| Ordinance # | 05-2653 |
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| Introduction Date: | 5/17/05 |
| Hearing Date: | 6/8/05 *(Wed.)* |
| Passage Date: | 6/8/05 *(Wed.)* |

**AN ORDINANCE AMENDING THE CODE, CHAPTER II, ADMINISTRATION, Article VII, Administrative Policies and Procedures, TO ADD A NEW SECTION ENTITLED: "PROHIBITION ON AWARDING PUBLIC CONTRACTS TO CERTAIN CONTRIBUTORS"** *(Pay to Play)*

Preamble:

WHEREAS, it is has always been the policy of the City of Summit to award all public contracts in accordance with the highest standards of ethical conduct and strictly in a manner that achieves, secures, and otherwise results in obtaining the highest level of products and services at the lowest possible cost; and

WHEREAS, the City of Summit does not engage in the practice commonly known as "Pay to Play" and abhors and denounces said practice as it may occur elsewhere; and

WHEREAS, the State of New Jersey has enacted P.L. 2004, c. 19, aimed at curbing instances in which campaign contributions may influence the award of professional services contracts or other contracts and agreements to business entities that make such campaign contributions; and

WHEREAS, the aforementioned state law does not contain provisions that are necessary to fully prohibit, prevent and eliminate instances in which campaign contributions may influence the award of professional services contracts or other contracts and agreements to business entities that make such campaign contributions; and

WHEREAS, while the aforementioned state law does not take effect until January 1, 2006, and recognizing that the state law may pre-empt municipal ordinances banning "Pay to Play" now in effect or adopted after January 1, 2006; and

WHEREAS, the City of Summit wishes to enhance the principles that have and continue to govern the award of professional contracts and other contracts and agreements in the City of Summit; and

termination of negotiations or the completion 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 seeking a contract for compensation from the City. The definition of a professional 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 annually contribute a maximum of $400 each for any purpose to any candidate for mayor or council, or $500 to the party committee in the City of Summit or Union County, or to a PAC referenced in this ordinance, without violating subsection (a) of this section. However, any group of individuals meeting the definition of "professional business entity" under this section, including such principals, partners, and officers of the entity in the aggregate, may not annually contribute for any purpose in excess of $2,500 to all successful candidates and officeholders with ultimate responsibility for the award of the contract, and all political parties in the City of Summit or Union County of which the Mayor or any council person is a member, and PACs referenced in this ordinance combined, without violating subsection (a) 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 Common Council of the City of Summit, if the contract requires approval or appropriation from the Council.

(2) The Mayor of the City of Summit, 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.

**2-90.2: 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 successful municipal candidate for Mayor or Council, or municipal or county 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.

**2-90.6: Severability and Effectiveness Clause**

If any sentence, paragraph or section of this ordinance, or the application thereof to any persons or circumstances shall be adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any sentence, paragraph or section of this ordinance shall lose its force and effect, such judgment or action shall not affect, impair or void the remainder of this ordinance.

**2-90.7: Effective Date:**

All ordinances or parts of ordinances inconsistent herewith are hereby repealed and this ordinance shall take effect upon final passage and publication as provided by law.

Dated: June 8, 2005

I, David L. Hughes, City Clerk of the City of Summit, do hereby certify that the foregoing ordinance was duly passed by the Common Council of said City at a regular meeting held on Wednesday evening, June 8, 2005.

David L. Hughes
City Clerk

Approved:

Mayor