

TOWNSHIP OF MOORESTOWN

ORDINANCE NO. 23-2009

**AN ORDINANCE AMENDING CHAPTER 10
OF THE CODE OF THE TOWNSHIP OF MOORESTOWN ENTITLED "CONTRACTS"**

WHEREAS, the Council of the Township of Moorestown recognizes that in order for local pay-to-play ordinances to withstand constitutional scrutiny, these ordinances must be closely drawn to match a sufficiency important governmental interest;

WHEREAS, upon the analysis of its solicitor, the Council believes that it is necessary to amend Chapter which provides regulation for the awarding of contracts to professional business entities by limiting political contributions.

NOW, THEREFORE, BE IT ENACTED, by the Township Council of the Township of Moorestown, in the County of Burlington, State of New Jersey as follows:

Section 1: Chapter 10-1 shall be amended as follows:

Chapter 10-1. Prohibition on awarding public contracts to certain contributors.

A. Any other provision of law to the contrary notwithstanding, the municipality 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 professional, banking, insurance coverage services or any other consulting services from any professional business entity, including those awarded pursuant to a "fair and open" process, if that entity has solicited or made any contribution of money, or pledge of a contribution, including in-kind contributions, to any Moorestown Township municipal candidate or holder of the public office having ultimate responsibility for the award of the contract, or campaign committee supporting such candidate or officeholder, or to any Moorestown Township ~~or county~~ party committee, or to any political action committee (PAC) that regularly engages in the support of Township ~~or county~~ elections ~~and/or Township or county parties (PAC)~~ in excess of the thresholds specified in Subsection C within one calendar year immediately preceding the date of the contract or agreement.

B. No professional business entity which enters into negotiations for, or agrees to, any contract or agreement with the municipality or any department or agency thereof or of its independent authorities for the rendition of professional, banking or insurance coverage services or any other consulting services, including those awarded pursuant to a "fair and open" process, shall solicit or make any contribution of money, or pledge

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of a contribution, including in-kind contributions, to any Moorestown Township municipal candidate or holder of the public office having ultimate responsibility for the award of the contract, or campaign committee supporting such candidate or officeholder, or to any Moorestown Township ~~or county~~ party committee, or to any PAC that regularly engages in the support of Township ~~or county~~ elections and/or Township ~~or county~~ parties between the time of first communications between that business entity and the Township regarding a specific professional services agreement and the later of the termination of negotiations or the completion of the contract or agreement.

C. Contribution limits.

(1) Subject to the limitations in Subsection C(2), any entity meeting the definition of "professional business entity" under this section may annually contribute a maximum of \$300 for any purpose to each candidate, for council, or \$300 to each Moorestown Township party committee, or \$500 ~~to each county party committee, or to a PAC~~ referenced in this article, without violating Subsection A of this section.

(2) However, any entity 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 a total of \$2,500 to all Moorestown Township candidates and officeholders with ultimate responsibility for the award of the contract and all Moorestown Township ~~or county~~ political parties and PACs referenced in this article combined, without violating Subsection A of this section.

D. For purposes of this article, a "professional business entity" is any entity seeking or performing a public contract for professional, banking or insurance coverage services or any other consulting services and which may be an individual including the individual's spouse, if any; and any child living at home; a person; firm; corporation; professional corporation; partnership; organization; or association. The definition of a 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.

Section 2: Chapter 10-1 shall be amended to add Paragraph E. as follows:

E. No Moorestown Township candidate for council, officeholder, political party committee or PAC shall solicit any contribution or funds from any

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State, or County political party, or committee, or PAC for the purpose of supporting the election of any council candidate or officeholder.

Section 3: Chapter 10-2 shall be amended as follows:

Chapter 10-2. Contribution made prior to effective date.

No contribution of money or any other thing of value, including in-kind contributions, made by a professional business entity to any Township candidate for Council, or Township ~~or county~~ party committee or PAC referenced in this article 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.

Section 4: Chapter 10-4 shall be amended as follows:

Chapter 10-4. Return of excess contributions.

A professional business entity or Township candidate or officeholder or Township ~~or county~~ party committee or PAC referenced in this article may cure a violation of §10-1 of this article if, within 30 days after the contribution, the professional business entity notifies the Township Council in writing and seeks and receives reimbursement of a contribution from the Township candidate or Township ~~or county~~ political party or PAC referenced in this article.

Section 5: Repealer. Any and all other ordinances inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistencies.

Section 6: Severability. In the event that any section paragraph, clause phrase, term, provision or part of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid or unenforceable for any reason, such judgment shall not effect, impair or invalidate the remainder thereof, but shall be confined in its operation to the section, paragraph, clause, term, provision or part thereof directly involved in the controversy in such judgment shall be rendered.

Section 7: Effective Date. This ordinance shall take effect upon proper publication in accordance with law.

Section 8: Short Title. This Ordinance shall be known as Ordinance 23-2009.

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CERTIFICATION

I hereby certify that Ordinance No. 23-2009 was introduced and adopted on first reading by the Township Council at a meeting held on August 31, 2009. This ordinance was duly adopted by the Township Council of the Township of Moorestown, County of Burlington, State of New Jersey at a meeting of the Township Council held on October 5, 2009.

<u>VOTE:</u>	
BUTTON	YES
TESTA	YES
GALLO	YES
BRODER	NO
ROCCATO	YES

Patricia L. Hunt, RMC
Township Clerk

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