TOWNSHIP OF MONTGOMERY
ORDINANCE NO. 06-1234

AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY IN SOMERSET COUNTY, NEW JERSEY, CONCERNING CAMPAIGN CONTRIBUTIONS MADE BY REDEVELOPERS AND AMENDING THE CODE OF THE TOWNSHIP OF MONTGOMERY (1984).

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

Section 1. Section 2-22, "Contracts and Agreements," Amended. Section 2-22 of Chapter 2 of the Code of the Township of Montgomery (1984), entitled "Contracts and Agreements," is hereby amended by the addition of a new subsection 2-22.3 entitled "Award of Redevelopment Agreements Under the Local Redevelopment and Housing Law," to read as follows:

2-22.3 Award of Redevelopment Agreements Under the Local Redevelopment and Housing Law.

a. *Purpose.* It shall be the purpose of this subsection to foster fair and open competition in the redevelopment process; to avoid the appearance of corruption and public cynicism that can arise when the timing between contributions and the contracting with redevelopers pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.*, closely coincides; and to eliminate the appearance of buying redevelopment agreements through campaign contributions.

b. *Findings.* The Township Committee finds:

1. The contracting with redevelopers for the redevelopment of any area within the Township pursuant to the Local Redevelopment and Housing

Law, N.J.S.A. 40A:12A-1 *et seq.*, is exempt from the requirements of public bidding;

2. It has become more common for certain individuals and business entities who seek to serve as redevelopers to make substantial campaign contributions to the election campaigns of the officials who ultimately determine the award of such redevelopment agreements, either directly to the candidate or through municipal or County political parties;

3. The practice of some local government officials to enter into discretionary agreements with redevelopers that have made substantial campaign contributions to those officials or to municipal and County political parties raises reasonable concerns on the part of taxpayers as to the process of local redevelopment pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.*, and creates distrust of government processes;

4. The Township seeks, in accordance with N.J.S.A. 40:48-2 and the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.*, to establish rules and procedures for contracting with redevelopers whose contracts are exempt from public bidding requirements.

c. *Definitions.* As used herein,

1. *Candidate* shall have the same meaning as set forth in N.J.S.A. 19:44A-3.

2. *Contribution* shall have the same meaning as set forth in N.J.S.A. 19:44A-3.

3. *Political party committee* shall have the same meaning as set forth in N.J.S.A. 19:44A-3.

4. *Redeveloper* shall have the same meaning as set forth in N.J.S.A. 40A:12A-3 and shall include any business entity, as defined in paragraph c. of subsection 2-22.2 of this Code, that shall enter into or propose to enter into an agreement with the Township for the redevelopment of an area in need of redevelopment, or any part thereof, under the provisions of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.*, or for any construction or other work forming part of a redevelopment project in the Township. The term *redeveloper* shall also include any business entity employed by or under agreement with a redeveloper to provide goods or services related to: (a) obtaining the designation or appointment as redeveloper by the Township; (b) negotiating the terms of a redevelopment agreement with the Township, or any amendments or modifications thereto; (c) lobbying of the Township and/or its officers in connection with the examination of an area and its designation as an area in need of redevelopment or in connection with the preparation, consultation and adoption of a redevelopment plan; or (d) performing the terms of a redevelopment agreement with the Township.

5. *Redevelopment* shall have the same meaning as set forth in N.J.S.A. 40A:12A-3.

6. *Redevelopment project* shall have the same meaning as set forth in N.J.S.A. 40A:12A-3.

7. *Township* shall mean the Township of Montgomery in Somerset County, New Jersey, and any of its independent agencies or instrumentalities.

d. *Prohibited contributions.*

1. Any other provision of this Code to the contrary notwithstanding, the Township shall not enter into an agreement or otherwise contract with any redeveloper for the planning, replanning, construction or undertaking of any redevelopment project, including the conveyance or leasing of any public property in conjunction with the redevelopment of an area within the Township, pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.*, if that redeveloper 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 paragraph d.3 of this subsection within one calendar year immediately preceding the commencement of negotiations for the contract or agreement.

2. No redeveloper that enters into negotiations for, or agrees to, any contract or agreement with the Township for the planning, replanning, construction or undertaking of any redevelopment project, including the conveyance or leasing of any public property in conjunction with the redevelopment of an area within the Township, pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.*, 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 redeveloper 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 "redeveloper" under paragraph c. of this subsection may annually contribute a maximum of two hundred fifty ($250.00) dollars each for any purpose to any candidate for the office of Township Committee, or five hundred ($500.00) dollars to any Montgomery Township municipal or Somerset County political party committee, without violating paragraphs d.1 or d.2 of this subsection. In addition, any group of individuals meeting the definition of "redeveloper" under paragraph c. of this subsection, including such principals, partners, and officers of the redeveloper in the aggregate, may not annually contribute for any purpose in excess of one thousand ($1,000.00) dollars to all candidates for the office of Montgomery Township Committee and all Montgomery Township municipal or Somerset County political party committees combined, without violating paragraphs d.1 or d.2 of this subsection.

4. The limitations set forth in paragraphs d.1, d.2 and d.3 of this subsection shall not apply in the event the subject agreement is awarded to a redeveloper after public bidding undertaken in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 *et seq.* or the Local Lands and Buildings Law, N.J.S.A. 40A:12-1 *et seq.*

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

committee, shall be deemed a violation of this subsection, nor shall an agreement for a redevelopment project, of any kind whatsoever, be disqualified thereby, if that contribution was made by the redeveloper prior to the effective date of this subsection.

f. *Contribution statement by redeveloper required; duty to report.*

1. Prior to entering into or approving any agreement with any redeveloper, the Township shall receive a sworn statement from the redeveloper made under penalty of perjury that the redeveloper has not made a contribution in violation of paragraph d. of this subsection.

2. The redeveloper shall have a continuing duty to report any violations of this subsection that may occur during the negotiation or duration of the redevelopment agreement. The statement required under this subsection shall be made prior to entry into the redevelopment agreement with the Township and shall be in addition to any other statements or certifications that may be required by any other provision of law.

g. *Return of excess contributions.* A redeveloper, candidate for the office of Montgomery Township Committee, or Montgomery Township municipal or Somerset County political party committee may cure a violation of paragraph d. of this subsection if, within thirty (30) days after the pertinent election, the redeveloper 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.

h. *Breach of contract and disqualification of redeveloper.*

1. All Township redevelopment agreements subject to the limitations set forth in paragraphs d.1, d.2 and d.3 of this subsection shall provide that it

shall be a breach of the terms of the redevelopment agreement for a redeveloper to violate this subsection or to knowingly conceal or misrepresent contributions given or received, or to make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution.

2. Any redeveloper who knowingly fails to reveal a contribution made in violation of this subsection, or that knowingly makes or solicits contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution, shall be disqualified from eligibility for future Township redevelopment agreements for a period of four (4) calendar years from the date of the determination of the violation and shall have any agreement with the Township then in effect immediately terminated.

Section 2. Repealer. All ordinances and resolutions or parts thereof inconsistent with this Ordinance are hereby repealed.

Section 3. Severability. If any section, subsection, paragraph, subparagraph, clause or provision of this Ordinance shall be adjudged by the Courts to be invalid, such adjudication shall apply only to the section, subsection, paragraph, subparagraph, clause or provision so adjudged and the remainder of this Ordinance shall be deemed valid and effective.

Section 4. Effective Date. This Ordinance shall take effect upon passage and publication as required by law.

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

October 5, 2006

Donna Kukla

TOWNSHIP CLERK