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CITY OF SOMERVILLE

ORDINANCE NO. 2013-____

In Board of Aldermen_____

WHEREAS there is a broad concern raised by ordinary citizens over the ability of business and individual donors to influence governmental decisions by making substantial campaign contributions to elected officials with the specific goal of obtaining favorable treatment;

WHEREAS the Somerville Board of Aldermen, after due deliberation, finds that it is appropriate to limit campaign contributions to address the risk of or the appearance of improper influence stemming from large campaign contributions from certain persons or entities who seek certain contracts, zoning relief, or land transactions with the City of Somerville as set forth herein; and

WHEREAS it is in the interests of the City of Somerville to address those concerns of its residents by establishing a clear and comprehensive ordinance to enact reasonable restrictions on campaign contributions in certain areas as set forth herein;

NOW THEREFORE BE IT ORDAINED AS FOLLOWS:

Section I. Definitions

(a) Applicant. A Person who has filed an application with the City of Somerville or any City-Related Agency in any of the following situations:

- (i) seeking to enter into a Contract, ~~except where that contract is required by law to be awarded to the lowest qualified bidder~~, (NOTE: ATTEMPT TO CLARIFY WHAT CONTRACTS ARE COVERED)
- (ii) seeking approval for a special permit with site plan review or approval of a planned unit development as set forth in Section II herein,
- (iii) seeking to acquire real estate from, or dispose of real estate to, the City or any City-Related Agency, or
- (iv) seeking Financial Assistance from the City, or
- (v) seeking approval for a license from the Licensing Commission for the sale of all alcoholic beverages on premises.

(b) City-Related Agency. All departments of the City, as well as any authorities and quasi-public corporations that receive appropriations from the City, such as the Somerville Redevelopment Authority.

(c) Contractor. A Person who has entered into a Contract with the City or any City-Related Agency.

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(d) **Contribution.** A donation of money or of in-kind goods and services as further defined in Massachusetts General Laws Chapter 55, Section 1.

(e) **Financial Assistance.** Any grant, loan, tax incentive, bond financing proceeds used to purchase land or fund expenses for improvements made to land or real estate, or other form of assistance that is realized by or provided to a Person in the amount of fifty thousand dollars (\$50,000) or more through the authority or approval of the City or a City-related Agency, including but not limited to Tax Increment Financing (TIF) aid, District Improvement Financing (DIF) aid, industrial development bonds, ~~use of the power of eminent domain~~, (NOTE: POLICY ISSUE) or Community Development Block Grant (CDBG) aid.

(f) **Contract.** A signed-written contract in excess of twenty-five thousand dollars (\$25,000) for goods or services to which the City or a City-related Agency is a party, except where the agreement is required by law to be awarded pursuant to a competitive bidding process under applicable law, or is a sole source vendor. (for discussion purposes only), ~~regardless of whether the contract was required to be competitively procured under Massachusetts procurement law. (NOTE – ATTEMPT TO CLARIFY WHAT CONTACTS ARE COVERED)~~

(g) **Person.** An individual, corporation, limited liability company, partnership, association, joint venture, or any other legal entity.

Section II. Mandatory Disclosure for Applicants

A. Before the City may enter into any Contract with an Applicant as defined in Section I (a) 1, the Applicant must file a complete Mandatory Disclosure Form with the contracting entity.

B. At the time that an Applicant seeks approval for a Special Permit with Site Plan Review or approval of a Planned Unit Development, as those terms are defined in the Somerville Zoning Ordinance, with respect to new construction or renovation in excess of 150,000 square feet, the Applicant must file a complete Mandatory Disclosure Form with the Board hearing the application.

C. At the time that an Applicant submits a bid or submits a response to a request for proposals in connection with the acquisition of real estate owned by, or disposition of real estate to, the City or a City-related Agency, the Applicant must file a complete Mandatory Disclosure Form with the City Agency seeking to dispose of or acquire the property. If the Applicant is otherwise seeking to acquire real estate from, or dispose of real estate to, the City or from a City-related Agency, then the Applicant must submit a complete Mandatory Disclosure Form prior to obtaining title to such real estate.

D. At the time the Applicant files an application for Financial Assistance, the Applicant must file a complete Mandatory Disclosure Form with the City Agency that would provide such Financial Assistance.

E. At the time the Applicant files an application with the License Commission, the Applicant must file a complete Mandatory Disclosure Form with the Licensing Commission.

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F. Such Mandatory Disclosure Form shall be open to and available for inspection to the public. Such Form shall be signed under the pains and penalties of perjury by the Applicant and shall include the following information:

- (i) The name, address, email address, telephone number of the applicant and of all of its principals, chief executive officer, president, chief financial officer, treasurer, chief operating officer, chief procurement officer, officers, directors, or persons serving in an equivalent capacity, or shareholders in excess of 10% and managing agent to the extent applicable,
- (ii) All Contributions made by the Applicant during the twelve (12) months prior to the Application to any person who was a candidate for elective office of the City of Somerville by stating the name of the person who made the contribution, the candidate who received the contribution, and the date and amount of each such contribution. The attribution rules of Section III below shall apply to the Contributions that must be disclosed. For purposes of this ordinance, elected office of the City of Somerville shall mean the mayor, aldermen, and school committee of the city. Contributions made before the adoption of this ordinance are not required to be disclosed on this form.
- (iii) The names, business addresses and phone numbers of all subcontractors that the Applicant intends to use on the contract and the amount or percentage to be paid to such subcontractor.
- (iv) A certification by the Applicant that if the Applicant is awarded the item that is applied for under Sections A.B.C. or D. above in this section, that the Applicant and anyone attributed to the applicant or any subcontractor used on the contract shall not make any contribution in any calendar year in an amount in excess of ~~\$500250~~ to any individual incumbent or to any individual candidate for elective office of the City of Somerville for the next four calendar years following the award of the item, or for the duration of the term of any Contract, whichever is longer.

Section III. Attribution Rules

- A. Where a Person is an individual, any Contributions made by the individual, any spouse of the individual, and any children of the individual.
- B. Where a Person is not an individual but a corporation, partnership or limited liability corporation, then any Contributions made by any of its chief executive officer, president, chief financial officer, treasurer, chief operating officer, chief procurement officer, officers, directors, members, managers, principals, or persons serving in an equivalent capacity, or shareholders in excess of 10%, and their spouses or children.

Section IV. Eligibility

- A. No Applicant shall be entitled to obtain the award of any of the items applied for as referenced

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in section II, if such Applicant, including those who would be attributed to the Applicant under Sec. III above or any subcontractor used on a contract, has made a total contribution of more than ~~\$500.00~~~~250.00~~ to any individual candidate for elected office of the City of Somerville or incumbent in either the calendar year of the application or the calendar year preceding the application. ~~p~~Provided, however, that the restriction of eligibility with regard to contributions made prior to the year preceding the application shall not apply to any contributions made in the calendar year preceding the adoption of this ordinance and shall only go forward beginning with the year of adoption of the ordinance. No contribution made prior to the effective date of this Ordinance shall be deemed to give rise to a violation or penalty under this Ordinance.

B. No ~~C~~econtract may be renewed, extended, or materially amended, unless the resulting renewal, extension, or amendment, would be allowable under the provisions of this ordinance if it were an initial contract.

C. The Applicant and anyone attributed to the Applicant under Section III and any subcontractor used on the contract shall not make any contribution to any incumbent or to any candidate for elective office of the City of Somerville in excess of ~~\$500~~~~250~~ per year for the next four calendar years following the award of the item, or for the duration of the term of any Contract, whichever is longer.

Section V. Penalties

The City shall deny the award of any of the items referenced in Section II as sought by an Applicant if it is found that an Applicant made a material misstatement on the Mandatory Disclosure Form or if the Applicant fails to comply with the provisions of Section II.E(iv) above. If a ~~C~~econtract is awarded, it shall be a material breach of the terms of any Contract where an Applicant which is a party to such Contract made any contribution in violation of this Ordinance. For all other violations, the Applicant shall be fined for each violation of this Ordinance in accordance with Section 1-11. The enforcing authority shall be the City Ethics Commission or Auditor.

Section VI. Refund of Contribution

An Applicant may cure a ~~contribution which violates~~~~violation of~~ this ordinance if, within 30 days after the date on which ~~of~~ an applicable Office of Campaign and Political Finance report is ~~required to be~~ filed which contains a contribution in violation of this— ordinance, the Applicant ~~request~~seeks a refund in writing from the candidate or incumbent who received the contribution, and within 30 days of the request, the Applicant receives a refund of a contribution from the incumbent or any candidate for elective office in the City of Somerville, or political committee for such incumbent or candidate. Notwithstanding the above, if there is a contribution in violation of this ordinance, the candidate or incumbent shall refund the contribution within 30 days of receipt of a request for refund, provided that funds are otherwise available in the campaign account of the candidate or incumbent. ~~receives a refund of a contribution from the incumbent or any candidate for elective office in the City of Somerville, or political committee for such incumbent or candidate.~~

This Ordinance shall be interpreted and applied consistent with all applicable federal and state laws

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and regulations.

Effective Date

This Ordinance shall take effect on January 1, 2017.

Be it further ordained by the Board of Aldermen, Section 1-11(b) of the Code of Ordinances is hereby amended by inserting the following language providing for penalties:

<u>Offense</u>	<u>Fine</u>	<u>Enforcing Personnel</u>
"Pay-to-Play" and Campaign Contribution Ordinance	1 st Offense: Warning	City Ethics Commission, Auditor
	2 nd Offense within 1 year: \$100	
	3 rd & Subsequent Offense within 1 year: \$300	

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Approved:

President
Board of Aldermen