ARTICLE XIV. PUBLIC CONTRACTING REFORM AND POLITICAL CAMPAIGN CONTRIBUTION LIMITATIONS*

***Editor's note:** At the direction of the township, Art. XIV has been amended in its entirety to read as herein set out. Former Art. XIV, §§ 2-1231--2-1242, pertained to political campaign contributions, and was derived from Ord. No. 30-04, § I, adopted June 1, 2004, and Ord. No. 46-04, § I, adopted Aug. 17, 2004. Ord. No. 60-04, adopted Aug. 31, 2004, and Ord. No. 68-04, adopted Oct. 19, 2004, have been incorporated into the article by the township.

Sec. 2-1231. Policy of township.

(a) It is hereby declared to be in the public interest and the policy of the Township of South Brunswick that, in addition to insuring full compliance with the New Jersey Campaign Contributions and Expenditures Reporting Act, N.J.S.A. 19:44A-1 et seq., to limit political campaign contributions to township elected officials and candidates for township elective office and to political action committees of candidates for or holders of a township elective office or to a township or Middlesex County political committee or club by those persons, developers and professional business entities who may benefit from a business relation with or quasi-judicial actions of the township and/or its land use boards.

(b) It is hereby further declared that the policy of the Township of South Brunswick will be to set maximum amounts that professional business entities may contribute politically beyond which they become ineligible to receive a public professional service contract without competitive bid from South Brunswick Township.

Sec. 2-1232. Definitions.

As used in this article, the following terms shall have the definitions indicated, unless the context clearly indicates otherwise:

Affiliated political entity means any organization required to file reports of its activities with the New Jersey Election Law Enforcement Commission, which provides contributions, loans or in-kind contributions to candidates for the Council or Mayor of South Brunswick Township.

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), made to or on behalf of any office holder, 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. Any such commitment or assumption shall be deemed to have been a contribution upon the date when such commitment is made or liability assumed.

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 proposal for development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

Professional business entity means an individual or organization which may receive contracts

without the necessity of public bids pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-5. "Professional business entity" shall include an individual including the individual's spouse, if any, and any child or parent living at home; person; firm; corporation; professional corporation; partnership; organization; or association. The definition also includes any principals who own any equity in the corporation or business trust, partners, and officers in the aggregate employed by the entity as well as any parent, subsidiaries or collateral organization of the professional business entity. The term also includes any person or entity whose principals are required to be licensed by New Jersey Law and/or who supply legal representation, expert testimony or written reports. It shall include the individuals supplying such services as well as the firms or entities in which such individuals practice.

Sec. 2-1233. Agreements with contributors over limits restricted.

Any other provision of law to the contrary notwithstanding, the township or any of its purchasing agents or agencies or those of its independent authorities, as the case may be, shall not enter into an agreement or otherwise contract to procure services from any professional business entity, if that entity has solicited or made any contribution to a campaign committee of any candidate or holder of the public office having ultimate responsibility for the award of the contract, or to any affiliated politicalentity including but not limited to a township or Middlesex County party committee, in excess of the thresholds specified in this article within three years immediately preceding the date of the contract or agreement.

Sec. 2-1234. Time restriction on contributions by individuals seeking or under contract.

No individual that submits a proposal or enters into negotiations for or agrees to any agreement or contract with the township on any agreement or contract that is not publicly bid, for goods, services, equipment or property, shall knowingly solicit or make any contribution to a candidate for or the holder of a township or Middlesex County elective office having the ultimate responsibility for the award of the contract, or to the political action committee of a candidate for or the holder of a township or Middlesex County elective office or to a township or Middlesex County political committee or club between one calendar year before the time of first communications between that individual and the township regarding a specific professional services agreement and the termination of negotiations or the completion of the agreement or contract, whichever is later.

Sec. 2-1235. Time restriction on contributions by professional business entities seeking or under contract.

No professional business entity that submits a proposal or enters into negotiations for or agrees to any agreement or contract with the township on any agreement or contract that is not publicly bid, for goods, services, equipment or property, shall knowingly solicit or make any contribution to a candidate for or the holder of a township or Middlesex County elective office having the ultimate responsibility for the award of the contract, or to the political action committee of a candidate for or the holderof a township or Middlesex County elective office or to a township or Middlesex County political committee or club between one calendar the time of first communications between that business entity and the township regarding a specific professional services agreement and the termination of negotiations or the completion of the agreement or contract, whichever is later.

Sec. 2-1236. Maximum contributions permitted generally.

(a) Notwithstanding the prohibitions contained herein, any individual may contribute a maximum of $400.00 in the aggregate to a candidate or group of candidates for mayor or township council or $400.00 in the aggregate to any affiliated political entity without violating

section 2-1237 of this article.

(b) Notwithstanding the prohibitions contained herein, any professional business entity may contribute a maximum of $1,200.00 in the aggregate to a candidate or group of candidates for mayor or township council without violating section 2-1235 of this article.

(c) The contributions considered herein would be to candidates for South Brunswick municipal office with ultimate responsibility for the award of the contract sought.

(d) For purposes of this article, the office that is considered to have ultimate responsibility for the award of the contract shall be the South Brunswick Township Council if the contract requires approval or appropriation from the council.

Sec. 2-1237. Maximum contribution by individual under contract.

No individual doing business with the township on a contract or agreement that is not publicly bid shall make a monetary campaign contribution in excess of $400.00 for a primary election and $400.00 for a general election to a candidate for or the holder of a township or Middlesex County elective office or to the political action committee of a candidate for or the holder of a township or Middlesex County elective office or to a township or Middlesex County political committee or club.

Sec. 2-1238. Maximum contribution by professional business entity under contract.

No professional business entity doing business with the township on a contract or agreement that is not publicly bid shall make a monetary campaign contribution in excess of $2,500.00 for a primary election and $2,500.00 for a general election to a candidate for or the holder of a township or Middlesex County elective office or to the political action committee of a candidate for or the holder of a township or Middlesex County elective office or to a township or Middlesex County political committee or club.

Sec. 2-1239. Development applications before land use board--Individuals.

No individual who makes a development application before a land use board shall make a monetary campaign contribution in excess of a maximum of $400.00 in the aggregate to a candidate for or the holder of a township or Middlesex County elective office or to the political action committee of a candidate for or the holder of a township or Middlesex County elective office or to a township or Middlesex County political committee or club from one calendar year prior to the time the development application is filed with the land use board to such time as the project is fully completed and constructed.

Sec. 2-1240. Same--Developers, professional business entities.

No developer or professional business entity who makes a development application before a land use board shall make a monetary campaign contribution in excess of a maximum of $1,200.00 in the aggregate to a candidate for or the holder of a township or Middlesex County elective office or to the political action committee of a candidate for or the holder of a township or Middlesex County elective office or to a township or Middlesex County political committee or club from one calendar year prior to the time the development application is filed with the land use board to such time as the project is fully completed and constructed.

Sec. 2-1241. Contributions made prior to effective date of article.

No contribution made by an individual, developer or professional business entity to any municipal candidate for mayor or council, or township or Middlesex County party committee, shall be deemed a violation of this article, nor shall an agreement for property, goods or services of any kind whatsoever, be disqualified thereby, if that contribution was made prior to the effective date of this article.

Sec. 2-1242. Statements of compliance with article.

(a) Prior to awarding any contract or agreement to procure services with any professional business entity, the township or any of its purchasing agents or agencies, as the case may be, shall receive a sworn statement from the professional business entity made under penalty of perjury that the bidder or offeror has not made a contribution in violation of this article.

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

(c) As part of the checklist requirements for applications before any land use board, an individual, developer or professional business entity shall provide a sworn statement, made under penalty of perjury, that the applicant has not made a contribution in violation of this article.

(d) The individual, developer and/or professional business entity shall have a continuing duty to report any violation of this article that may occur during the application process. The certification required under this section shall be made prior to the time that any application is deemed complete by the township, and shall be in addition to any other certifications that may be required by any other provision of law.

Sec. 2-1243. Continuation of agreements; curing of violations of article.

(a) A professional service agreement may be continued for a period not in excess of 60 days, if the mayor and council determine that the immediate termination of the service agreement would cause a severe hardship to the township or that a satisfactory replacement professional can not be obtained immediately.

(b) An individual, developer or professional business entity may cure a violation of this article if, no later than 30 days following the day of the primary election or general election next following the date on which the contribution is made, the individual, developer or professional business entity seeks and receives reimbursement of the prohibited contribution. Once a cure has been perfected pursuant to this section, the individual, developer or professional business entity shall not be subject to the penalties contained in this article.

Sec. 2-1244. Breach of contract.

(a) An individual, developer or professional business entity found to knowingly violate this article or to knowingly fail to reveal or misrepresent a contribution in excess of the limits set forth in this article, or who knowingly makes or solicits contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution, shall be considered to be in breach of the terms of any agreement or contract between that individual, developer or professional business entity andthe township then in effect or of an approval by a land use board and shall be subject to the penalties prescribed in section 2-1245 and any other penalties

prescribed by law.

(b) All township professional service agreements shall provide that it shall be a breach of the terms of the government contract for a professional business entity to knowingly conceal or misrepresent contributions given or received, or to make or solicit such contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution.

Sec. 2-1245. Disqualification from eligibility for future contracts for five years.

An individual, developer or professional business entity found to be in violation of any portion of this article shall be disqualified from eligibility for future contracts, agreements or development applications with the township for a period of five years from the date of the violation and in addition shall have any contract or agreement with the township then in effect terminated immediately.

Sec. 2-1246. Copy of article provided to candidates for office.

The township clerk shall provide a candidate for elective office with a copy of this article at such time as such candidate requests a petition for said office.

Sec. 2-1247. Inconsistent ordinances repealed; severability.

(a) All ordinances or parts of ordinances inconsistent with the provisions of this article shall be and the same are hereby repealed.

(b) 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 to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this article are severable.