

PLAINFIELD MUNICIPAL COUNCIL
AGENDA FIXING SESSION
MONDAY, AUGUST 11, 2014
7:30 P.M.

ADDENDUM

IX. INTRODUCTION OF ORDINANCES ON FIRST READING:

MC 2014 -23

AN ORDINANCE AMENDING THE PROHIBITION ON AWARDING PUBLIC CONTRACTS TO CERTAIN CONTRIBUTORS ADOPTED PURSUANT TO ARTICLE 10, CHAPTER 2 OF THE MUNICIPAL CODE OF THE CITY OF PLAINFIELD, NEW JERSEY, 1971

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MC 2014-23

Be It Enacted by the Council of the City of Plainfield:

Sec. 1. Sec. 2:10-19 through and including Sec. 2:10-22 pertaining to prohibition on awarding public contracts to certain contributors, heretofore adopted pursuant to Chapter 2 Article 10 of the Municipal Code of the City of Plainfield, New Jersey 1971, are hereby amended, and shall now read as follows:

Sec. 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 individual or business entity, including those awarded pursuant to any process including a fair and open process, if such individual or 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 (1) calendar year immediately preceding the date of the contract or agreement.

(b) No individual, business entity or vendor who submits a proposal for, enters into negotiations for, or enters into any contract or agreement in excess of Seventeen Thousand Five Hundred Dollars (\$17,500.00) (including non-emergency contracts awarded by N.J.S.A. 40A:11 et seq. or a "Fair and Open" Process pursuant to N.J.S.A.19:44A-20 et seq.) with the City of Plainfield or any departments or subdivisions thereof, for the provision of goods, property and/or services, as the case may be, shall knowingly solicit or make any contribution of money or 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 individual, business entity or vendor and the City regarding a specific agreement to provide goods, property and/or services, 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 section, an "individual or business entity" and a "vendor" seeking a public contract means any person including the person's spouse, if any, and any child or dependent living at that person's home; and any firm, corporation, professional corporation, limited liability company, partnership, organization, or association. The definition of a business entity and vendor includes all principals of such entities. "Principal" shall mean any person who owns or controls ten percent (10%) or more of the equity in the corporation, limited liability company, partnership, organization, or business trust; as well as the partners and the officers of the business entity or vendor, and shall also include the principal's spouse, if any, and any child or dependent living at that person's home. An "individual or business entity" shall also include any subcontractors utilized by the individual or business entity in the provision of goods, property or services to the City as well as the Principals of any such subcontractor as defined herein above. A "business entity or vendor" shall also include any subsidiaries directly controlled by the business entity or vendor as well as the Principals thereof as defined herein above.

(d) Any individual or entity meeting the definition of "business entity" or "vendor" under this section may annually contribute a maximum of Three Hundred Dollars (\$300.00) each for any purpose to any candidate for Mayor or Governing Body, or Three Hundred Dollars (\$300.00) to the municipal party committee or Five

Hundred Dollars (\$500.00) to the County party committee or to a PAC referenced in Sections 2:10-19 through 2:10-22, without violating subsection (a) of this section. However, any group of individuals meeting the definition of "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 Two Thousand Five hundred Dollars (\$2,500.00) 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 these sections 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.

Sec. 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 an individual, business entity or vendor to any Municipal candidate for Mayor or Governing Body, or any municipal or County party committee or PAC referenced in Sections 2:10-19 through 2:10-22 shall be deemed a violation of these sections, nor shall an agreement for property, goods, or services, of any kind whatsoever, be disqualified thereby, if that contribution was made by the individual, business entity or vendor prior to the effective date of this section.

Sec. 2:10-21. Contribution statement by individual, business entity and vendor.

(a) Prior to awarding any contract or agreement to procure services with any individual, business entity or vendor and any contract or agreement to procure goods, property and/or services of any kind, the City's purchasing agent or his/her designee, shall receive a sworn statement from the individual, business entity or vendor, made under penalty of perjury, that the individual, business entity or vendor has not made a contribution in violation of Section 2.10-19.

(b) Every individual, business entity and/or vendor doing business with the City shall have a continuing duty to report any violations of these Sections 2:10-19 through 2:10-22 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, property 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.

Sec. 2:10-22. Return of excess contributions.

An individual, business entity, vendor, or municipal candidate or officeholder, or municipal or County party committee or PAC referenced in these Sections 2:10-19 through 2:10-22, may cure a violation of Section 2:10-19, if, within thirty (30) days after the date on which the applicable ELEC Report is published, the individual, business entity or vendor notifies the City in writing, seeks and receives reimbursement of the contribution from the relevant municipal candidate or officeholder, municipal or County political party or PAC referenced in these Sections 2:10-19 through 2:10-22.

(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) *Penalty.* It shall be a breach of the terms of the agreement to provide goods, property or services for an individual or business entity to: (i) make or solicit a contribution in violation of these sections; (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 individual or business entity itself, would subject that person or entity to the restrictions of these sections; (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 these sections; 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 these Sections 2:10-19 through 2:10-22.

(c) Any individual, business entity or vendor, who violates Subsection (b) (ii)-(viii) shall be disqualified from eligibility for future City contracts for a period of four (4) calendar years from the date of the violation.

Sec. 2. Severability. Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase. If any portion of this Ordinance, or its application to any person or circumstances, shall be adjudged or otherwise determined to be invalid, unconstitutional, void, or ineffective for any cause or reason, such determination shall not affect the remaining provisions of this Ordinance, and the application of such remaining provisions shall not be affected thereby and shall remain in full force and effect, and to this end, the provisions of this Ordinance are severable.

Sec. 3 This Ordinance is not meant to repeal any provisions of the Code other than those designated herein, but to add to its requirements, and all Ordinances or parts thereof inconsistent or in conflict with the provisions of this Ordinance are repealed only to the extent of such inconsistency or conflict.

Sec. 4. This Ordinance shall take effect twenty (20) days after final passage and approval provided by law.

First Reading

Second Reading and Final Passage

Adopted by the City Council

Approved by the Mayor

Attested by the City Clerk
