake any employment or service, whether compensated or not, which might reasonably be expected to prejudice his or her independence of judgment in the exercise of his or her official duties.
- E. No officer or employee, member of his or her immediate family or business organization in which he or she has an interest shall solicit or accept any gift, favor, loan, political contribution, service, promise of future employment or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise or other thing of value was given or offered for the purposes of influencing him or her, directly or indirectly, in the discharge of his or her official duties. This provision shall not apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective public office, if the officer has no knowledge or reason to believe that the campaign contribution, if accepted, was given with the intent to influence the officer in the discharge of his or her official duties.
- F. No officer or employee shall use or allow to be used his or her public office or employment or any information not generally available to the members of the public which he or she receives or acquires in the course of and by reason of his or her office or employment for the purpose of securing financial gain for himself or herself, any member of his or her immediate family or any business organization with which he or she is associated.
- G. No officer or employee or any business organization in which he or she has an interest shall represent any person or party other than the City of Ventnor in connection with any cause, proceeding, application or other matter pending before any agency in the City of Ventnor. This provision shall not be deemed to prohibit an employee from representing another employee where the agency is the City of Ventnor and the representation is within the context of official labor union or similar representational responsibilities.
- H. No officer shall be deemed in conflict with these provisions if, by reason of his or her participation in the enactment of any ordinance, resolution or other matter required to be voted upon or which is subject to executive approval or veto, no material or monetary gain accrues to him or her as a member of any business, profession, occupation or group, to any greater extent than any gain could reasonably be expected to accrue to any other member of such business, profession, occupation or group.
- I. No elected officer shall be prohibited from making an inquiry for information on behalf of a constituent, if no fee, reward or other thing of value is promised to, given to or accepted by the officer or a member of his or her immediate family, whether directly or indirectly, in return therefor.
- J. Nothing shall prohibit any officer or employee or members of his or her immediate family from representing himself, herself or themselves in negotiations or proceedings concerning his, her or their own interests.
- K. Nothing in this section shall be deemed to prohibit the public defender in the City of Ventnor from representing any person appearing in the Ventnor Municipal Court,

regardless of whether said individual falls within the parameters of the Ventnor City Ethics Code.

L. Independent local authorities.

- (1) No independent local authority shall, if the same does indeed exist within a municipality, for a period of one year next subsequent to the termination of office of a member of said authority:
 - (a) Award any contract which is not publicly bid to a former member of that authority;
 - (b) Allow a former member of that authority to represent, appear for or negotiate on behalf of any other party before that authority; or
 - (c) Employ for compensation, except pursuant to open competitive examination in accordance with Title 11A of the New Jersey statutes and the rules and regulations promulgated pursuant thereto, any former member of that authority.
- (2) The restrictions contained in this subsection shall also apply to any business organization in which the former authority member holds an interest.

§ 16-6. Financial disclosure statements.

Officers of the City of Ventnor shall annually file a financial disclosure statement. All financial disclosure statements shall include the following information, which shall specify, where applicable, the name and address of each source and the officer's job title:

- A. Each source of income, earned or unearned, exceeding \$2,000 received by the officer or a member of his or her immediate family during the preceding calendar year. Individual client fees, customer receipts or commission on transactions received through a business organization need not be separately reported as sources of income. If a publicly traded security is the source of income, the security need not be reported unless the officer or member of his or her immediate family has an interest in the business organization.
- B. Each source of fees and honorariums having an aggregate amount exceeding \$250 from any single source for personal appearances, speeches or writings received by the officer or a member of his or her immediate family during the preceding calendar year.
- C. Each source of gifts, reimbursements or prepaid expenses having an aggregate value exceeding \$400 from any single source, excluding relatives, received by the officer or member of his or her immediate family during the preceding calendar year.
- D. The name and address of all business organizations in which the officer or a member of his or her immediate family had an interest during the preceding calendar year.
- E. The address and brief description of all real property in the state in which the officer or a member of his or her immediate family held an interest during the preceding calendar year.

§ 16-7. Filing of financial disclosure forms.

- A. The Ventnor City Ethics Board shall prescribe a financial disclosure statement form for filing purposes. If a financial disclosure statement form has been promulgated by the New Jersey Local Finance Board, in accordance with the New Jersey Local Government Ethics Law,² then the Ventnor City Ethics Board shall use that form. If no such financial disclosure statement form has been promulgated by the New Jersey Local Finance Board, then the Ventnor City Ethics Board shall prepare the forms to be used for compliance pursuant to the Ventnor City Ethics Code. The Ventnor City Ethics Board shall make the forms available to the local officers within their jurisdiction.
- B. The original financial disclosure statement shall be filed with the Municipal Clerk of Ventnor City. A copy of the statement shall be filed with the Ventnor City Ethics Board and the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs with the State of New Jersey.
- C. The original financial disclosure statement to be filed in 1991 shall be filed on or before August 19, 1991. All financial disclosure statements to be filed in subsequent years shall be filed on or before April 30 of each respective year.
- D. All financial disclosure statements filed shall be public records.

§ 16-8. Ethics Board established.

- A. There is hereby established the Ventnor City Ethics Board which shall consist of six members who are residents of Ventnor City, at least two of whom shall be members of the public. The members of the Ventnor City Ethics Board shall be appointed by the Commissioners of Ventnor City. The members shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. No more than three members of the Ventnor City Ethics Board shall be of the same political party.
- B. The members of the Ventnor City Ethics Board shall annually elect a Chairman from among their membership.
- C. The members of the Ventnor City Ethics Board shall serve for a term of five years, except that of the members initially appointed, two of the public members shall be appointed to serve for a term of five years, one member shall be appointed to serve for a term of four years and the remaining members shall be appointed to serve for a term of three years. Each member shall serve until his or her successor has been appointed and qualified. Any vacancy occurring in the membership of the Ventnor City Ethics Board shall be filled in the same manner as the original appointment for the unexpired term.
- D. Members of the Ventnor City Ethics Board shall serve without compensation but shall be reimbursed by the City of Ventnor for necessary expenses incurred in the performance of their duties.

2. Editor's Note: See N.J.S.A. 40A:9-22.1 et seq.

§ 16-9. Facilities and staff.

- A. The City of Ventnor shall provide the Ventnor City Ethics Board with offices for the conduct of said Ethics Board's business and the preservation of said Board's records and shall supply equipment and supplies as may be necessary.
- B. All necessary expenses incurred by the Ventnor City Ethics Board and its members shall be paid, upon certification of the Chairman of said Ethics Board, by the City of Ventnor within the limits of funds appropriated by the City of Ventnor in the City of Ventnor's annual budget or by emergency appropriations for those purposes.
- C. The Ventnor City Ethics Board may appoint such employees, including independent counsel, and clerical staff as are necessary to implement the Ventnor City Ethics Code within the limits of the funds appropriated by the City of Ventnor for those purposes.
- D. Nothing herein shall prevent the Ventnor City Ethics Board from receiving clerical assistance from the clerical staff of the City of Ventnor.

§ 16-10. Adoption of Code of Ethics.

- A. Within 90 days after the establishment of the Ventnor City Ethics Board, said Ethics Board shall promulgate by resolution a Code of Ethics to be adhered to by the appropriate officers and employees of the City of Ventnor. Officers and employees serving an independent authority in the City of Ventnor, if any, shall be deemed to be serving the City of Ventnor for the purposes of this article.
- B. The Code of Ethics promulgated by the Ventnor City Ethics Board shall be either identical to or more restrictive than those provisions set forth in the appropriate section of the Local Government Ethics Law.³
- C. Within 15 days following the promulgation of the Ventnor City Ethics Code, said Ventnor City Ethics Code and a notice of the date of the public hearing to be held thereon shall be published in the Press and Sunday Press and shall be distributed to the City Clerk for circulation among the affected officers and employees within the City of Ventnor.
- D. The Ventnor City Ethics Board shall hold a public hearing on the Ventnor City Ethics Code not less than 30 days following its promulgation at which any person wishing to be heard shall be permitted to testify. As a result of said hearing, the Ventnor City Ethics Board may amend or supplement the Ventnor City Ethics Code as it deems necessary.
- E. If the Ventnor City Ethics Code is not identical to the provisions set forth in the appropriate sections of the Local Government Ethics Law, the Ventnor City Ethics Board shall thereafter submit said Ventnor City Ethics Code to the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey for approval.

3. Editor's Note: See N.J.S.A. 40A:9-22.1 et seq.

- F. If the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs fails to act within 60 days of the submission of the Ventnor City Ethics Code by the Ventnor City Ethics Board, said Ventnor City Ethics Code shall be deemed approved. If the Ventnor City Ethics Board elects to submit the Ventnor City Ethics Code to the Local Finance Board in the Division of Local Government Services in the Department of Community Affairs, said Ventnor City Ethics Code shall take effect 60 days after the approval by said Local Finance Board.
- G. If the Ventnor City Ethics Code is identical to the provisions set forth in the pertinent section of the Local Government Ethics Law, said Ethics Code shall take effect 10 days after the public hearing thereon.
- H. The Ventnor City Ethics Board shall forward a copy of the Ventnor City Ethics Code to the City Clerk and shall make copies of the Ventnor City Ethics Code available to all individuals who fall within the parameters of said code.

§ 16-11. Powers of Ethics Board.

- A. The Ventnor City Ethics Board shall have the following powers:
 - (1) To initiate, receive, hear and review complaints and hold hearings with regard to possible violations of the Ventnor City Ethics Code or financial disclosure requirements contained therein by any individual falling within the parameters of the Ventnor City Ethics Code.
 - (2) To issue subpoenas for the production of documents and the attendance of witnesses with respect to its investigation of any complaint or to the holding of a hearing.
 - (3) To forward to the County Prosecutor or the Attorney General or other governmental body any information concerning violations of the Ventnor City Ethics Code or the financial disclosure requirements contained therein by appropriate individuals who fall within the parameters of the Ethics Code which may become the subject of criminal prosecution or which may warrant the institution of other legal proceedings by the Attorney General.
 - (4) To render advisory opinions to individuals who fall within the parameters of the Ventnor City Ethics Code as to whether a given set of facts and circumstances would constitute a violation of any provisions of the Ventnor City Ethics Code or the financial disclosure requirements contained therein.
 - (5) To enforce the provisions of the Ventnor City Ethics Code and financial disclosure requirements contained therein with regard to individuals falling within the parameters of said Ethics Code and to impose penalties for the violation thereof as are authorized by this article.
 - (6) To adopt rules and regulations and to do other things as are necessary to implement the purposes of this article.

- B. An individual who falls within the parameters of the Ventnor City Ethics Code may request and obtain from the Ventnor City Ethics Board an advisory opinion as to whether any proposed activity or conduct would in the Board's opinion constitute a violation of the Ventnor City Ethics Code or the financial disclosure requirements contained therein.
- C. Advisory opinions of the Ventnor City Ethics Board shall not be made public, except when the Ethics Board by the vote of 2/3 of all of its members directs that any said opinion be made public.
- D. Public advisory opinions shall not disclose the name of the individual requesting the same unless the Ventnor City Ethics Board, in directing that that opinion be made public, so determines.
- E. Hearing rights.
 - (1) In the event that a hearing is to be held pursuant to the Ventnor City Ethics Code, any person charged with a violation of said Ethics Code or the financial disclosure requirements contained therein shall be given the following:
 - (a) The right to select and be represented by legal counsel of said individual's choosing and at said individual's expense.
 - (b) Reasonable notice of any such hearing.
 - (c) The right of examination and cross-examination of witnesses.
 - (2) The Chairman of the Ventnor City Ethics Board shall advise said individual of the information in Subsection E(1)(a) and (c) above prior to commencement of any such hearing.
- F. Hearings. All hearings required pursuant to this article shall be conducted in conformity with the rules and procedures, insofar as they may be applicable, provided for hearings by a state agency in contested cases under the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

§ 16-12. Complaints.

- A. The Ventnor City Ethics Board, upon receipt of a signed written complaint by any person alleging that the conduct of any officer or employee serving the City of Ventnor is in conflict with the Ventnor City Ethics Code or the financial disclosure requirements contained therein, shall acknowledge receipt of said complaint within 30 days of the receipt thereof and initiate an investigation concerning the facts and circumstances set forth in said complaint.
- B. The Ventnor City Ethics Board shall make a determination as to whether the complaint is within its jurisdiction, frivolous or without any reasonable factual basis.
- C. If the Ventnor City Ethics Board shall conclude that the complaint is outside its jurisdiction, frivolous or without factual basis, it shall reduce that conclusion to writing and shall transmit a copy thereof to the complainant and to the individual against whom the complaint was filed.

- D. If the Ventnor City Ethics Board shall conclude that the complaint is within its jurisdiction and is not frivolous and has a factual basis, the Ventnor City Ethics Board shall notify the individual against whom the complaint was filed of the nature of the complaint and the facts and circumstances set forth therein.
- E. Said individual shall have the opportunity to present the Ventnor City Ethics Board with any statement or information concerning the complaint which he or she wishes.
- F. Thereafter, if the Ventnor City Ethics Board determines that a reasonable doubt exists as to whether the individual is in conflict with the Ventnor City Ethics Code or the financial disclosure requirements contained therein, the Ventnor City Ethics Board shall conduct a hearing in the manner prescribed by this article concerning the possible violation and any other facts and circumstances which may have come to the Ventnor City Ethics Board's attention with respect to the conduct of said individual.
- G. The Ventnor City Ethics Board shall render a decision as to whether the conduct of said individual is in conflict with the Ventnor City Ethics Code or any financial disclosure requirements contained therein. This decision shall be made by no less than 2/3 of all members of the Ventnor City Ethics Board.
- H. If the Ventnor City Ethics Board determines that the individual is in conflict with the Ventnor City Ethics Code or any financial disclosure requirements contained therein, the Board may impose any penalties which it believes appropriate within the limitations of this article.
- I. A final decision of the Ventnor City Ethics Board may be appealed to the local finance board within 30 days of the rendering of said decision.
- J. All statements, complaints, requests or other written materials filed pursuant to this article and any rulings, opinions, judgments, transcripts or other official papers prepared pursuant to this article shall be preserved for a period of at least five years from the date of filing and preparation of the same.

§ 16-13. Enforcement; violations and penalties.

- A. An appointed officer or employee found guilty by the Ventnor City Ethics Board of a violation of any provisions of the Ventnor City Ethics Code shall be fined not less than \$100 nor more than \$500, which penalty may be collected in a summary proceeding pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq.⁴ The Ventnor City Ethics Board shall report its findings to the office or agency having the power of removal or discipline of the appointed officer or employee and may recommend that further disciplinary action be taken.
- B. An elected officer or employee of the City of Ventnor found guilty by the Ventnor City Ethics Board of the violation of any provisions of the Ventnor City Ethics Code shall be fined not less than \$100 nor more than \$500, which penalty may be collected in a

4. Editor's Note: N.J.S.A. 2A:58-1 to 2A:58-9 was repealed by P.L. 1999, c. 274. See now N.J.S.A. 2A:58-10 et seq.

summary proceeding pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq.⁵

- C. The finding of the Ventnor City Ethics Board that an appointed officer or employee is guilty of the violation of the provisions of the Ventnor City Ethics Code shall be sufficient cause for his or her removal, suspension, demotion or other disciplinary action by the officer or agency having the power of removal or discipline. When a person who is in the career service is charged with violating the provisions of the Ventnor City Ethics Code, the procedure leading to removal, suspension, demotion or other disciplinary action shall be governed by any applicable procedures of Title 11A of the New Jersey Statutes and the rules promulgated pursuant thereto.

ARTICLE II

Awarding of Contracts to Political Campaign Contributors [Adopted 2-7-2008 by L.L. No. 2008-01]

§ 16-14. Awarding public contracts to certain contributors prohibited.

- A. To the extent that it is not inconsistent with state or federal law, the City of Ventnor City and any of its purchasing agents or departments or instrumentalities of the municipality thereof, as the case may be, shall not enter into any agreement or otherwise contract to procure services from any professional business entity, including those awarded pursuant to any process including a fair and open process, if such professional business entity has solicited or made any contribution of money, or pledge of a contribution, including in-kind contributions as defined in N.J.A.C. 19:25-24.1 to a campaign committee of any City of Ventnor City municipal candidate or holder of public office having ultimate responsibility for the award of a contract; or to any City of Ventnor City or Atlantic County party committee; or to any political action committee (PAC) that regularly engages in the support of municipal or county elections and/or municipal or county parties, in excess of the thresholds specified in Subsection D, within one calendar year immediately preceding the date of the contract or agreement. Nothing herein shall be construed to restrict volunteerism or membership of a political party or club.
- B. No professional business entity or vendor who submits a proposal for, enters into negotiations for, or agrees to any contract or agreement (including nonemergency contracts awarded by N.J.S.A. 40A:11-1 et seq. or the "fair and open process" pursuant to N.J.S.A. 19:44A-20 et seq. with the municipality or any departments thereof, for the rendition of professional services, or goods and services, as the case may be, shall knowingly solicit or make any contribution of money, pledge of contribution, including in-kind contributions, to any City of Ventnor City candidate or holder of public office having ultimate responsibility for the award of a contract; or to any City of Ventnor City or Atlantic County party committee; or to any PAC that regularly engages in the support of municipal or county elections and/or municipal or county parties, between the time of first communication between that professional business entity or vendor and the municipality regarding a specific professional services agreement or goods and services

5. Editor's Note: N.J.S.A. 2A:58-1 to 2A:58-9 was repealed by P.L. 1999, c. 274. See now N.J.S.A. 2A:58-10 et seq.

agreement, as the case may be, and the later of the termination of negotiations or rejection of any proposal, or the completion of the contract or agreement.

- C. For purposes of this article, a "professional business entity" and a "vendor" seeking a public contract mean an individual, including the individual's spouse, if any, and any child living at home; person; firm; corporation; professional corporation; partnership; organization; or association. The definition of "business entity" and "vendor" includes all principals who own 10% or more of the equity in the corporation or business trust, partners, and officers (in the aggregate) employed by the entity or vendor, as well as any subsidiaries directly controlled by the business entity or vendor.
- D. Any individual meeting the definition of "professional business entity" or "vendor" under this section may annually contribute a maximum of \$300 each for any purpose to any candidate for Mayor or governing body, or \$300 to a local municipal party or \$500 to an Atlantic County party committee or to a PAC referenced in this article, without violating Subsection A of this section. However, any group of individuals meeting the definition of "professional business entity" or "vendor" under this section, including such principals, partners, and officers of the entity or vendor in the aggregate, may not annually contribute for any purpose in excess of \$2,500 to all City of Ventnor City candidates and officeholders with ultimate responsibility for the award of the contract, and all City of Ventnor City or Atlantic County political parties and PACs referenced in this article combined, without violating Subsection A of this section.
- E. For purposes of this article, the office that is considered to have ultimate responsibility for the award of the contract shall be:
 - (1) The City of Ventnor City Mayor or governing body, if the contract requires approval or appropriation from the Mayor or governing body.
 - (2) The Mayor of the City of Ventnor City, 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.

§ 16-15. Contributions made prior to effective date.

No contribution of money or any other thing of value, including in-kind contributions, made by a professional business entity or vendor to any City of Ventnor City candidate for Mayor or governing body, or City of Ventnor City or Atlantic County party committee or PAC referenced in this article shall be deemed a violation of this article, nor shall an agreement for property, goods, or services, of any kind whatsoever, be disqualified thereby, if that contribution was made by the professional business entity or vendor prior to the effective date of this article.

§ 16-16. Contribution statement by professional business entity and vendor.

- A. Prior to awarding any contract or agreement to procure services with any professional business entity and any contract or agreement to procure goods and services from a vendor, the City of Ventnor City or its purchasing agents and departments, as the case

may be, shall receive a sworn statement from the professional business entity or vendor, made under penalty of perjury, that the bidder or offeror has not made a contribution in violation of § 16-14 of this article.

- B. The professional business entity and vendor shall have a continuing duty to report any violations of this article that may occur during the negotiation, proposal process or duration of a contract. The certification required under this subsection shall be made prior to entry into the contract or agreement with the City of Ventnor City, or prior to the provision of services or goods, as the case may be, and shall be in addition to any other certifications that may be required by any other provision of law.

§ 16-17. Return of excess contributions.

A professional business entity, vendor, or municipal candidate or officeholder, or a City of Ventnor City or Atlantic County party committee or PAC referenced in this article, may cure a violation of § 16-14 of this article if, within 30 days after the date on which the applicable ELEC⁶ report is published, the professional business entity or vendor notifies the municipality in writing and seeks and receives reimbursement of the contribution from the relevant municipal candidate or officeholder, City of Ventnor City or Atlantic County political party or PAC referenced in this article.

§ 16-18. Exemptions.

The contribution limitations prior to entering into a contract in § 16-14A do not apply to contracts which are required by law to be awarded to the lowest bidder.

§ 16-19. Violations and penalties.

- A. It shall be a breach of the terms of the City of Ventnor City professional service agreement or agreement for goods or services for a business entity to:
- (1) Make or solicit a contribution in violation of this article;
 - (2) Knowingly conceal or misrepresent a contribution given or received;
 - (3) Make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
 - (4) Make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee of any candidate or holder of the public office of the City of Ventnor City;
 - (5) Engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution which, if made or solicited by the business entity itself, would subject that entity to the restrictions of this article;

6. Editor's Note: See Regulations of the New Jersey Election Law Enforcement Commission, N.J.A.C. 19:25-1.1 et seq.

- (6) Fund contributions made by third parties, including consultants, attorneys, family members, and employees;
 - (7) Engage in any exchange of contributions to circumvent the intent of this article; or
 - (8) Directly or indirectly, through or by any other person or means, do any act which would subject that entity to the restrictions of this article.
- B. Furthermore, any professional business entity who violates Subsection A(2) through (8) shall be disqualified from eligibility for future City of Ventnor City contracts for a period of four calendar years from the date of the violation.