



The Phoenix House circa 1820

The Borough of Mendham

2 West Main Street, Mendham, New Jersey 07945

Incorporated May 15, 1906

Office of the Borough Clerk
Telephone: (973) 543-7152 ext. 15
Facsimile: (973) 543-7202
E-mail: mmassey@mendhamnj.org

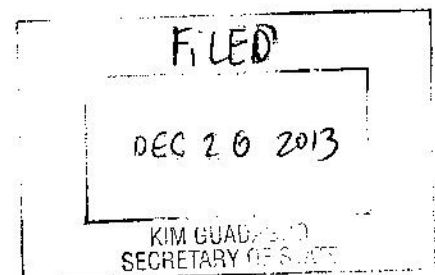
December 12, 2013

Kim Guadagno
Secretary of State
Department of State
125 West State Street
Trenton, New Jersey 08625

Attached is a copy of Ordinance #12-13, (Pay-to-Play) establishing policy for the awarding of public professional service and vendor contracts.

Respectfully yours,


Maureen Massey, RMC CMC
Borough Clerk



**BOROUGH OF MENDHAM
MORRIS COUNTY, NEW JERSEY**

ORDINANCE #12-13

**AN ORDINANCE OF THE BOROUGH OF MENDHAM, COUNTY
OF MORRIS, STATE OF NEW JERSEY AMENDING AND
SUPPLEMENTING CHAPTER 4, "ADMINISTRATIVE ORGANIZATION,"
ARTICLE VII, "PURCHASING," OF THE CODE OF THE BOROUGH OF
MENDHAM, NEW JERSEY, IN ORDER TO ESTABLISH A BOROUGH
POLICY FOR THE AWARDING OF PUBLIC PROFESSIONAL SERVICE
AND VENDOR CONTRACTS**

WHEREAS, the residents of the Borough of Mendham (the "Borough") have a right to expect that the exercise of the duties and responsibilities of their elected municipal officials and the Borough's employees and officials, are not influenced by political contributions; and

WHEREAS, pursuant to N.J.S.A. 40A:11-5 and N.J.S.A. 40:48-2, municipalities have the right to establish rules and procedures for contracting with professional business entities; and

WHEREAS, nothing contained herein shall be interpreted to impair in any way the right of a professional service provider secured by the First Amendment of the Constitution of the United States of America and further secured by Article 1, Paragraph 6 of the Constitution of the State of New Jersey to exercise its right to freedom of speech and its right to speak, write and publish sentiments on all subjects.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Mendham, in the County of Morris and State of New Jersey, that the policy of the Borough of Mendham will be to create such a regulation which states that a professional service provider which makes direct or indirect political contributions beyond a certain amount to elected officials who are responsible for awarding professional services contracts shall be ineligible to receive a public professional service and/or vendor contract from the Borough of Mendham.

SECTION 1. Chapter 4, "Administrative Organization," Article VII, "Purchasing," of the Code of the Borough of Mendham is hereby supplemented to read as follows:

RESTRICTIONS ON CAMPAIGN CONTRIBUTIONS BY VENDORS TO THE BOROUGH

§ 4-52 Definitions.

As used in this Article:

Agreement to purchase goods or services shall mean an agreement for the purchasing of goods to or on behalf of the Borough and any vendor contracts for the procurement of goods or services not considered "professional" as defined in the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., above the public bid threshold that may be established from time to time by the State of New Jersey, and without regard to whether the said agreement or contract is awarded pursuant to and in accordance with the "Fair and Open" procedures as established in the "Pay-to-Play" Law, N.J.S.A. 19:44A-20.4, et seq.

Agreement for professional services shall mean an agreement for the rendering of professional services to or on behalf of the Borough, as defined herein, and without regard to whether the said agreement or contract is awarded pursuant to and in accordance with the "Fair and Open" procedures as established in the "Pay-to-Play" Law, N.J.S.A. 19:44A-20.4, et seq.

Borough shall mean the Borough of Mendham as a municipal entity, and any elected official, officer, employee, agent department, board or commission of the Borough of Mendham.

Campaign contribution shall mean Mendham campaign contribution, County campaign contribution and/or pass-through campaign contribution as defined herein.

County campaign contribution shall mean any contribution, whether in the form of money, free service or pledge, including without limitation any in-kind contributions, or purchases of tickets, advertisements or the like, directly or indirectly, to any County level political organization or County level campaign committee or fund within

the County of Morris; the term "directly or indirectly" as used herein shall further mean and include any campaign contributions made through intermediaries or third-parties for the purpose of concealing the source of the contributions(s).

Entity shall mean any corporation, professional corporation, joint venture, general or limited partnership, trust or limited liability company, or subsidiary or parent of any of the foregoing.

Ineligible vendor shall mean any vendor who has during the preceding three-year period made campaign contributions in excess of the limits set forth in Section 4-54 of the Revised General Ordinances of the Borough of Mendham.

Ineligible vendor list shall mean a list of ineligible vendors maintained by the Purchasing Agent or his designee of the Borough in accordance with the provisions of this Chapter.

Mendham campaign contribution shall mean any contribution, whether in the form of money, free service or pledge, including without limitation any in-kind contributions, or purchases of tickets, advertisements or the like, directly or indirectly, to any campaign committee or election fund of any candidate for, or holder of the office of, Mayor or Council of the Borough, or to any municipal or party committee or political club or organization within the Borough; the term "directly or indirectly" as used herein shall further mean and include any campaign contributions made through intermediaries or third-parties for the purpose of concealing the source of the contribution(s).

Pass-through campaign contributions shall mean any contribution, whether in the form of money, free service or pledge, including without limitation any in-kind contributions, or purchases of tickets, advertisements or the like, directly or indirectly, to any campaign committee or election fund of any candidate for, or holder of the office of, Mayor or Council of the Borough, or to any municipal or party committee or political club or organization within the Borough, that is received from the election fund or other campaign account of any elected official or candidate for any office other than Mayor or Council of the Borough, or from any County political organization, County campaign committee or political action committee or fund within or without the County of Morris.

Vendor shall mean any individual person or entity who either negotiates, bids or otherwise seeks to enter into an agreement to purchase goods or services as defined herein. In the case of any vendor who is an individual person, the term shall also include the individual's spouse, if any, and any child living at home, as well as any entity by whom any of them are employed or in which any of them have an ownership interest in excess of ten (10%) percent. In the case of any vendor who is an entity, the term shall also include each and every principal of the said entity who has an ownership interest in excess of ten (10%) percent in the entity, or any parent or subsidiary of the entity, and their spouses, if any, and any child living at home.

Vendor's certification of eligibility shall mean a certification in lieu of affidavit pursuant to which each vendor shall list each and every Mendham campaign contribution and each County campaign contribution the vendor has made during the preceding year.

§ 4-53 Prohibition on Awarding Contracts for Goods or Services to Certain Campaign Contributors.

The Borough shall not enter into any agreement for any professional service or for the purchase of goods or other services with any vendor that has made any campaign contribution in excess of the limits specified in Section 4-54 of this Article, during the one (1) year period immediately preceding the date of the agreement, or during the term of any such agreement.

This section shall apply to all professional services contracts, with the exception of (D) and (E) below, and to all contracts for the purchase of goods and other services with the exception of the following items:

(A) Contracts that are awarded as a result of open public bidding as set forth under the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.;

(B) Contracts that are offered to the lowest, responsible, qualified bidder after public advertising for bids and quotes, pursuant to the provisions of the competitive contracting requirement of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.;

(C) Contracts with an anticipated aggregate value less than \$17,500;

§ 4-59 Contributions Made Prior to the Effective Date.

Notwithstanding any term contained herein to the contrary, this Ordinance shall not consider campaign contributions made prior to January 1, 2014, and no such campaign contributions shall be considered by the Purchasing Agent or his designee in determining a vendor's eligibility pursuant to this section.

§ 4-60 Curing Violations; Return of Excess Contributions.

Any Vendor may cure a Campaign Contribution made in excess of the limits set forth in section 4-56 herein, if, the said Vendor notifies the Purchasing Agent or his designee of the Borough in writing that it has received a reimbursement of a contribution in excess of that allowed in section 4-54 and by attaching a true and correct copy of the check received in reimbursement within sixty (60) days of making such contribution.

SECTION 2. All ordinances of the Borough of Mendham which are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

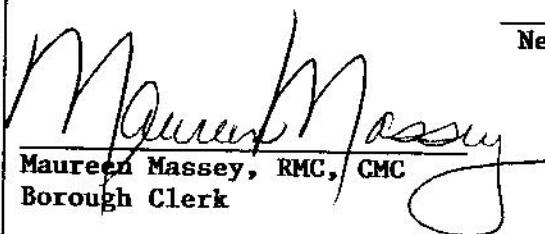
SECTION 4. This Ordinance may be renumbered for purposes of codification.

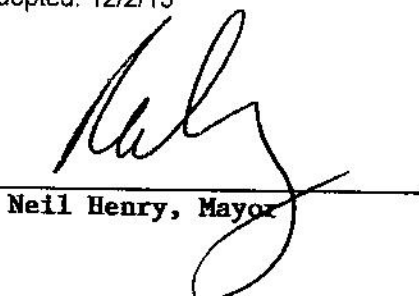
SECTION 5. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

SECTION 6. A copy of this Ordinance shall be immediately filed with the Secretary of State of the State of New Jersey.

Introduced: 11/18/13 Adopted: 12/2/13

Dated: December 2, 2013


Maureen Massey, RMC, CMC
Borough Clerk


Neil Henry, Mayor

