(Pay to Play Clarification)

TOWNSHIP OF MONTGOMERY

ORDINANCE NO. 03-1111

AN ORDINANCE AMENDING SUBSECTION 2-22.2 "AWARD OF CONTRACTS FOR GOODS AND SERVICES EXEMPT FROM PUBLIC BIDDING REQUIREMENTS WHOSE VALUE EXCEEDS $5,000" OF THE CODE OF THE TOWNSHIP OF MONTGOMERY IN SOMERSET COUNTY, NEW JERSEY

BE IT ORDAINED by the Township Committee of the Township of Montgomery, in Somerset County as follows:

Section 1. Subsection 2-22.2d of Code Amended. Subsection 2-22.2d of the Code of the Township of Montgomery in Somerset County (1984) (hereinafter "Code") entitled, "*Prohibition on awarding contracts to certain contributors for goods and services exempt from public bidding requirements whose value exceeds $5,000*" is amended to read as follows:

d. *Prohibition on awarding contracts to certain contributors for goods and services exempt from public bidding requirements whose value exceeds $5,000.*

1. Any other provision of this Code to the contrary notwithstanding, the Township shall not enter into an agreement or otherwise contract to procure goods or services from any business entity or professional business entity, where the transaction is not required under the Local Public Contracts Law to be bid publicly and where the value of the transaction exceeds $5,000, if that entity has solicited or made any contribution of money, or pledge of a contribution, including in-kind contributions, to any candidate for the office

of Montgomery Township Committee or to any Montgomery Township municipal or Somerset County political party committee in excess of the thresholds specified in subparagraph 3 below within one calendar year immediately preceding the commencement of negotiations for the contract or agreement.

2. No business entity or professional business entity which enters into negotiations for, or agrees to, any contract or agreement with the Township for the provision of goods or services where the transaction is not required under the Local Public Contracts Law to be bid publicly and where the value of the transaction exceeds $5,000, shall knowingly solicit or make any contribution of money, or pledge of a contribution, including in-kind contributions, to any candidate for the office of Montgomery Township Committee, or to any Montgomery Township municipal or Somerset County political party committee, between the time of first communications between that entity and the Township regarding a specific contract or agreement and the later of the termination of negotiations or the completion of the contract or agreement.

3. Any individual meeting the definition of "business entity" or "professional business entity" under subparagraph c. of this subsection may annually contribute a maximum of $250 each for any purpose to any candidate for the office of Township Committee, or $500 to any Montgomery Township municipal or Somerset County political party committee, without violating subparagraphs d.1 or d.2 of this subsection. In addition, any group of

individuals meeting the definition of "business entity" or "professional business entity" under subparagraph c. of this subsection, including such principals, partners, and officers of the entity in the aggregate, may not annually contribute for any purpose in excess of $1,000 to all candidates for the office of Township Committee and all Montgomery Township municipal or Somerset County political party committees combined, without violating subparagraphs d.1 or d.2 of this subsection.

Section 2. Subsection 2-22.2e of Code Amended. Subsection 2-22.2e of the Code entitled, "*Contributions made prior to the effective date*" is amended to read as follows:

e. *Contributions made prior to the effective date.* No contribution of money or any other thing of value, including in-kind contributions, made by a business entity or professional business entity to any candidate for the office of Township Committee or to any Montgomery Township municipal or Somerset County political party committee, 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 prior to the effective date of this Ordinance.

Subsection 3. Subsection 2-22.2g of Code Amended. Subsection 2-22.2g of the Code entitled, "*Return of excess contributions*" is amended to read as follows:

g. *Return of excess contributions.* A business entity or professional business entity, candidate for the office of Township Committee, or Montgomery Township municipal or Somerset County political party committee may cure a violation of subparagraph d. of this subsection if, within 30 days after the pertinent election, the entity notifies the Township Committee in writing, and seeks and receives

reimbursement of a contribution from the candidate or Montgomery Township municipal or Somerset County political party committee.

Section 4. Repealer. All ordinances and resolutions or parts thereof inconsistent with this Ordinance are hereby repealed.

Section 5. Severability. If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the Courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

Section 6. Effective Date. This Ordinance shall take effect upon passage and publication as required by law.

V:\Users\KPH\ordinances.2003\pay to pay amended.wpd

CERTIFICATION

I HEREBY CERTIFY THE ABOVE TO BE A TRUE COPY OF AN ORDINANCE AS

Adopted BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MONTGOMERY AT A MEETING HELD

August 21, 2003

Donna Kuhla

TOWNSHIP CLERK

24612