TOWNSHIP OF EAST BRUNSWICK

ORDINANCE NO. 06-13 DATE OF INTRODUCTION: March 13, 2006

ORDINANCE ESTABLISHING RESTRICTIONS ON THE AWARD OF CONTRACTS TO PROFESSIONAL ENTITIES AND CERTAIN OTHER ENTITIES WHO MAKE CERTAIN POLITICAL CONTRIBUTIONS

WHEREAS, professional business entities are exempt from public bidding requirements; and,

WHEREAS, the East Brunswick Township Council desires to adopt an ordinance restricting the award of professional and certain other contracts where certain campaign contributions have been made involving East Brunswick office holders and/or candidates; and

WHEREAS, pursuant to NJSA 40A: 11-5 and NJSA 40:48-2, and PL 2005 C. 271 municipalities have the right to establish rules and procedures for contracting with professional and certain other business entities; and

WHEREAS, in the interest of good government, The Township Council of the Township of East Brunswick desires to establish a policy that will avoid the perception of improper influence in local elections; and

NOW, THEREFORE, BE IT ORDAINED, that the policy of the Township of East Brunswick will be to set maximum amounts professional business entities may contribute politically beyond which they become ineligible to receive a public professional service or other non bid contract from Township of East Brunswick as follows:

Rejected ☐

Approved ☑

Mayor

3-30-06
Date

Reconsidered by Council

Override Vote Yes____ No____

President

Municipal Clerk 3/30/06

SECTION 1. **Prohibition on Awarding Public Contracts to Certain Contributors.**

(a) Any other provision of law to the contrary notwithstanding, the municipality or any of its purchasing agents or agencies, as the case may be, shall not enter into an agreement or otherwise contract to procure services, including banking services/relationships or insurance coverage services, including contracts for extraordinary unspecifiable services, from any professional business entity, if that entity has made any contribution of money, or pledge of a contribution, including in-kind contributions, to: (i) a campaign committee of any East Brunswick candidate or holder of the public office having ultimate responsibility for the award of the contract; or (ii) any East Brunswick political party committee, club or similar organization; or (iii) any political action committee (PAC) that is organized for the primary purpose of promoting or supporting East Brunswick municipal candidates or municipal officeholders or if the municipal candidate or municipal officer holder is a member of or in involved in the operations of the PAC, 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 professional business entity which enters into negotiations for, or agrees to, any contract or agreement with the municipality or any department or agency thereof for the rendition of professional, banking or insurance coverage services or any other no-bid consultants, including contracts for extraordinary unspecifiable services, shall knowingly make any contribution of money, or pledge of a contribution, including in-kind contributions, to: (i) any East Brunswick candidate or holder of the public office having ultimate responsibility for the award of the contract; or (ii) any East Brunswick party committee, club or similar organization; or (iii) any PAC that is organized for the primary purpose of promoting or supporting East Brunswick municipal candidates or municipal officeholders or if the municipal candidate or municipal officer holder is a member of or in involved in the operations of the PAC between the time of first communications between that business entity and the Township regarding a specific professional services agreement and the later of the termination of negotiations or the signing of the contract or agreement.

(c) For purposes of this ordinance, a "professional business entity" seeking a public contract means 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 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 as well as any subsidiaries directly controlled by the business entity.

(d) Any individual meeting the definition of "professional business entity" under this section may contribute a maximum of Four Hundred Dollars ($400) in each election in a year, for any purpose to each and any candidates for mayor or council, or a maximum of Five Hundred Dollars ($500) to any East Brunswick political party committee, club or similar organization, Political Action Committee (PAC) that is organized for the primary purpose of promoting or supporting East Brunswick municipal candidates or municipal officeholders or if the municipal candidate or municipal officer holder is a member of or in involved in the operations of the PAC, without

violating subsection (a) of this section. However, any individual meeting the definition of "professional business entity" under this section, including such principals, partners and officers of the entity in the aggregate may not in each election in a year contribute more than $2,500 to all East Brunswick candidates and office holders with ultimate responsibility for award of the contract and all East Brunswick political party committee, club or similar organization or PAC referenced in this Section 1 (d) combined, without violation of this Section.

(e) For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be:

(1) The East Brunswick Council, if the contract requires approval or appropriation from the Council.

(2) The Mayor of East Brunswick, if the contract requires approval of the Mayor, or if a public officer who is responsible for the award of a contract is appointed by the Mayor.

SECTION 2. **Contributions Made Prior to the Effective Date.**

No contribution of money or any other thing of value, including in-kind contributions, made by a professional business entity to any municipal candidate for Mayor or Council, or municipal party committee or PAC referenced in this ordinance shall be deemed a violation of this section, 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 prior to the effective date of this section.

SECTION 3. **Contribution Statement by Professional Business Entity.**

(a) Prior to awarding any contract or agreement to procure services, including banking or insurance coverage services, with any professional business entity, the township or any of its purchasing agents or agencies, including contracts for extraordinary unspecifiable services as the case may be, shall receive a sworn statement from the professional business entity made under penalty of perjury that the bidder or offer or has not made a contribution in violation of Section 1 above.

(b) The professional business entity shall have a continuing duty to report any violations of this Act that may occur during the negotiation or duration of a contract. The certification required under this subsection shall be made prior to entry into the contract or agreement with the township and shall be in addition to any other certifications that may be required by any other provision of law.

SECTION 4. **Return of Excess Contributions.**

A professional business entity or township candidate or officeholder or municipal party committee, club or similar organization, or PAC referenced in this ordinance may cure a violation of Section 1 above, if, within **60** days after making a contribution(s) which violates said Section 1, the professional business entity notifies the Township Council in writing and seeks and receives reimbursement of a contribution from the township candidate or municipal political party, club or similar organization, or PAC referenced in this ordinance.

SECTION 5. **Penalty.**

(a) All East Brunswick professional service agreements shall provide that it shall be a breach of the terms of the government contract for a professional business entity as defined in Section 1 (c) to violate section 1 (b) or to knowingly conceal or misrepresent contributions given, or to make contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution.

(b) Any professional business entity as defined in Section 1(c) and (d) who knowingly fails to reveal a contribution made in violation of this Act, or who knowingly makes or makes contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution, shall be disqualified from eligibility for future East Brunswick contracts for a period of four (4) calendar years from the date of the violation.

SECTION 6. **Severability.**

If any provision of this Ordinance, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this law 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 law are severable.

SECTION 7. **Effective Date.**

This Ordinance shall take effect 20 days after final passage, adoption and publication according to law.

Nancy Pinkin
Council President

FILED
JUN 21 2007
NINA MITCHELL WELLS
SECRETARY OF STATE

ATTEST:
Elizabeth H. Kiss, Municipal Clerk