

**CITY OF HOBOKEN**  
Office of Corporation Counsel

**DAWN ZIMMER**  
Mayor



**BRIAN J. ALOIA**  
Corporation Counsel

February 28, 2017

**Via Regular & Certified Mail**

The Honorable Kimberly M. Guadagno  
Lieutenant Governor of the State of New Jersey/Secretary of State  
P.O. Box 001  
Trenton, New Jersey 08625

**Re: Filing of Hoboken Municipal Ordinances Z-89 and Z-116**

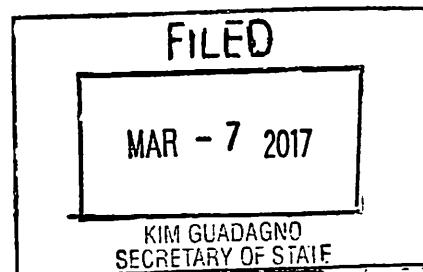
Dear Madam Secretary:/

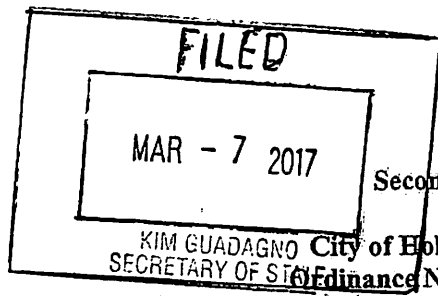
I hereby file with your office a Certified Copy of Hoboken's "Pay-to-Play" Ordinances, codified in the Hoboken Municipal Code at Chapter 20A and 20C. I am enclosing two copies thereof and I would ask that upon filing, you date stamp a copy of the filed Ordinance and return it to the Office of Corporation Counsel in the City of Hoboken in the envelope enclosed.

Thank you for your attention to the above matter.

Very truly yours,

Alyssa L. Bongiovanni, Esq.  
Assistant Corporation Counsel  
[ABongiovanni@hobokennj.gov](mailto:ABongiovanni@hobokennj.gov)  
201-420-2058





1st reading

*[Handwritten signature]* 6-11

Sponsored by: Beth Mason

Seconded by: Theresa Castellano

*[Handwritten signature: Theresa Castellano]*

(4)

**AN ORDINANCE AMENDING CHAPTER 20A OF THE ADMINISTRATIVE CODE OF THE CITY OF HOBOKEN ENTITLED "PROFESSIONAL SERVICE CONTRACTS"; CHAPTER 20C OF THE ADMINISTRATIVE CODE OF THE CITY OF HOBOKEN ENTITLED "REDEVELOPMENT PAY-TO-PLAY REFORM"; AND, CHAPTER 20B OF THE ADMINISTRATIVE CODE OF THE CITY OF HOBOKEN ENTITLED "CONTRIBUTION DISCLOSURE STATEMENTS"**

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

WHEREAS, the City of Hoboken followed suit and created location legislation dealing with Pay-to-Play issues for professional service contracts and redevelopment contracts with the City government, pursuant to N.J.S.A. 40:48-2; and,

WHEREAS, the Council of the City of Hoboken amended Chapter 20A and adopted Chapter 20C in 2007; and,

WHEREAS, it has now been shown that amendments to and clarification of the current language of Chapters 20A and 20C is necessary to help maintain compliance, put contributors on proper notice of the regulations regarding their contributions, and enable proper enforcement of the Chapters; and,

NOW, THEREFORE, BE IT ORDAINED by the Hoboken City Council, County of Hudson, State of New Jersey as follows:

**SECTION ONE: AMENDMENT TO CHAPTER 20A**

Chapter 20A of the Hoboken City Code is hereby amended as follows (additions noted in underline and deletions noted in ~~strike through~~):

**ARTICLE III Public Contracting Reform Ordinance**

**§ 20A-11. Preamble.**

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.

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

Pursuant to P.L. 2005, c.271 (codified at N.J.S.A. 40A:11-51) 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 recipient of such a contract can make during the term of a contract.

In the interest of good government, the people and the government of the City of Hoboken desire to establish a policy that will avoid the perception of improper influence in public contracting and local elections.

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

**§ 20A-12. 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 Hoboken and any of its departments, instrumentalities or ~~purchasing agents~~ any independent authority created thereby, shall not enter into any agreement or otherwise contract to procure "professional services" as such term is defined at N.J.S.A. 40A:11-2(6) and used at N.J.S.A. 40A:11-5(1)(a)(i) and/or banking, insurance brokerage or other consulting service (hereinafter "professional services"), nor "extraordinary ~~unspecified~~ unspecifiable services" as such term is defined at N.J.S.A. 40A:11-2(7) and used at N.J.S.A. 40A:11-59(1)(a)(ii) and/or media, public relations, lobbying, parking garage management or other consulting and/or management service (hereinafter "extraordinary ~~unspecified~~ unspecifiable services") from any business entity, including non-emergency contracts awarded by N.J.S.A. 40A:11 et seq. or the "Fair and Open" Process pursuant to N.J.S.A. 19:44A-20 et seq., if such business entity has solicited for or made any "contribution" (as such term is defined at N.J.A.C. 19:25-1.7, reportable by the recipient under "The New Jersey Campaign Contributions and Expenditures Reporting Act," P.L.1973, c.83 (N.J.S.A. 19:44A-1 et seq.), which definition includes loans and transfers of money or other thing(s) of value, all pledges or other commitments or assumptions of liability to make any such transfers, pledges and in-kind contributions) (hereinafter "contribution"), to (i) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Hoboken or any person serving in an elective municipal office in the Hoboken a holder of public office having ultimate responsibility for the award of a contract, or (ii) to any Hoboken or Hudson County political committee or political party committee, or (iii) to any continuing political committee or political action committee that regularly engageds in the support of Hoboken municipal or Hudson County elections and/or Hoboken municipal or Hudson County candidates, candidate committees, joint candidate committees, political committees, political parties, political party committees, (hereinafter "PAC"), in excess of the thresholds specified in Subsection D within one (1) calendar year immediately preceding the date of the contract or agreement. "Contributions" will be considered to have occurred on the date of deposit, execution, or transfer of rights.
- B. No business entity or vendor who submits a proposal for, enters into negotiations for, or agrees enters into any contract or agreement (including non-emergency 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 City of Hoboken or any of its departments, ~~or~~ instrumentalities, or independent authorities created thereby, for the rendition of "professional services" or "extraordinary ~~unspecified~~ unspecifiable services" shall knowingly solicit or make any contribution, to (i) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Hoboken, or ~~a holder of public office~~ any person

~~... serving in an elective municipal office in Hoboken having ultimate responsibility for the award of a contract, or (ii) to any Hoboken or Hudson County political committee or political party committee, or (iii) any "PAC" which meets the requirements set forth in Section 20A-12A(iii), between the time of first communication between that business entity or vendor and the municipality regarding a specific agreement for "professional services" or "extraordinary unspecified unspecifiable services," and the later latest of the following: (1) termination of negotiations; (2) or rejection of any proposal; or, (3) the completion of the performance or specified time period of that termination of the contract or agreement.~~

- C. For purposes of this Article, ~~a business entity~~ entities whose contributions are regulated by this Article means: (i) an individual including the individual's spouse, and any child/ or children; or (ii) any sole proprietorship, firm, corporation, professional corporation, partnership and any partner thereof, limited liability company, limited liability partnership and any partner thereof, organization, association, and or any other manner and kind of business entity legal commercial entity organized under the laws of the State of New Jersey or of any other state or foreign jurisdiction; (iii) any principal, stakeholder, partner, or other person who owns or controls ten percent (10%) or more of the equity, profits, assets, stock, or ownership, or income interests in a person or entity as defined in sections (i) and (ii) above, and any determination of percentage ownership or control will combine the individual interests as well as those of the individual's their spouses and child/ or children; (iv) all partners or officers of such an entity, in the aggregate, and their spouses and child/~~or~~ children; and (v) ~~all persons who are an "affiliate" of a person as defined in sections (i) and (ii) above, as such term is used in 11 U.S.C. § 101(2) any subsidiaries directly or indirectly owned or controlled by the business entity, person, or individual; or, (iv) any political organization organized under Section 527 of the Internal Revenue Code (26 U.S.C. §527) that is directly or indirectly controlled by the business entity, person or individual, other than a candidate committee, election fund, or political party committee.~~
- D. The monetary thresholds of this Article are: (i) a maximum of three hundred dollars (\$300.) each for any purpose to any candidate or candidate committee for elective municipal office in Hoboken or any holder of elective municipal office in Hoboken, Mayor and Governing Body, or five hundred dollars (\$500.) to any joint candidates committee for elective municipal office in Hoboken or any holder of elective municipal office in Hoboken, Mayor or Governing Body, or three hundred dollars (\$300.) to a any political committee or political party committee of the City of Hoboken; (ii) five hundred dollars (\$500.) to any Hudson County political committee or political party committee; (iii) five hundred dollars (\$500.) to any "PAC" which meets the requirements set forth in Section 20A-12A(iii). However, any individual or group of persons meeting the definition of entity provided in Subsection C. above of business entity may shall not annually contribute for any purpose in excess of two thousand five hundred dollars (\$2,500.) to all City of Hoboken candidates, candidate committees, joint candidate committees, and holders of public elective municipal office having ultimate responsibility for the award of a contract, and all City of Hoboken or Hudson County political committees and political party committees, and all "PAC's," 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 (i) the City of Hoboken Mayor or Governing Body, if the contract requires approval or appropriation from the Mayor or Governing Body, or (ii) the Mayor or the City of Hoboken, 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.~~

**§ 20A-13. Contributions and Contracts made prior to the effective date.**

~~No contribution~~ Contributions or solicitations of contributions made prior to the effective date of the most recent amendment to this Article shall be governed by the language of the Article effective at the time of contribution. Contributions or solicitations of contributions made on or after the effective date of the most recent amendment to this Article shall be governed by the current Article. Any contract in effect at the time of any amendment to this article shall be governed by the current Article.

**§ 20A-14. Contribution statement by professional business entity.**

A. Every contract, Request for Proposals, Request for Qualifications and bid specification covered by this Article shall contain:

1. A provision describing the requirements of this Article or reference to this Article and directions for obtaining the requirements of this Article;
2. A statement that compliance with this Article shall be a material term and condition of any contract awarded;
3. A statement indicating that the requirements of this Article shall create a continuing obligation on the contractor;
4. A description of the penalties for which the contractor will be liable in the event of a failure to comply with the provisions of this Article; said description shall state that unless remedied in accordance with Section 20A:15 of this Article, a violation of this Article shall be considered a material breach of the contract which shall result in enforcement of the penalties described in Section 20A:17 of this Article.

~~AB.~~ Prior to awarding any contract or agreement to procure "professional services" or "extraordinary unspecified unspecifiable services" from any business entity, the City of Hoboken or its purchasing agents and departments, instrumentalities, or authorities as the case may be, shall receive a sworn statement written certification from the intended recipient of said contract, made under penalty of perjury, that he/she/it has not made any contributions in violation of Section 20A:12 of this Article. The City of Hoboken, its purchasing agents and departments, instrumentalities, or authorities shall be responsible for informing the City Council that the aforementioned sworn statement written certification has been received and that the business entity is not in violation of this Article, prior to awarding the contract or agreement.

~~BC.~~ The recipient of said contract or agreement shall have a continuing duty to report any violations of this Article that may occur during the negotiation, proposal process, negotiations, duration of the contract period, or the completion of the performance- or specified time period- of that contract or agreement. The certification required under this section shall be made prior to entry into the contract or agreement with the City of Hoboken, 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.

**§ 20A-15. Return of excess contributions.**

- A. A recipient of a contract for "professional services" or "extraordinary ~~unspecified~~ unspecifiable services" may cure a violation of Section 20A-12 of this Article, if, within ~~thirty (30)~~ forty-five (45) days after the ~~general election which follows the date~~ of the contribution, the contract recipient notifies the municipality in writing and seeks and, within forty-five (45) days after the date of the contribution, receives reimbursement of the contribution from the recipient of such excess contribution.
- B. Except that it shall be presumed that any contribution that violate this Article, made within sixty (60) days of an election of candidates for elective office in the City of Hoboken, was not made inadvertently and such contributions shall not be eligible for reimbursement; thereby, the entity making such contributions cannot remedy the violation of Section 20A-12 of this Article.

**§ 20A-16. Exemptions.**

The contribution limitations prior to entering into a contract in Section 20A-12A do not apply to contracts which (i) 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 (ii) are awarded in the case of emergency under N.J.S.A. 40A:11-6. There is shall be no exemption for contracts awarded pursuant to a "Fair and Open Process" under N.J.S.A. 19:44A-20 et seq.

**§ 20A-17. Penalty.**

- A. It shall be a material breach, by the vendor, of the terms of a ~~City of Hoboken~~ the agreement or contract for "professional services" or "extraordinary ~~unspecified~~ unspecifiable services," as the term is defined in Section 20A-12, when a recipient of such agreement or contract ~~has:~~ (i) ~~made~~ makes or ~~solicited~~ solicits a contribution in violation of this Article; (ii) knowingly ~~concealed~~ conceals or ~~misrepresented~~ misrepresents a contribution given or received; (iii) ~~made~~ makes or ~~solicited~~ solicits contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iv) ~~made~~ makes or ~~solicited~~ solicits any contribution on the condition or with the agreement that it will be recontributed to a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Hoboken, or any holder of public elective municipal office in the City of Hoboken having ultimate responsibility for the award of a contract, or any Hoboken or Hudson County political committee or political party committee, or any "PAC;" (v) ~~engaged~~ engages or ~~employed~~ employs a lobbyist or consultant with the intent or understanding that such lobbyist or consultant ~~would~~ will make or solicit any contribution, which if made or solicited by the ~~professional business~~ entity itself, would subject that entity to the restriction of this Article; (vi) ~~funded~~ fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) ~~engaged~~ engages in any exchange of contributions to circumvent the intent of this Article; or (viii) directly or indirectly, through or by any other person or means, ~~done~~ any act which if done directly would subject that entity to the restrictions of this Article.

B. Furthermore, any business entity that violates Section 20A-17A(ii)-(viii) shall be disqualified from eligibility for future contracts with the City of Hoboken, its departments, instrumentalities, or any independent authority created thereby ~~contracts~~ for a period of four (4) calendar years from the date of the violation.

**§ 20A-18. Citizens private right of action.**

Notwithstanding any other common right of law, any Hoboken citizen or citizen's group shall have the right to sue any or all entities in violation of this Article, including the business entity awarded a contract or agreement to provide "professional services" or "extraordinary ~~unspecified~~ unspecifiable services," as defined in Section 20A-12, the candidate or committee as specified in Section 20A-12A above, and/or the City of Hoboken, in order to compel those entities to comply with this Article.

**§ 20A-19. Severability.**

If any provision of this Article or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Article to the extent it can be given effect or the application of such provision to persons or circumstances other than those which it is held invalid shall not be affected thereby, and to this extent the provisions of this Article are severable. The drafters of this Article, the persons signing the petition in support of this Article, and the persons who cast votes in favor of the Article, declare that they would have supported the Article and each section, subsection, sentence, clause, phrase, or provision or application thereof irrespective of the fact that any one (1) or more other sections, subsections, sentences, clauses, phrases, or provisions or applications thereof may be held invalid.

**§ 20A-20. Repealer.**

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

**§ 20A-21. Effective date.**

This Article, and any amendments thereto, shall take effect immediately upon passage and publication as provided by law, twenty (20) days following the earlier of (a) final adoption thereof by the Municipal Council of the City of Hoboken or (b) the date on which the passage of this Article as a public question is certified pursuant to N.J.S.A. 19:20-9 or other applicable law, and shall be published as required by law.

**§ 20A-22. "Pay-to-Play" Compliance Officer.**

- A. There is hereby established the position of Compliance Officer, who shall be responsible for enforcement of the Public Contracting Reform Ordinance and Redevelopment Pay-to-Play Reform Ordinance.
- B. The Compliance Officer shall create and update monthly a list of business entities engaged in professional services contracts or extraordinary unspecifiable service contracts as defined in Section 20A-12A. of the Public Contracting Reform Ordinance. Included on the

list will be the names of any entity, partners, officers, and/or any person who owns ten percent (10%) or more of the equity or ownership or income interests of each business entity. In any case where an entity is listed as having a ten percent (10%) or greater interest in the entity, the interested entity shall provide a secondary list of the names of all entities, partners, officers, and/or any other person who owns ten percent (10%) or more of the interested entity. The Compliance Officer shall provide an updated list to the City Council ~~each month~~ quarterly and shall make the list available to the public at the City Clerk's office and on the City's official website.

- C. The Compliance Officer shall create and update monthly a list of redevelopers with redevelopment agreements with the City as defined in Section 20C-2C of the Redevelopment Pay-to-Play Reform Ordinance. Included on the list will be the names of any entity, partners, officers, and/or any person who owns ten (10%) percent or more of the equity or ownership or income interests of each business entity. In any case where an entity is listed as having a ten percent (10%) or greater interest in the entity, the interested entity shall provide a secondary list of the names of all entities, partners, officers, and/or any other person who owns ten percent (10%) or more of the interested entity. The Compliance Officer shall provide an updated list to the City Council ~~each month~~ quarterly and shall make the list available to the public at the City Clerk's office and on the City's official website.
- D. ~~The City shall request that all~~ All candidates for local municipal office in Hoboken submit to the Compliance Officer copies of all campaign financial activity reports they file with the New Jersey Election Law Enforcement Commission (ELEC) concurrently with the filing of those reports with ELEC. If a candidate does not submit the reports to the Compliance Officer, the Compliance Officer shall post the list of non-compliant candidates on the City's official website, and submit the list of non-compliant candidates to the City Council, and the City Clerk. ~~obtain copies of the reports from ELEC at such time as they become available.~~
- E. The Compliance Officer shall inspect all copies of campaign financial activity reports submitted by candidates or obtained from ELEC for Compliance with the Public Contracting Reform Ordinance and Redevelopment Pay-to-Play Reform Ordinance.
- F. The Compliance Officer shall be the designated official for receiving complaints alleging violations of the Public Contracting Reform Ordinance or Redevelopment Pay-to-Play Reform Ordinance.
- G. The Compliance Officer shall submit quarterly reports to the City Council and the Mayor regarding all complaints of violations of the Public Contracting Reform Ordinance or Redevelopment Pay-to-Play Reform Ordinance. The reports shall include the following for each such complaint: the status of the investigation of the complaint; the outcome of the investigation if it has been completed; and, the actions, if any, taken as a result of the investigation. The report shall also include the same information of any investigation taken by the Compliance Officer based upon his own review of campaign financial activity reports. The Compliance Officer shall create and make available to the public at the City Clerk's office and on the City's official website all final determinations made with respect to any complaints.



## SECTION TWO: AMENDMENT TO CHAPTER 20C

Chapter 20C of the Hoboken City Code is hereby amended as follows (additions noted in underline and deletions noted in ~~strike through~~):

### § 20C-1. Preamble.

It has become more frequent for developers, sometimes at the request of candidates for local elected office or political party officials, to make substantial political contributions to the election campaigns for local government offices, and to the political parties which support them.

The local government officials are, once elected, responsible for deciding the terms of a redevelopment agreement.

Political contributions from developers entering into agreements for redevelopment projects approved by the elected officials who receive such contributions raise reasonable concerns on the part of taxpayers and residents as to their trust in the process of local redevelopment, including but not limited to redevelopment decisions on tax abatements, zoning densities, publicly funded infrastructure improvements, and acquisition of property rights pursuant to eminent domain.

The Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. provides a mechanism to empower and assist local governments in efforts to promote programs for redevelopment.

N.J.S.A. 40A:12A-8 allows municipalities or a designated redevelopment entity to enter into agreements with redevelopers for planning, replanning, construction or undertaking of any project or redevelopment work without public bidding and at such prices and upon such terms as it deems reasonable within areas designated for redevelopment.

N.J.S.A. 40A:12A-11 provides that redevelopment entities are instrumentalities of the municipality.

Both the exceptions to the Open Public Meetings Act, more specifically N.J.S.A. 10:4-12b and N.J.S.A. 40A:12A-8, provide that negotiations for such agreements can be conducted in executive session, provided the full terms of any such agreements are discussed and approved in open session.

The City of Hoboken has previously or may declare certain areas of Hoboken to be Areas in Need of Redevelopment under the Local Redevelopment and Housing Law, and has or may adopt a Redevelopment Plan.

Given the potential of negotiating with private parties or redevelopers and the entering into agreements with such redevelopers without a formal public bidding process, as permitted by the Local Redevelopment and Housing Law, it is necessary to establish certain limitations on political contributions which may undermine public confidence in any redevelopment effort.

The restriction against local political contributions contained herein does not impair in any way the remaining opportunities for such redevelopers to speak, write and publish their sentiments about local elections and candidates or to volunteer or associate with campaigns of their own choosing.

The Policy of the City of Hoboken will be to create such a regulation which states that any entity or individual seeking to enter into a redevelopment agreement or amendment thereto, or is otherwise seeking to obtain rights to develop pursuant to a redevelopment agreement who makes political contributions to Hoboken City elected officials and local and county political committees, will be ineligible to receive such agreements, or rights from the City of Hoboken.

**§ 20C-2. Prohibition of entering into or amending redevelopment agreements with certain contributors.**

- A. ~~Any other provision of law to the contrary notwithstanding,~~ To the extent that it is not inconsistent with state or federal law, the City of Hoboken and its designated redevelopment agency or any of its, purchasing agents or agencies or those of its independent authorities, as the case may be, shall not enter into any agreement, amend any agreement, or otherwise contract with any redeveloper, as defined in Subsection C. below, for the planning, replanning, construction or undertaking of any redevelopment project including the acquisition or leasing of any public property in conjunction with the redevelopment of any area within the City of Hoboken pursuant to the Local Redevelopment and Housing Law, P.L.1992, c.79 (N.J.S.A. 40A:12A-1 et seq.), if that redeveloper has solicited for or made any "contribution" reportable by the recipient under "The New Jersey Campaign Contributions and Expenditures Reporting Act," P.L.1973, c.83 (N.J.S.A. 19:44A-1 et seq.), which definition shall include all loans and transfers of money or other things of value, all pledges or other commitments or assumptions of liability to make any such transfer (as such term is defined at N.J.A.C. 19:25-1.7, which definition includes loans, pledges and in kind contributions) (hereinafter "contribution"), to (i) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Hoboken or any person serving in an elective municipal office in the City of Hoboken ~~a holder of public office having ultimate responsibility for arranging, entering into, or approving the redevelopment agreement, or for appointing those who enter into the agreement on behalf of the City of Hoboken,~~ or (ii) to any Hoboken or Hudson County political committee or political party committee, or (iii) to any continuing political committee or political action committee that regularly engageds in the support of Hoboken municipal or Hudson County elections and/or Hoboken municipal or Hudson County candidates, candidate committee, joint candidate committees, political committees, political parties, political party committees, (hereinafter "PAC"), during the applicable time period which, for purposes of this section, shall be defined as the time period between the date that the property which is the subject of the redevelopment project has been included in a memorializing resolution adopted by the Governing Body directing the Planning Board to conduct a preliminary investigation to determine if the site is in need of redevelopment pursuant to and in accordance with the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., and the later of (a) the termination of negotiations or rejection of any proposal, or (b) the termination of the redevelopment agreement. "Contributions" will be considered to have occurred on the date of deposit, execution, transfer of rights, or guarantee, as the case may be for particular types of contributions. the date of entering into the redevelopment agreement, amended agreement, or contract (hereinafter "agreement").
- B. All development agreements or amendments thereto entered into by the City of Hoboken shall contain a provision prohibiting redevelopers, as defined in Subsection C below, to solicit or make any contribution to (i) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in Hoboken or any person serving in an elective municipal office in the City of Hoboken ~~a holder of public office having ultimate responsibility for arranging, entering into, or approving the redevelopment agreement, or for appointing those who enter into the agreement on behalf of the City of Hoboken,~~ or (ii) to any Hoboken or Hudson County political committee or political party committee, or (iii) to any "PAC," as the term is defined in Section 20C-2A, herein, between the time of first communication between that redeveloper and the municipality

regarding a redevelopment project between the date that the property which is the subject of the redevelopment project has been included in a memorializing resolution adopted by the Governing Body directing the Planning Board to conduct a preliminary investigation to determine if the site is in need of redevelopment pursuant to and in accordance with the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., and the later of (a) the termination of negotiations or rejection of any proposal, or (b) the completion of all matters or time period specified in the termination of the redevelopment agreement.

- C. As defined in N.J.S.A. 40A:12A-3, a "redeveloper" means: (i) an individual including the individual's spouse and any child or children; or (ii) sole proprietorship, any person, firm, corporation, partnership and any partner thereof, limited liability company, limited liability partnership and any partner thereof, business trust, organization, association, or public body, or any other legal commercial entity organized under the laws of the State of New Jersey or of any other state or foreign jurisdiction, including any principal; or (iii) any individual, partner, principal, stakeholder, or other entity which owns or control ten percent (10%) or more of the profits, assets, equity, stock, ownership, or income interest in a person or entity, as defined in sections (i) or (ii) above, and any determination of percentage, ownership or control will combine the individual's interest with those of the individual's spouse and child or children; or (iv) all partners or officers of such an entity, in the aggregate, and their spouses and child or children; (v) any subsidiary directly or indirectly controlled by the redeveloper, as the term is defined herein; and (vi) any political organization organized under Section 527 of the Internal Revenue Code (26 U.S.C. §527) that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee; that shall enter into or propose to enter into an agreement with the City of Hoboken a municipality or other any redevelopment agency of the City of Hoboken, or any other redevelopment entity for the redevelopment or rehabilitation of an area in need of redevelopment, or an area in need of rehabilitation, or any part thereof, under the provisions of this act, or for any construction or other work forming part of a redevelopment or rehabilitation project within the City of Hoboken. For the purposes of this Chapter the definition of a redeveloper, redevelopment and any related terms, generally defined by the "Local Redevelopment and Housing Law," P.L.1992, c.79 (N.J.S.A. 40A:12A-1 et seq.) shall include and incorporate areas in need of rehabilitation and all related terms, as defined in the "Local Redevelopment and Housing Law," P.L.1992, c.79 (N.J.S.A. 40A:12A-1 et seq.). For the purposes of this Chapter, the definition of redeveloper includes all principals who own ten percent (10%) or more of the equity in the corporation or business trust, partners, and officers in the aggregate employed by the provider as well as any affiliates or subsidiaries directly controlled by the redeveloper. Spouses and any child/children shall also be included.
- ~~D. For the purposes of this section, the office that is considered to have responsibility for arranging and entering into the redevelopment agreement under the Act shall be (i) the Hoboken City Council if the redevelopment agreement requires approval or appropriation from the Council or a public officer who is responsible for arranging and entering into the redevelopment agreement if that public officer is appointed by the Council, or (ii) the Mayor of Hoboken if the redevelopment agreement requires the approval of the Mayor or a public officer who is responsible for arranging and entering into the redevelopment agreement if that public officer is appointed by the Mayor, or (iii) a designated redevelopment entity, if the redevelopment agreement requires the approval of the redevelopment entity.~~

**§ 20C-3. Contributions and Contracts made prior to the effective date.**

~~No contribution~~ Contributions or solicitations of contributions made prior to the effective date of the most recent amendment to this Chapter Article shall be governed by the language of the Chapter effective at the time of contribution. Contributions or solicitations of contributions made on or after the effective date of the most recent amendment to this Chapter shall be governed by the current Chapter Article. Any contract in effect at the time of any amendment to this Chapter shall be governed by the current Chapter.

**§ 20C-4. Contribution statement of redeveloper; notice given by municipality.**

- A. Prior to arranging and entering into ~~the a~~ redevelopment agreement with any redeveloper, the City of Hoboken or any of its departments, purchasing agents, or agencies or independent authorities, as the case may be, shall receive a written certification made under penalty of perjury sworn statement from the redeveloper that the redeveloper has not made any contribution in violation of Section 20C-2A ~~above~~. The City of Hoboken, through any appropriate redevelopment agent, agency, officer, authority, or department, shall be responsible for informing the City Council that the written certification aforementioned sworn statement has been received and that the redeveloper is not in violation of this Chapter, prior to awarding or entering into the agreement. Furthermore, the redeveloper shall have a continuing duty to report any violations of this Chapter that may occur between the time of while arranging and entering into the redevelopment agreement, and termination of the agreement, until all specified terms or time period of the agreement have been completed. The certification required under this subsection shall be made prior to entry into the agreement with the municipality and shall be in addition to any other certifications that may be required by any other provision of law.
- B. It shall be the municipality's continuing responsibility to give notice of this Chapter when the municipality gives notice of redevelopment pursuant to 40A:12A-6, ~~and~~ when the municipality adopts a resolution directing the Planning Board to prepare a redevelopment plan, upon memorializing a resolution adopted by the Governing Body directing the Planning Board to conduct a preliminary investigation to determine if the site is in need of redevelopment pursuant to and in accordance with the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., and at the time that the municipality adopts the ordinance to implement the redevelopment plan.

**§ 20C-5. Contribution restrictions and disclosure requirement applicability to consultants.**

- A. The contribution and disclosure requirements in this Chapter, and Chapter 20B, shall apply to all redevelopers as well as professionals, consultants or lobbyists contracted, ~~or employed, or otherwise engaged~~ by ~~the business entity ultimately, designated as the~~ designated redeveloper to provide services related to the: (i) lobbying of government officials in connection with the examination of an area and its designation as an area in need of redevelopment or in connection with the preparation, consultation and adoption of the redevelopment plan; (ii) obtaining the designation or appointment as redeveloper; (iii) negotiating the terms of a redevelopment agreement or any amendments or modifications thereto; and (iv) performing any related ~~the~~ terms of a redevelopment agreement (such individuals shall be defined hereinafter as "professionals").

- B. It shall be a breach of the professional's consultant's contract, and shall require immediate termination, for a professional consultant to violate the contribution limits and disclosure requirements in this Chapter.
- C. A redeveloper who participates in, or facilitates, the circumvention of the contribution restrictions through professionals consultants or professionals shall be deemed to be in breach.

**§ 20C-6. Return of excess contributions.**

- A. A redeveloper ~~or municipal candidate or officeholder or municipal or county party committee or "PAC" referenced in this Chapter~~ may cure a violation of Section 20C-2 of this Chapter, if within forty-five (45) thirty (30) days after the ~~general election which follows the date of the contribution~~, the redeveloper notifies the municipality Municipal Council in writing, and seeks and, within forty-five (45) days after the date of the contribution, receives reimbursement of the a contribution from the recipient of such contribution.
- B. Except that it shall be presumed that any contribution that violates this Chapter, made within sixty (60) days of an election of candidates for elective office in the City of Hoboken, was not made inadvertently and such contributions shall not be eligible for reimbursement; thereby, the entity making such contributions cannot remedy the violation of this Chapter 20C.

**§ 20C-7. Penalty.**

- A. It shall be a breach of terms of the City of Hoboken redevelopment agreement for a redeveloper to: (i) make or solicit a contribution in violation of this Chapter 20C; or, (ii) knowingly conceal or misrepresent a contribution give or received; or, (iii) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; or, (iv) make or solicit any contribution on the condition or with the agreement that it will be contributed to a candidate, candidate committee or joint candidates committee of any candidate of elective municipal office in Hoboken, or any holder of municipal elective office in the City of Hoboken a holder of public office having ultimate responsibility for arranging, entering into, or approving the redevelopment agreement, or for appointing those who enter into the agreement on behalf of the City of Hoboken, or any Hoboken or Hudson County political committee or political party committee, or any "PAC," ; or, (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 redeveloper itself, would subject that entity to the restrictions of this Chapter; or, (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; or, (vii) engage in any exchange of contributions to circumvent the intent of this Chapter; 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 Chapter.
- B. Furthermore, any redeveloper who violates Subsection A, (ii)-(viii) shall have any current redevelopment agreement with the City of Hoboken or its redevelopment agencies terminated, and be disqualified from eligibility for future Hoboken redevelopment agreements for a period of four (4) calendar years from the date of the violation.

**§ 20C-8. Citizens private right of action.**

Notwithstanding any other common right of law, any Hoboken citizen or citizen's group shall have the right to sue any or all entities in violation of this Chapter, including the redeveloper, the candidate or committee as specified in Section 20C-2A above, and/or the City of Hoboken, in order to compel those entities to comply with this Chapter.

**§ 20C-9. Severability.**

If any provision of this Chapter, or the application of any such provision to an person or circumstances, shall be held invalid, the remainder of this Chapter 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 Chapter are severable. The drafters of this Chapter, the persons signing the petition in support of this Chapter, and the persons who cast votes in favor of the Chapter, declare that they would have supported the Chapter and each section, subsection, sentence, clause, phrase, or provision or application thereof, irrespective of the fact that any one (1) or more other sections, subsections, sentences, clauses, phrases, or provisions or applications thereof may be held invalid.

**§ 20C-10. Repealer.**

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

**§ 20C-11. Effective date.**

This Chapter, and any amendments thereto, shall take effect immediately upon passage and publication as provided by law. ~~twenty (20) days following the earlier of (a) final adoption thereof by the Municipal Council of the City of Hoboken or (b) the date on which the passage of this Article as a public question is certified pursuant to N.J.S.A. 19:20-9 or other applicable law, and shall be published as required by law.~~

**SECTION THREE: AMENDMENT TO CHAPTER 20B**

Chapter 20B of the Hoboken City Code is hereby amended as follows (additions noted in underline and deletions noted in ~~striketrough~~):

**LAND USE APPLICANT CONTRIBUTION DISCLOSURE STATEMENTS**

**§ 20B-1. Short title.**

Contribution Disclosures Ordinance.

**§ 20B-2. Purpose.**

Municipal Master Plans include well thought out, long-term decisions about the development capacity of the community.

Municipal Master Plans are implemented through the enactment of local land use ordinances.

Deviations from these local ordinances by way of variances pursuant to N.J.S.A. 40:55D-70d and N.J.S.A. 40:55D-70c, as well as exceptions and waivers pursuant to N.J.S.A. 40:55D-51, provide opportunities for significant private gain.

The redevelopment process currently underway within the City of Hoboken also provides opportunities for significant private gain.

Openness in government and a fair and impartial variance, waiver and exception application process is crucial to assuring the continuing integrity of the municipal Master Plan, its implementing ordinances and the integrity of the application process.

Disclosure of political contributions by property owners, developers, redevelopers and professionals will enhance the City's existing commitment to openness in government and provide further guarantees for a fair and impartial application and approval process.

Disclosure of political contributions by property owners, developers, redevelopers and professionals will effectuate the purposes of the Municipal Land Use Law to promote morals and the general welfare.

The Mayor and City Council of the City of Hoboken, having considered the foregoing, believe that it is in the best interests of the residents of the City of Hoboken to enact the within chapter.

It is accordingly found and determined that the paramount public interest in enhancing the City's commitment to openness in government, and in providing further guarantees for a fair and impartial variance, waiver and exception application process, and in promoting morals and the general welfare, requires the disclosure of political contributions by property owners, developers, redevelopers and professionals within the City as a component of making application to the City for certain approvals, and requires the supplementation of the municipal application checklists to mandate the listing of specified political contributions made by property owners, developers, redevelopers and the professionals whose services they use.

### **§ 20B-3. Definitions.**

**APPLICATION CHECKLIST** — The list of submission requirements adopted by ordinance and provided by municipal agencies to a developer pursuant to N.J.S.A. 40:55D-10.3.

**CONTRIBUTION** — Every loan, gift, subscription, advance or transfer of money or other thing of value, including any item of real property or personal property, tangible or intangible (but not including services provided without compensation by individuals volunteering a part or all of their time on behalf of a candidate, committee or organization), made to or on behalf of any candidate, candidate committee, joint candidates committee, political committee, continuing political committee or political party committee and any pledge, promise or other commitment or assumption of liability to make such transfer. For purposes of reports required under the provisions of the chapter, any such commitment or assumption shall be deemed to have been a contribution upon the date when such commitment is made or liability assumed.

**CONTRIBUTION DISCLOSURE STATEMENT** — A list specifying the amount, date, and the recipient of any and all contributions made to or on behalf of any candidate, candidate committee, joint candidates committee, political committee, continuing political committee or political party committee of, or pertaining to, the City of Hoboken, made prior to filling the application with or seeking approval from the City, and required to be reported pursuant to N.J.S.A. 19:44A-1, et seq. The disclosure shall include all such

contributions made during the time period measuring from one (1) year prior to the last municipal election through the time of filing the application with or seeking approval from the City. There shall be a continuing disclosure responsibility to require continuing disclosure of any such contributions made following the filing of the "Contribution Disclosure Statement" and during the pendency of the application and/or approval process.

**DEVELOPER** — A developer as defined by N.J.S.A. 40:55D-4, i.e. the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land. The term "developer" includes any applicant or entity that wishes to undertake redevelopment activity within the City of Hoboken pursuant to the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq.

**MUNICIPAL AGENCIES** — The Municipal Planning Board, the Municipal Zoning Board of Adjustment, and the Municipal governing body acting as the Redevelopment Agency pursuant to the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq.

**PROFESSIONAL** — Any person or entity whose principals are required to be licensed by New Jersey Law and who supplies legal representation, expert testimony or written reports in support of an application. Professionals shall include both any individuals supplying the representation, testimonies or reports and the firms or entities in which said individuals practice.

#### **§ 20B-4. General provisions.**

##### **A. Disclosure requirements.**

- (1) Any applicant for a variance pursuant to N.J.S.A. 40:55D-70d or a variance pursuant to N.J.S.A. 40:55D-70c in conjunction with any application for any subdivision pursuant to local ordinance or a site plan not considered a minor site plan pursuant to local ordinance, as well as any application for a subdivision pursuant to local ordinance or site plan not considered a minor site plan pursuant to local ordinance requiring waivers or exceptions pursuant to N.J.S.A. 40:55D-51, as well as any applicant who wishes to undertake redevelopment activity within the City of Hoboken pursuant to the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., shall include in its application with and/or submit to the relevant municipal agency a Contribution Disclosure Statement for all developers involved in the said application; all associates of said developers who would be subject to disclosure pursuant to N.J.S.A. 40:55D-48.1 or 40:55D-48.2 shall also be subject to this requirement; and all professionals who apply for or provide testimony, plans, or reports in support of said application or who have an enforceable proprietary interest in the property or development which is the subject of the application or whose fee in whole or part is contingent upon the outcome of the application shall also be subject to this requirement. Regardless of whether the owner of the property, which is the subject of the application falls in any of the categories established in the preceding sentence, the applicant shall include in its application to the relevant municipal agency a Contribution Disclosure Statement for said owner.
- (2) During the pendency of the application process until the final approval associated with the application is granted, any applicant required to comply with this chapter



shall amend its Contribution Disclosure Statement to include continuing disclosure of all contributions within the scope of disclosure requirement of the above paragraph.

- B. Inclusion of Contribution Disclosure Statements as an element of the Application Checklist.
- (1) An Application Checklist ordinance is hereby adopted pursuant to N.J.S.A. 40:55D-10.3 to require that the Contribution Disclosure Statements specified in subsection A. of this section be submitted by the applicant for all applications for variance relief pursuant to N.J.S.A. 40:55D-70d, as well as for relief pursuant to N.J.S.A. 40:55D-70c, or for relief pursuant to N.J.S.A. 40:55D-51 in applications for site plan and not considered to be minor site plans pursuant to local ordinance, or for approval to undertake redevelopment activity within the City of Hoboken pursuant to the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq.
  - (2) The City's municipal agencies shall amend their Application Checklists to include the Contribution Disclosure Statements specified in subsection A. of this section.
  - (3) An application shall not be deemed complete by the administrative official or accepted for public hearing by the municipal agency until the required Contribution Disclosure Statements are submitted.
- C. Availability of Contribution Disclosure Statements. All Contribution Disclosure Statements shall be available in the office of the administrative officer for review by any member of the public.
- D. Intent of Contribution Disclosure Statements. It is the intent of this chapter that Contribution Disclosure Statements shall serve solely as a means to inform the public and shall not serve in any manner as evidence relevant to the decision-making criteria for granting or denying requested variances or other approvals. Such decisions shall continue to be governed strictly under the relevant criteria set forth in the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq., or other relevant law.

#### **SECTION FOUR: REPEAL OF INCONSISTENT PROVISIONS**

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

This Ordinance shall also supersede any inconsistent provisions contained in any resolution previously adopted by the Hoboken City Council.

#### **SECTION FIVE: SEVERABILITY**

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**SECTION SIX: EFFECTIVE DATE**

This Ordinance shall take effect upon passage and publication as provided by law.

**SECTION SEVEN: CODIFICATION**

This Ordinance shall be a part of the code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this Ordinance codified and incorporated in the official copies of the Code.

The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Hoboken in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

ADOPTED:

3-2-11

APPROVED:

  
James J. Farina, City Clerk

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Dawn Zimmer, Mayor

**APPROVED AS TO FORM:**

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Mark A. Tabakin, Corporation Counsel

**Date of Introduction: February 16, 2011**

11-880 2-89

AN ORDINANCE AMENDING CHAPTER 20A OF THE ADMINISTRATIVE CODE OF THE CITY OF HOBOKEN ENTITLED "PROFESSIONAL SERVICE CONTRACTS", CHAPTER 20C OF THE ADMINISTRATIVE CODE OF THE CITY OF HOBOKEN ENTITLED "REDEVELOPMENT PAY-TO-PLAY REFORM", AND, CHAPTER 20B OF THE ADMINISTRATIVE CODE OF THE CITY OF HOBOKEN ENTITLED "CONTRIBUTION DISCLOSURE STATEMENTS"

Introduced, passed first reading as read and laid on the table for further consideration of the Council at its next meeting to be held on March 2, 2011 at 7 PM

City Clerk  
2/16/11

PASSED THIRD AND FINAL READING  
3/2/11