



Atlantic County

Department of Law

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Dennis Levinson
County Executive

March 6, 2015

Kimberly M. Guadagno
Secretary of State
225 W. State Street
P.O. Box 300
Trenton, NJ 08625-0300

Re: Filing of County Ordinance No. 2 of 2015

Dear Madam Secretary of State:

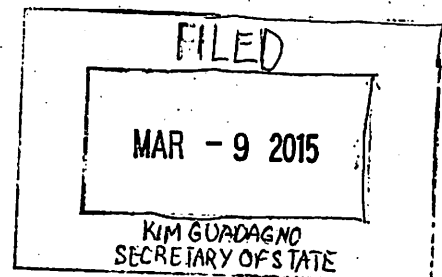
In accordance with N.J.S.A. 40A:11-5(c), I hereby file with your office a Certified Copy of Ordinance No. 2 of 2015 which was enacted by the Atlantic County Board of Chosen Freeholders on February 10, 2015 and was published in *The Press of Atlantic City* on February 13, 2015. I enclose both a certified copy and a copy thereof and I would ask that upon filing, you date stamp a copy of the filed Ordinance and return it to my office in the envelope enclosed.

Thank you for your attention to the above matter.

Very truly yours,

James F. Ferguson

JFF:jms
Enc.



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ATLANTIC COUNTY ORDINANCE NO. 2 - 2015

AN ORDINANCE ESTABLISHING THE STATE STANDARDS
FOR PUBLIC CONTRACTING USING FAIR AND OPEN PROCESSES
AND RESCINDING ORDINANCE NO. 10 OF 2007

WHEREAS, the Atlantic County Board of Chosen Freeholders (the Board), in October 2007 enacted Ordinance No. 10 of 2007 (the Ordinance) entitled "An Ordinance for Public Contracting" (Pay-to-Play Reform); and

WHEREAS, since its adoption and implementation, questions have arisen concerning the scope and reach of the Ordinance's provisions; and

WHEREAS, the Ordinance was the subject of a recent Atlantic County Superior Court decision which interpreted certain provisions more expansively than the County's prior seven year history of interpretation and resulted in a vendor being disqualified from further County contracts for four years where the vendor innocently made a contribution to the campaign account of a candidate for State Legislative office who was an incumbent County officeholder, which contribution was legal under the New Jersey State Election Law; and

WHEREAS, the New Jersey Legislature previously amended the New Jersey Campaign Contributions and Expenditures Reporting Act, codified at N.J.S.A. 19:44A-1 et seq. (the State Statutes), which would have allowed the aforementioned contribution to a Legislative candidate and contains restrictions which differ from the restrictions contained in the Ordinance; and

WHEREAS, the New Jersey Statutes include provisions that require certain contracts previously exempt from competitive requirements to be awarded pursuant to a "fair and open process;" and

WHEREAS, the State Statutes do not apply uniformly to local governments, (County and municipal), resulting in a patchwork of numerous local government ordinances, whose differences from each other and from the State Statutes have created confusion in public contracting; and

WHEREAS, the resulting confusion caused by the disparate nature of the public contracting ordinances was recognized in a recent article authored by Jeff Brindle, the Executive Director of the non-partisan New Jersey Election Law Enforcement Commission. He noted the confusion that exists in public contracting at the State and local levels by indicating "It is a dizzyingly complex array of statutes, ordinances and executive orders . . . So legislation needs to be enacted that would simplify pay-to-play by establishing one state law to apply across the board to state contracting as well as local contracting.;" and

WHEREAS, Governor Christie previously proposed a comprehensive Public Contracting and Political Contribution Reporting Reform Package, which would have created uniformity at the State and local government levels; but was not acted upon by the New Jersey Legislature; and

WHEREAS, the United States Supreme Court Decision in the *Citizen's United* case has given rise to the establishment of numerous Federal Political Action Committees (PACS) pursuant to Section 501(c)(4) of the Internal Revenue Code which have resulted in the circumvention of "Pay-to-Play" restrictions throughout the State of New Jersey including Atlantic County; and

WHEREAS, the disparity between the State Statutes and the Ordinance has been a source of confusion, wasteful litigation and has removed the focus from insuring confidence in public contracting via "fair and open" processes and creating transparency in campaign finance reporting; and

WHEREAS, other Counties, notably Gloucester and Monmouth, have enacted Resolutions adopting the State's statutory standards, which create uniformity thereby avoiding confusion, lessening the prospect of litigation, and promoting "fair and open" processes in public contracting as well as transparency in reporting campaign contributions; and

WHEREAS, the Board has determined that creating uniformity with the State Statutes will further the enumerated goals of avoiding confusion, lessening the prospect for litigation; promoting "fair and open" processes in public contracting and enhancing transparency in reporting campaign contributions;

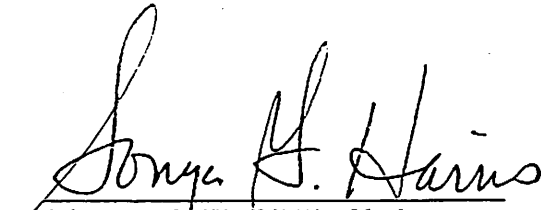
NOW, THEREFORE, be it ordained by the Atlantic County Board of Chosen Freeholders as follows:

Section 1. Ordinance No. 10 of 2007 be and is hereby rescinded and the County will hereafter adhere to the State standards codified in N.J.S.A. 19:44A-1 et seq. consisting of:

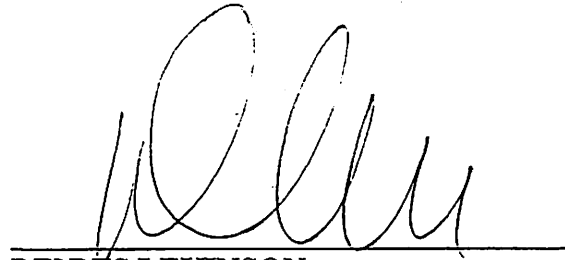
- (a) "Fair and open" processes in public contracting;
- (b) The State campaign contribution limits and reporting requirements and;
- (c) All other pertinent statutory standards contained therein.

Section 2. A copy of this Ordinance shall be filed with the New Jersey Secretary of State.

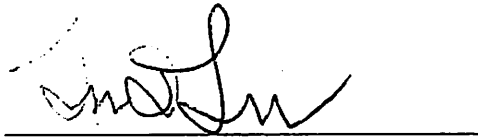
Section 3. This Ordinance shall become effective following adoption and publication as required by law.


SONYA G. HARRIS, Clerk
Board of Chosen Freeholders

Date: 2/11, 2015


DENNIS LEVINSON
County Executive

Date: 2/11, 2014


FRANK D. FORMICA, Chairman
Board of Chosen Freeholders

Date: 2/10, 2015

APPROVED AS TO FORM:


JAMES F. FERGUSON
County Counsel

Date: January 22, 2015

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed on first reading at a meeting of the Board of Chosen Freeholders of the County of Atlantic held on **Tuesday, January 27, 2015**, and said Ordinance will be further considered for passage and adoption at the public meeting of the Board of Chosen Freeholders to be held at the **Stillwater Building, 201 Shore Road, Northfield, New Jersey** on **Tuesday, February 10, 2015**, at **4 p.m.**

