

# Ordinance 2004-26

BOROUGH OF HIGHTSTOWN  
 COUNTY OF MERCER  
 STATE OF NEW JERSEY

**AN ORDINANCE REQUIRING PUBLIC CONTRACTING REFORM, AND AMENDING AND SUPPLEMENTING SECTION 2-54A (ARTICLE IV), “ADMINISTRATIVE POLICIES AND PROCEDURES,” OF CHAPTER 2, “ADMINISTRATION,” OF THE “REVISED GENERAL ORDINANCES OF THE BOROUGH OF HIGHTSTOWN, NEW JERSEY,” IN ORDER TO CREATE A NEW SECTION THEREOF TO BE KNOWN AS SECTION 2-60, ENTITLED, “AWARDING OF CONTRACTS FOR REDEVELOPMENT WORK WITHIN THE BOROUGH”**

**WHEREAS**, the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (hereinafter referred to as the “Act”) provides a mechanism to empower and assist local governments in efforts to promote programs for redevelopment; and

**WHEREAS**, *N.J.S.A. 40A:12A-8* allows municipalities to enter into contracts with private parties or redevelopers for planning, replanning, construction or undertaking of any project or redevelopment work without public bidding and at such prices and upon such terms as it deems reasonable within areas designated for redevelopment; and

**WHEREAS**, both the exceptions to the Open Public Meetings Act, more specifically *N.J.S.A. 10:4-12b*, and *N.J.S.A. 40A:12A-8* provide that negotiations for such contracts can be conducted in executive session, provided the full terms of any such contracts are discussed and approved in open session; and

**WHEREAS**, the Borough of Hightstown has previously declared certain areas of the Borough to be areas in need of redevelopment under the Act, and has recently adopted a Redevelopment Plan for the Bank Street Sub-Area of the Borough; and

**WHEREAS**, given the potential of negotiating with private parties or redevelopers and the entering into contracts with such redevelopers without a formal public bidding process, as permitted by the Act, the Borough Council concurs with the Borough Administration that it is necessary to establish certain limitations on political contributions which may undermine public confidence in any redevelopment effort; and

INTRO DATE: 10/18/04							ADOPT DATE: 11/1/04						
	Move	2nd	Aye	Nay	Abstain	Absent		Move	2nd	Aye	Nay	Abstain	Absent
HOLTZCLAW			✓							✓			
LAUDENBERGER			✓				✓			✓			
QUATTRONE		✓	✓							✓			
SCHNEIDER			✓							✓			
SIKORSKI	✓		✓						✓	✓			
THOMPSON			✓							✓			
PATTEN													

ADVERTISE INTRO: 10/21/04

ADVERTISE ADOPT: 11/4/04

EFFECTIVE DATE: 11/4/04

**WHEREAS**, nothing contained herein shall be interpreted to impair in any way the right of such private parties or redevelopers 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 its sentiments on all subjects.

**NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED**, by the Borough Council of the Borough of Hightstown, in the County of Mercer and State of New Jersey, that the policy of the Borough of Hightstown will be to create such a regulation which states that any private party or redeveloper who makes political contributions to elected officials who are responsible for the awarding of any contracts in conjunction with any redevelopment project permitted by the Act, will be ineligible to receive such contracts from the Borough of Hightstown.

**BE IT FURTHER ORDAINED**, that Section 2-54A (Article IV), entitled "Administrative Policies and Procedures," of Chapter 2, "Administration," of the "Revised General Ordinances of the Borough of Hightstown, New Jersey," is hereby amended and supplemented in order to establish a Borough policy for the awarding of any contracts with private parties or redevelopers to be engaged in the planning, replanning, construction or undertaking of any project or redevelopment work pursuant to the Act, as follows:

**SECTION 2-60 AWARDING OF PUBLIC CONTRACTS FOR ANY REDEVELOPMENT WORK UNDER THE LOCAL REDEVELOPMENT AND HOUSING LAW.**

**Subsection 2-60.1 Prohibition of awarding contracts for redevelopment work to certain contributors.**

- (a) Any other provision of law to the contrary notwithstanding, the Borough 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 with any private party for the planning, replanning, construction or undertaking of any project or redevelopment work, including the acquisition or leasing of any public property in conjunction with the redevelopment of any area within the Borough of Hightstown pursuant to the Act (hereinafter "redevelopment work"), if that redeveloper has solicited or made any contribution of money or pledge of a contribution, including in-kind contributions, during the applicable time period as specified below, to a campaign committee of any Hightstown Borough candidate or holder of public office within the Borough of Hightstown having responsibility for the awarding of such contracts or to any Hightstown Borough political campaign committee, or to any Borough of Hightstown or Mercer County Party Committee, or to any political action committee (PAC) that is organized for the primary purpose of promoting or supporting Borough of Hightstown municipal candidates or municipal officeholders. For purposes of this section, the "applicable time period" shall be defined as the time period between the date that the property which is the subject of the redevelopment project has been declared by the governing body to be an area in need of redevelopment pursuant to and in accordance with the New Jersey Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.*, and the date of awarding the contract, or the twelve (12) months prior to awarding the contract, whichever is shorter.
- (b) No redeveloper who enters into negotiations for or agrees to any contract or agreement with the Borough or any department or agency thereof or of its independent authorities for the rendition of redevelopment work shall knowingly solicit or make any contribution of money or pledge of a contribution including in-kind contributions, to any Hightstown Borough candidate or holder of public office within the Borough having responsibility for the award of the contract or to any Hightstown Borough political campaign committee, or to any Borough of Hightstown or Mercer County Party Committee, or to any political action committee (PAC) that is organized for the primary purpose of promoting or supporting Borough of Hightstown municipal candidates or

municipal officeholders, between the time of first communication between that redeveloper and the Borough regarding a specific agreement for redevelopment work and the later of the termination of negotiations or the completion of all matters specified in the contract or agreement.

- (c) For purposes of this section, a “redeveloper” means 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 seeking or obtaining redevelopment work as defined above. The definition of a redeveloper includes all principals who own one percent (1%) or more of the equity in the corporation or business trust, partners, and officers in the aggregate employed by the provider as well as any subsidiaries directly controlled by the redeveloper.
- (d) For the purposes of this section, the office that is considered to have responsibility for the award of the contract under the Act shall be:
  - 1. The Hightstown Borough Council if the contract requires approval or appropriation from the Council or a public officer who is responsible for the award of a contract if that public officer is appointed by Council; or
  - 2. The Mayor of Hightstown Borough if the contract requires the approval of the Mayor or a public officer who is responsible for the award of contract if that public officer is appointed by the Mayor; or
  - 3. Both of the above.

**Subsection 2-60.2 Contributions made prior to the effective date.**

No contribution of money or any other thing of value, including in-kind contributions, made by a redeveloper to any Hightstown Borough candidate for Mayor or Borough Council or Hightstown Borough political campaign committee 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 or agreement was made by the redeveloper prior to the effective date of this section.

**Subsection 2-60.3 Contribution statement by redeveloper.**

- (a) Prior to awarding any contract or agreement with any redeveloper, the Borough or any of its purchasing agents or agencies or independent authorities, as the case may be, shall receive a sworn statement from the redeveloper that the redeveloper has not made any contribution in violation of Subsection 2-60.1 above.
- (b) The redeveloper shall have a continuing duty to report any violations of this section that may occur during the negotiation or duration of a contract. The certification required under this subsection shall be made prior to entry into the contract or agreement with the Borough and shall be in addition to any other certifications that may be required by any other provision of law.

**Subsection 2-60.4 Penalty.**

- (a) All redevelopment contracts, leases or other undertaking(s) shall provide that it shall be a breach of the terms of such agreements to violate Subsection 2-60.1(b) above, or to knowingly conceal or misrepresent contributions given or received or to make or solicit contributions through any intermediaries for the purpose of concealing or misrepresenting the source of the contribution.

- (b) Any redeveloper, as defined in Subsection 2-60.1(c) above, who knowingly fails to reveal a contribution made in violation of this section or who knowingly makes or solicits contributions through any intermediaries for the purpose of concealing or misrepresenting the source of the contribution shall be disqualified from eligibility for future redevelopment contracts for a period of four calendar years from the date of the violation.

**BE IT FURTHER ORDAINED**, that the provisions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found to be invalid for any reason by any Court of competent jurisdiction, such judgment shall be limited in its effect only to the portion of the Ordinance actually adjudged invalid and shall not be deemed to affect the operation of any other portion thereof, which shall remain in full force and effect.

**BE IT FURTHER ORDAINED**, that this Ordinance shall take effect immediately upon final passage and publication in accordance with the law.

**BE IT FURTHER ORDAINED**, that all other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

ATTEST:

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*Candace B. Gallagher*  
Municipal Clerk

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*Robert F. Patten*  
Mayor