

MUNICIPAL COUNCIL OF THE CITY OF PLAINFIELD
PLAINFIELD, NEW JERSEY

SPECIAL MEETING AGENDA

I. ROLL CALL

8:00 P.M. TUESDAY, NOVEMBER 1, 2011

PRESIDENT TO ANNOUNCE

CITY HALL LIBRARY
515 WATCHUNG AVENUE
PLAINFIELD, NJ

THE NOTICE REQUIREMENT PROVIDED FOR THE "OPEN PUBLIC MEETING LAW" HAS BEEN SATISFIED. NOTICE WAS PROPERLY GIVEN, SAID NOTICE HAVING BEEN TRANSMITTED TO THE COURIER-NEWS AND THE STAR LEDGER ON THURSDAY, OCTOBER 27, 2011 AS WELL AS POSTING ON THE BULLETIN BOARD IN CITY HALL.

COUNCILWOMAN VERA GREAVES
COUNCILMAN WILLIAM REID
COUNCILWOMAN BRIDGET RIVERS
COUNCILMAN CORY STORCH
COUNCILWOMAN REBECCA WILLIAMS
CHAIRMAN ADRIAN O. MAPP
COUNCIL PRESIDENT ANNIE C. MCWILLIAMS

II. PRESIDENT TO REQUEST CLERK TO READ "THE CALL" FOR THE MEETING:

III. CLERK READS "THE CALL":

IV. UNFINISHED BUSINESS:

- PUBLIC HEARING ON TEMPORARY YEAR 2011 BUDGET AMENDMENTS.

V. RESOLUTIONS & MOTIONS:

R 365-11 NON-CONSENT RESOLUTION AUTHORIZING THE ADOPTION OF THE TEMPORARY YEAR 2011 MUNICIPAL OPERATING BUDGET AS AMENDED.

R 366-11 NON-CONSENT RESOLUTION AUTHORIZING TRANSFERS BETWEEN TEMPORARY YEAR 2011 APPROPRIATIONS OF THE GENERAL FUND OF THE CITY OF PLAINFIELD.

R 367-11 NON-CONSENT RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN THE CITY OF PLAINFIELD AND JERSEY PROFESSIONAL MANAGEMENT FOR CONSULTING SERVICES.

VI. ORDINANCES ON FIRST READING:

MC 2011 - 10 AN ORDINANCE TO AMEND AND SUPPLEMENT THE MUNICIPAL CODE OF THE CITY OF PLAINFIELD AT CHAPTER 2, ADMINISTRATION, ARTICLE 10. BUDGET AND PURCHASING PROCEDURES, BY CREATING SECTION 2:10-18, AWARD FOR PROFESSIONAL SERVICES BY COMPETITIVE NEGOTIATION.

MC 2011 - 11 AN ORDINANCE TO AMEND AND SUPPLEMENT THE MUNICIPAL CODE OF THE CITY OF PLAINFIELD AT CHAPTER 2, ADMINISTRATION, ARTICLE 10. BUDGET AND PURCHASING PROCEDURES, BY CREATING SECTIONS 2:10-19 through 2:10-22, INCLUSIVE PROHIBITION ON AWARDED PUBLIC CONTRACTS TO CERTAIN CONTRIBUTORS.

MC 2011 - 12 AN ORDINANCE TO AMEND AND SUPPLEMENT THE MUNICIPAL CODE OF THE CITY OF PLAINFIELD AT CHAPTER 17, LAND USE, ARTICLE III, ZONING BOARD OF ADJUSTMENT, BY CREATING SECTION 17:3-15, CONTRIBUTION DISCLOSURE STATEMENTS.

MC 2011 - 13 AN ORDINANCE TO AMEND AND SUPPLEMENT THE MUNICIPAL CODE OF THE CITY OF PLAINFIELD AT CHAPTER 2, ARTICLE 10. BUDGET AND PURCHASING PROCEDURES BY CREATING SECTION 2:10-23, INSURANCE PURCHASING.

VII. CITIZENS PARTICIPATION:

PUBLIC COMMENT DURING THIS PORTION OF THE AGENDA MUST BE LIMITED TO MATTERS WITHIN THE JURISDICTION OF THE CITY OF PLAINFIELD. A TOTAL OF SIXTY (60) MINUTES HAS BEEN ALLOCATED TO *ALL* PUBLIC COMMENTS TO BE PRESENTED. IF YOU WISH TO BE HEARD, GIVE YOUR NAME AND ADDRESS TO THE CLERK FOR THE RECORD. THE AMOUNT OF DISCUSSION ON ANY SINGLE SUBJECT, AS WELL AS THE AMOUNT OF TIME ANY SINGLE SPEAKER IS ALLOWED, WILL BE LIMITED TO FIVE (5) MINUTES.

VIII. ADJOURNMENT:

THE NEXT REGULARLY SCHEDULED MEETING IN AN AGENDA FIXING SESSION TO BE HELD ON NOVEMBER 14, 2011 AT 7:30 P.M. IN THE CITY HALL LIBRARY

**RESOLUTION AUTHORIZING TRANSFERS BETWEEN THE TY2011
APPROPRIATIONS OF THE GENERAL FUND OF
THE CITY OF PLAINFIELD**

WHEREAS, N.J.S.A. 40A:4-58 provides that the Governing Body of a municipality may (upon the concurrence of two-thirds of the full membership thereof) in the last two months of the fiscal year make transfers between appropriations in which funds are deemed to be in excess of the anticipated;

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Plainfield, two thirds of the full membership thereof concurring that the following transfers be made in the TY2011 appropriations for the General Fund for the budget period ending December 31, 2011 in accordance with N.J.S.A. 40A:4-58:

To: Office of the City Administrator	O.E.	15,000.00
To: Office of the Mayor	S&W	3,000.00
From: Office of the City Administrator	S&W	18,000.00

BE IT FURTHER RESOLVED, that a duly certified copy of this resolution will be filed in the Office of the City Clerk.

Adopted by the City Council

November 1, 2011

Abubakar Jalloh, Municipal Clerk

Approved as to Form

Daniel Williamson
Corporation Counsel

**RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH
JERSEY PROFESSIONAL MANAGEMENT FOR DAVID KOCHER, AN ASSOCIATE
OF THE FIRM, TO SERVE AS A
MANAGEMENT CONSULTANT AND/OR MANAGEMENT SPECIALIST**

WHEREAS, the Mayor is desirous of designating David Kochel, an associate of the firm of Jersey Professional Management, as a Management Consultant and/or Management Specialist for the City of Plainfield for the period of November 7, 2011 - December 21, 2011, and

WHEREAS, there exists a need for specialized and qualitative service for a temporary Management Consultant or Management Specialist to provide management expertise in the area of budgeting and general management projects as directed by the Mayor and to assist with the transition of the future Acting and/or Permanent City Administrator; and

WHEREAS, David Kochel, will report directly to the Mayor or her designee and will provide either a written or verbal report in accordance with the Mayor's direction, and

WHEREAS, David Kochel will not work more than 100 hours on this project and the total number of hours per week or per day will be set the Mayor or her designee according to a mutually agreed upon schedule; and

WHEREAS, Jersey Professional Management has provided a proposal dated October 27, 2011 setting forth the terms and conditions for providing the services outlined above; and

WHEREAS, Jersey Professional Management has also provided in their proposal dated October 27, 2011 an option for David Kochel to be available by phone and/or email to provide assistance to Elected Officials, the City Administrator, City Clerk, Department Heads and Corporation Counsel through March 31, 2012; and

WHEREAS, Jersey Professional Management will bill at an hourly rate of \$95.00 per hour for the services of David Kochel as Management Consultant and/or Management Specialist and at a flat rate of \$950 if the post December 21, 2011 option is selected;

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Plainfield as follows:

1. The Mayor is authorized to enter into an agreement with Jersey Professional Management in accordance with their proposal dated October 27, 2012 subject to budgetary limitations.
2. This contract is awarded without competitive bidding as an "Extraordinary, Unspecifiable Services" in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the services requested are specialized municipal administrative consulting services that require expertise, substantial experience and proven reputation in the multi-faceted aspects of overseeing and management of municipal functions. These qualifications require an individual whose background includes substantial experience and training in finance, budget and purchasing, personnel, State and federal grants, management and oversight of municipal employees and general government administration and governmental relations. Knowledge and familiarity of applicable City and State laws and regulations are also required. DAVID R. KOCHER has satisfied all of these requirements, and his services are required to permit the City to maintain critically important managerial oversight and administrative services pending the commencement of services by a duly appointed City Administrator for the City. Precise specifications are not feasible because the services are multi-faceted and dependent on evolving day to day operational needs of the City, emergent needs

and unanticipated matters that will require the services of the management consultant. Likewise, it is not possible to delineate the specific knowledge or tasks required of the person providing this assistance since this will vary according to the work being undertaken. In general, this work is common to most developing communities of comparable size and structure to the City of Plainfield. These factors as well as critical time constraints in securing the immediate services of an Acting City Administrator do not permit the formulation of precise specifications.

3. A notice of this action shall be published in the official newspaper authorized to publish notices for the City of Plainfield within 20 days after passage of this resolution.
4. A copy of this Resolution and executed contract, Business Disclosure Entity Certification and the Determination of Value shall be filed in the Office of the City Clerk.

BE IT FURTHER RESOLVED, that a duly executed copy of this resolution will be filed in the Office of the City Clerk.

Adopted by the City Council

November 1, 2011

Abubakar Jalloh, Municipal Clerk

Approved as to Form

Daniel Williamson
Corporation Counsel

AN ORDINANCE TO AMEND AND SUPPLEMENT THE MUNICIPAL CODE OF THE CITY OF PLAINFIELD AT CHAPTER 2, ADMINISTRATION, ARTICLE 10. BUDGET AND PURCHASING PROCEDURES, BY CREATING SECTION 2:10-18, AWARD FOR PROFESSIONAL SERVICES BY COMPETITIVE NEGOTIATION

MC 2011 - 10

Deletions are placed in [] brackets.

Additional are made in **bold letters and underlined**.

WHEREAS, the City of Plainfield has a strong commitment to open and fair competition; and

WHEREAS, qualification based, competitive, negotiation procedures help to ensure open and fair competition through published rules and decision making criteria; and

WHEREAS, the City Council of the City of Plainfield finds and determines that the that the paramount public interest is served by requiring that the township award all contracts or agreements to outside consultants for the provision of professional services on the basis of competitive negotiation; Now, therefore,

BE IT ENACTED by the Council of City of Plainfield, that Chapter 2, Administration, Article 10. Budget and Purchasing Procedures, is hereby supplemented by Creating Section 2:10-18, Award for Professional Services by Competitive Negotiation as follows:

Section 2:10-18. Award for Professional Services by Competitive Negotiation.

a) Definitions: "Professional services" for purposes of this ordinance means, as defined at N.J.S.A. Sec. 40A:11-2(6), services rendered or performed by a person authorized by law to practice a recognized profession, whose practice is regulated by law, and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. For purposes of this ordinance, however, professional services shall not include professional artistic services as defined at N.J.S.A. Sec. 40A:11-2(6). Professional services shall include financial services or insurance services.

b) General Provisions:

1. The municipality shall award all contracts or agreements for the provision of professional services on the basis of qualification based, competitive negotiation.
2. Professional Service contract requests for proposal shall be published by the posting of a public notice at least 10 days prior to the awarding of any contract for professional services.

c) Public notice as hereinabove described shall be:

1. Prominently posted in the public place reserved for Sunshine Law notices; and
2. Mailed, telephoned, telegrammed, or hand delivered to at least two newspapers designated to receive such notices because they have the greatest likelihood of informing the public within the municipality, one of which shall be the official newspaper of the municipality; and
3. Filed with the clerk of the municipality.

d) The public notice required herein shall include, at a minimum, the following:

1. A description of the professional services needed, including, where appropriate, a description of tasks involved; and

(1 OF 3)

2. Threshold qualification requirements setting the highest possible, minimum standards for qualifying to compete for the particular services and tasks involved; and
 3. Notice that standardized submission requirements and selection criteria are on file and available at a stated location in the township; and
 4. Deadline and place for all submissions.
- e) All responders to the City's notice for the provision of professional services pursuant to competitive negotiation shall provide, at a minimum, the following information:
1. Names and roles of the individuals who will perform the task and a description of their experience with projects similar to the matter being advertised; and
 2. References and record of success; and
 3. Description of ability to provide the services in a timely fashion, including staffing, familiarity and location of key staff; and.
 4. Cost details, including the hourly rates of each of the individuals who will perform services and time estimates for each individual, all expenses, and, where appropriate, total cost of "not to exceed" amount.
- f) The selection criteria to award a contract or agreement for professional services shall include, but not necessarily limited to, the following:
1. Qualifications of the individuals who will perform the tasks and the amounts of their respective participation; and
 2. Experience and references; and
 3. Ability to perform the task in a timely fashion, including staffing and familiarity with subject matter; and
 4. Cost competitiveness.
 5. To the extent that the City identifies additional criteria in evaluating all responders for the provision of professional services, all such additional criteria shall be made known to all who respond thereto.
- g) All submissions received by the City in response to notices for the provision of professional services shall be kept on file by the Purchasing Agent or his/her designee during the term of the contract award, and shall be deemed a public record subsequent to the deadline for the submission of proposals.
- h) Upon the written application of the City Administrator, or his/her designee, the City Council may, by majority vote, waive any part of or all of the requirements of any particular contract or agreement upon its satisfaction and agreement with the City Administrator's evaluation and need therefor provided however, that any such approval shall require the publication of the City Council resolution setting forth with specificity the reasons such waiver(s) is required.
- i) In the event that compliance with part or all of the requirements of this ordinance is impracticable as regards a particular contract or agreement, the township council may waive part or all of the requirements by a majority vote of the full council together with publication of a resolution setting forth with specificity the reasons such waiver is required.

BE IT, FURTHER ENACTED, by the Council of the City of Plainfield, that:

1. **Severability.** If any provision of this Ordinance shall be held invalid, or contrary to the law, then such provision of the Ordinance shall be deemed separable from the remaining provisions of this Ordinance and shall not affect the validity of the other provisions of the Ordinance.

2. **Effective Date.** This Ordinance shall take effect twenty (20) days following action or inaction by the Mayor, as provided by law or on an override of a mayoral veto by the council, which

2
0
4
3

ever is applicable in accordance with law, unless a resolution is adopted pursuant to N.J.S.A. 69A-181(b) declaring an emergency and providing that this ordinance shall take effect at an earlier date.

3. Publication. A notice of the action shall be published in the official newspaper authorized to publish legal notice for the City as required by law.

AN ORDINANCE TO AMEND AND SUPPLEMENT THE MUNICIPAL CODE OF THE CITY OF PLAINFIELD AT CHAPTER 2, ADMINISTRATION, ARTICLE 10. BUDGET AND PURCHASING PROCEDURES, BY CREATING SECTIONS 2:10-19 through 2:10-22, INCLUSIVE, PROHIBITION ON AWARDING PUBLIC CONTRACTS TO CERTAIN CONTRIBUTORS

MC 2011 - 11

Deletions are placed in [] brackets.

Additional are made in **bold letters and underlined**.

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 City Council desire to establish a policy that will avoid the perception of improper influence in local elections; Now, therefore,

BE IT ENACTED, by the Council of the City of Plainfield that Chapter 2, Administration, Article 10. Budget and Purchasing Procedures be amended and supplemented by creating Sections 2:10-19 through 2:10-22, inclusive, Prohibition on Awarding Public Contracts to Certain Contributors, as follows:

Section 2:10-19. 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 Plainfield and its purchasing agent(s) or departments or instrumentalities of the City, 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, to (i) a campaign committee of any City candidate or holder of public office having ultimate responsibility for the award of a contract, or (ii) to any Municipal or 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.

(b) No professional business entity or vendor who submits a proposal for, enters into negotiations for, or agrees to any professional service contract or contract or agreement in excess of \$17,500 (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 City of Plainfield or any departments or subdivisions 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 Municipal candidate or holder of public office having ultimate responsibility for the award of a contract, or (ii) to any Municipal or 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

(1 of 3)

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 the Municipal party committee or \$500 to the 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 Plainfield municipal candidates and officeholders with ultimate responsibility for the award of the contract, and all Municipal or County political parties and PACs referenced in this ordinance combined, without violating subsection (a) of this section.
- (e) The City Council of the City of Plainfield shall have ultimate responsibility for the approval and award of the contracts that may be submitted by the administration, from time to time. Said approvals and authorizations shall be memorialized in every instance by resolution adopted by a majority of the City Council members.

Section 2.10-20. 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 Municipal candidate for Mayor or Governing Body, or any Municipal or 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 2.10-21. 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's purchasing agent or his/her designee, 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 Section 2.10-19 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, 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 2:10-22. Return of Excess Contributions.

A professional business entity, vendor, or municipal candidate or officeholder, or (Municipal or County party committee or PAC referenced in this ordinance, may cure a violation of Section 2:10-19, 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, seeks and receives reimbursement of the contribution from the relevant municipal

(2 OF 3)

candidate or officeholder, Municipal or County political party or PAC referenced in this ordinance.

(a) Exemptions. The contribution limitations prior to entering into a contract in Section 2:10-19 (a) do not apply to contracts which are required by law to be awarded to the lowest bidder.

(b) Section 6. Penalty. It shall be a breach of the terms of the Municipal 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 a public office of the City of Plainfield; (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.

(c) Any professional business entity who violates (a) ii-viii shall be disqualified from eligibility for future Municipal contracts for a period of four (4) calendar years from the date of the violation.

BE IT, FURTHER ENACTED, by the Council of the City of Plainfield, that:

1. **Severability.** If any provision of this Ordinance shall be held invalid, or contrary to the law, then such provision of the Ordinance shall be deemed separable from the remaining provisions of this Ordinance and shall not affect the validity of the other provisions of the Ordinance.

2. **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.

3. **Effective Date.** This Ordinance shall take effect twenty (20) days following action or inaction by the Mayor, as provided by law or on an override of a mayoral veto by the council, which ever is applicable in accordance with law, unless a resolution is adopted pursuant to N.J.S.A. 69A-181(b) declaring an emergency and providing that this ordinance shall take effect at an earlier date.

4. **Publication.** A notice of the action shall be published in the official newspaper authorized to publish legal notice for the City as required by law.

(3
O
F
3)

AN ORDINANCE TO AMEND AND SUPPLEMENT THE MUNICIPAL CODE OF THE CITY OF PLAINFIELD AT CHAPTER 17, LAND USE, ARTICLE III, ZONING BOARD OF ADJUSTMENT, BY CREATING SECTION 17:3-15, CONTRIBUTION DISCLOSURE STATEMENTS

MC 2011 - 12

Deletions are placed in [] brackets.

Additional are made in **bold letters and underlined**.

WHEREAS, municipal Master Plans include well thought out, long-term decisions about the development capacity of community; and

WHEREAS, municipal Master Plans are implemented through the enactment of local land use ordinances; and

WHEREAS, 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, exceptions and waivers pursuant to N.J.S.A. 40:55D-51 provide opportunities for significant private gain; and

WHEREAS, applicants for planned developments, as defined in N.J.S.A. 40:55D-6 often deviate from the goals of the municipal master plan and provide opportunities for significant private gain; and

WHEREAS, openness in government and a fair and impartial variance, waiver and exception and planned development application process is crucial to assuring the continuing integrity of the municipal Master Plan, its implementing ordinances and the integrity of the variance application process; and

WHEREAS, disclosure of political contributions by property owners, developers and professionals will enhance the township's existing commitment to openness in government and provide further guarantees for a fair and impartial variance, waiver and exception application process; and

WHEREAS, disclosure of political contributions by property owners, developers and professionals will effectuate the purposes of the Municipal Land Use Law to promote morals and the general welfare; and

WHEREAS, the City Council of the City of Plainfield finds and has determined that the paramount public interest in enhancing the City's commitment to openness in government, in providing further guarantees for a fair and impartial variance, waiver and exception application process, and in promoting the general welfare through the integrity of the municipal planning process requires the supplementation of the Plainfield Zoning Board of Adjustment application checklist to mandate the listing of specified political contributions made by property owners, developers and the professionals whose services they use in applications for variances, waivers and exceptions; Now, therefore,

BE IT ENACTED, by the Council of the City of Plainfield that Chapter 17, Land Use, Article III, Zoning Board of Adjustment, be amended and supplemented by creating Section 17:3-15, Contribution Disclosure Statements, as follows:

Section 17:3-15, Contribution Disclosure Statements.

a) Definitions:

- 1. Application Checklist – The term “Application Checklist” means the list of submission requirements adopted by ordinance and provided by the municipal agency to a developer pursuant to N.J.S.A. 40:55D-10.3.**

c) 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 paragraph "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 N.J.S.A. 40:55D-51 in applications for site plan and subdivision approval not considered to be minor site plans or minor subdivisions pursuant to local ordinance.
 2. The municipal planning board and board of adjustment shall amend its Application Checklist for variances pursuant to N.J.S.A. 40:55D-70(d) as well as for relief pursuant to N.J.S.A. 40:55D-70c or N.J.S.A. 40:55D-51 in applications for site plan and subdivision approval not considered to be minor site plans or minor subdivisions pursuant to local ordinance to include the Contribution Disclosure Statements specified in paragraph "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.
- d) Availability of the Disclosure Statement: All Contribution Disclosure Statements shall be available in the office of the administrative officer for review by any member of the public.
- e) Intent of the Disclosure Statement: It is the intent of this ordinance that the Disclosure Statement shall serve to inform the public and not serve as evidence relevant to the decision criteria for variance applications pursuant to N.J.S.A. 40:55D-70(d) as well as for relief pursuant to N.J.S.A. 40:55D-70c or N.J.S.A. 40:55D-51 in applications for site plan and subdivision approval not considered to be minor site plans or minor subdivisions pursuant to local ordinance.

BE IT, FURTHER ENACTED, by the Council of the City of Plainfield, that:

1. **Severability.** If any provision of this Ordinance shall be held invalid, or contrary to the law, then such provision of the Ordinance shall be deemed separable from the remaining provisions of this Ordinance and shall not affect the validity of the other provisions of the Ordinance.

2. **Effective Date.** This Ordinance shall take effect twenty (20) days following action or inaction by the Mayor, as provided by law or on an override of a mayoral veto by the council, which ever is applicable in accordance with law, unless a resolution is adopted pursuant to N.J.S.A. 69A-181(b) declaring an emergency and providing that this ordinance shall take effect at an earlier date.

3. **Publication.** A notice of the action shall be published in the official newspaper authorized to publish legal notice for the City as required by law.

3
of
3

2. Developer – The term “Developer” means 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.
3. Professional – The term “Professional” means 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.
4. Contribution – The term “Contribution” means 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 ordinance, any such commitment or assumption shall be deemed to have been a contribution upon the date when such commitment is made or liability assumed.
5. Contribution Disclosure Statement – The term “Contribution Disclosure Statement” means 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, this municipality, made up to one year prior to filing the variance application and/or during the pendency of the application process, and required to be reported pursuant to N.J.S.A. 19:44A-1 et seq.

b) General Provisions:

1. Disclosure Requirements

- i. Any applicant for a variance pursuant to N.J.S.A. 40:55D-70(d) or a variance pursuant to N.J.S.A. 40:55D-70c in conjunction with any application for a subdivision not considered a minor 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 not considered a minor 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 shall include in the application Contribution Disclosure Statements for all Developers; 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; and all Professionals who apply for or provide testimony, plans, or reports in support of said variance and 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. Regardless of whether the owner of the property which is the subject of the variance application falls in any of the categories established in the preceding sentence, the applicant shall include in the application a Contribution Disclosure Statement for said owner.
- ii. During the pendency of the application process until final site plan approval is granted, any applicant required to comply with this ordinance shall amend its Contribution Disclosure Statements to include continuing disclosure of all Contributions within the scope of disclosure requirement of the above paragraph.

AN ORDINANCE TO AMEND AND SUPPLEMENT THE MUNICIPAL CODE OF THE CITY OF PLAINFIELD AT CHAPTER 2, ARTICLE 10. BUDGET AND PURCHASING PROCEDURES BY CREATING SECTION 2:10-23, INSURANCE PURCHASING

MC 2011 - 13

Deletions are placed in [] brackets.

Additional are made in **bold letters and underlined**.

WHEREAS, the Local Public Contracts Law, *N.J.S.A. 40A:11-1 et seq.* provides that the purchase of insurance including health, property and casualty, and workers compensation insurance, and insurance consulting services, are not subject to the bidding requirements pursuant to *N.J.S.A. 40A:11-5(m)*; and

WHEREAS, the City Council of the City of Plainfield finds that open competition for its insurance and insurance consulting business will assure that the lowest available pricing for its insurance needs can be obtained; and

WHEREAS, the Local Public Contracts Law authorizes local contracting units to require the use of competitive contracting practices to procure specified goods and services otherwise exempt from bidding pursuant to *N.J.S.A. 40A:11-5*; and

WHEREAS, the City Council of the City of Plainfield finds that requiring its insurance consultants be compensated solely by the City of Plainfield and not by commissions or fees, direct or indirect, paid by insurance carriers or other organizations providing insurance alternatives, and prohibiting any third party from paying any commission or fee to such consultants for securing business with the City of Plainfield, will ensure the fidelity and loyalty of such consultants to the City of Plainfield, and eliminate or reduce conflicting loyalties such consultants might otherwise have to any third parties; Now, therefore,

BE IT ENACTED, by the Council of the City of Plainfield that Chapter 2, Article 10. Budget and Purchasing Procedures by Creating Section 2:10-23, Insurance Purchasing as follows:

Section 2:10-23

a) **Definitions:**

1. **"Insurance" shall include the purchase of insurance coverages, alternatives to insurance such as self-insurance programs, as well as participation in a joint self-insurance fund, risk management program or related services provided by a contracting unit insurance group, or participation in an insurance fund established by a local unit pursuant to N.J.S.A. 40A:10-6, or a joint insurance fund established pursuant to N.J.S.A. 40A:10-36 et seq.**
2. **"Insurance Consulting Services" shall include all services associated with procuring, evaluating and administering insurance, including but not limited to brokerage, risk management or administrative services, and claims processing or administration services, including such services provided by a contracting unit insurance group, or an insurance fund established by a local unit pursuant to N.J.S.A. 40A:10-6, or a joint insurance fund established pursuant to N.J.S.A. 40A:10-36 et seq.**

b) **Prior to entering into any contract to obtain insurance or insurance consulting services, the City shall secure full and open competition among insurers, and insurance consulting service providers, for the City's insurance needs. The City shall use the competitive contracting process described and pursuant to N.J.S.A. 40A:11-4.3, N.J.S.A. 40A:11-4.4 and N.J.S.A. 40A:11-4.5, inclusive, to secure such competition, provided however that to the extent this Ordinance requires additional measures to better ensure maximum competition and fairness, any and all such additions shall be required when and where so designated.**

(1 of 3)

c) The City shall advertise in the newspapers authorized to print legal notices for the City, and newspapers circulated in at least 5 counties in the State, and on the City's website not less than 60 days, but not more than 120 days prior to the contract commencement date a "Request for Proposals" to provide insurance and/or insurance consulting services. The publication shall provide that the details of the City's insurance requirements shall be available upon request from the Office of the City Clerk.

d) The request for proposals shall be designed and drafted by the City Administrator or his/her designee, and shall set forth such detailed information as may be required to adequately and accurately inform all who wish to respond and provide insurance and/or insurance consulting services to satisfy the City's needs therefor, including the current terms of, and fees or premiums paid for, such coverages or services, current coverages, loss experience and anticipated or desirable needs with respect to the relevant coverages or services sought. All proposal information, including claims, expense and loss data, shall be made available to all proposers in both written and electronic format.

e) Responses to the request for proposal shall be submitted to the City at least 30 days prior to the anticipated commencement of the contract.

f) At no time during the proposal solicitation process shall any official or employee of the City, or any officer, employee or representative of any provider of insurance consulting services to the City, convey information, including price, to any potential proposer which could confer an unfair advantage upon that proposer over any other potential proposer.

g) A provider of insurance consulting services to the City shall be compensated for its services to or on behalf of the City solely by the City. Compensation shall be set at a fixed fee or an hourly basis, or on such other common and readily comparable basis applicable to all proposers and set forth in the request for proposal documents, provided that compensation shall not be determined as a percentage of premium costs.

h) No provider of insurance or of insurance consulting services to the City shall pay to any insurance consulting service provider to the City, or to any other third party, any form of compensation including but not limited to commissions, fees, incentives, bonuses, rebates or any other thing of value, in consideration of obtaining the City's insurance or insurance consulting business.

i) No provider of insurance consulting services to the City shall accept any form of compensation including but not limited to commissions, fees, incentives, bonuses, rebates or any other thing of value, from any provider of insurance, other insurance service provider, or any other third party, in consideration of obtaining or servicing the City's insurance or insurance consulting business.

j) Any person or entity proposing to provide insurance or insurance consulting services to the City shall certify in its proposal that it shall neither pay nor accept any form of compensation including but not limited to commissions, fees, incentives, bonuses, rebates or any other thing of value, in consideration of obtaining or servicing the City's insurance or insurance consulting business from any party other than the City.

k) Any person or entity selected to provide insurance or insurance consulting services to the City shall certify at least annually and prior to any renewal of its contract, that it has not paid nor accepted any form of compensation including but not limited to commissions, fees, incentives, bonuses, rebates or any other thing of value, in consideration of obtaining or servicing the City's insurance or insurance consulting business from any party other than the City.

l) Any provider of insurance consulting service that assists the City in soliciting, evaluating, or selecting any provider of insurance or other insurance consulting services to the City shall disclose to the City the aggregate compensation, including but not limited to commissions, fees, incentives, bonuses, rebates or any other thing of value, it has received in each of the prior three years from each provider of insurance or insurance consulting services solicited or evaluated by the City. Such disclosure shall be made as soon as practicable, but in no event later than the date of the evaluation report recommending an award by the governing body.

m) The request for proposals for any insurance or insurance consulting services for the City shall clearly establish the compensation restrictions and the certification and disclosure requirements established by this Ordinance as mandatory, non-waivable terms, the violation of which shall be grounds for (i) terminating any contract resulting therefrom, and (ii) requiring the insurer or insurance service provider to disgorge to the public entity any compensation including, but not limited to, commissions, fees, incentives, bonuses, rebates or any other thing of value, paid or received in violation of this Ordinance, and a commensurate reduction in premiums to be paid by the public entity for the affected coverage(s) in the future.

n) Whenever soliciting quotations for insurance coverage, the City Administrator or his/her designee shall obtain at least three quotations and shall submit the request for proposals to at least one joint insurance fund, and with respect to health insurance, to the State Health Benefits Plan (SHBP), at the same time it is published, and shall determine if the SHBP and/or joint insurance fund can provide the same or similar coverages. The evaluation report shall include an analysis and discussion of the availability, terms and price of comparable coverage from such joint insurance fund and the SHBP as part of its award recommendation.

BE IT, FURTHER ENACTED, by the Council of the City of Plainfield, that:

1. **Severability.** If any provision of this Ordinance shall be held invalid, or contrary to the law, then such provision of the Ordinance shall be deemed separable from the remaining provisions of this Ordinance and shall not affect the validity of the other provisions of the Ordinance.

2. **Effective Date.** This Ordinance shall take effect twenty (20) days following action or inaction by the Mayor, as provided by law or on an override of a mayoral veto by the council, which ever is applicable in accordance with law, unless a resolution is adopted pursuant to N.J.S.A. 69A-181(b) declaring an emergency and providing that this ordinance shall take effect at an earlier date.

3. **Publication.** A notice of the action shall be published in the official newspaper authorized to publish legal notice for the City as required by law.