

RESOLUTION ESTABLISHING A "FAIR AND OPEN PROCESS" AS
THE PREFERRED METHOD FOR AWARDING CONTRACTS BY THE
COUNTY OF MONMOUTH

Freeholder NAROZANICK offered the following resolution and moved its adoption:

WHEREAS, the County of Monmouth ("COUNTY") believes that it is in the public interest to reduce the risk of actual or perceived political favoritism which may result when public contracts are awarded to business entities that have contributed to elected officials having control, or apparent control, over the awarding of those contracts, or to political party committees at various levels of government that may have influence over the officials responsible for awarding such contracts, a practice commonly referred to as "pay-to-play; and

WHEREAS, N.J.S.A. 19:44A-20.4 to 20.12, effective January 1, 2006, sometimes referred to as the "Local Unit Pay-to-Play Law," established a new process for awarding public contracts, known as a "fair and open" process, that promotes efficient and effective public contracting while limiting the possible influence of "pay-to-play;" and,

WHEREAS, the County of Monmouth deems it in the public interest to utilize this method of contracting wherever and whenever possible for the award of County contracts for professional services, extraordinary unspecifiable services and

other contracts not ordinarily awarded by public bidding or competitive contracting procedures; and,

WHEREAS, the County of Monmouth further deems it prudent to establish standard procedures for awarding public contracts under the "fair and open" process.

NOW, THEREFORE, BE IT RESOLVED by the Board of Chosen Freeholders of the County of Monmouth that the "fair and open" process shall be conducted as follows for all applicable County contracts:

1) The value of an anticipated contract shall be determined by the County Purchasing Office. If it is determined that the value of the contract, over its full life, is expected to be \$17,500 or greater or as amended by state statute, then the County Purchasing Agent shall issue an official certification of the anticipated value of the contract. The format of this certification shall be determined administratively.

2) Unless special or exigent circumstances exist, as determined by the County Administrator, that require the award of a contract, with a certified anticipated value in excess of \$17,500 or as amended by state statute, by an alternative process, all County contracts shall comport with the "fair and open" process as defined at N.J.S.A. 19:44A-20.7. It is understood that contracts awarded by public bidding or competitive contracting pursuant to the "Local Public Contracts

Law," N.J.S.A. 40A:11A-1 et seq. automatically comply with the "fair and open" process.

3) Specifications and the criteria to be used for awarding the contract shall be prepared in advance of any solicitation of proposals and/or qualifications, and shall not unfairly exclude competition. The specifications and criteria ordinarily shall be prepared by the appropriate department head in conjunction with the County Purchasing Office, subject to the approval of the County Administrator. However, the Board of Chosen Freeholders by majority may themselves determine specifications and criteria for any particular contract as desired.

4) Notice that the County is soliciting proposals and/or qualifications for a particular contract shall be advertised as required by law for at least ten (10) calendar days in advance of the date set for receipt of proposals. The notice shall include, at a minimum: a description of the requested goods or services; the time, date, and place proposals must be submitted; contact information for obtaining the proposals; the name of the agency requesting the proposal; and a statement that the proposal is being solicited through a "fair and open" process in accordance with N.J.S.A. 19:44A-20.4 et seq. Copies of the proposal and/or qualifications documents shall be readily available upon request pursuant to the advertisement.

5) The County Administrator or his designee shall open the sealed proposal and/or qualification documents at an announced time and location open to the public. The name of each business entity submitting a proposal, and any other pertinent information, shall be read aloud, and any proposals submitted shall be available for public review to the extent permitted by existing law.

6) The Board of Chosen Freeholders, in their sole discretion, shall finally determine which proposals and/or qualifications best comply with the listed criteria to be used for awarding the contract as set forth in the proposal documents. All contracts awarded to a business entity selected pursuant to a "fair and open" process shall be awarded by resolution, said resolution specifically stating the contracting method used and indicating that it complies with the "fair and open" process. In the event that the exact amount of goods or services needed by the County are unknown at the time proposals are solicited, the Board may award open-ended contracts for the term and under the conditions authorized by existing law.

BE IT FURTHER RESOLVED that all Resolutions or parts of Resolutions inconsistent with this Resolution, including but not limited to Resolution 05-310, are hereby deemed null and void.

BE IT FURTHER RESOLVED that if any section, subsection, clause or phrase of this Resolution is held to be

unconstitutional or invalid for any reason, such decision shall not affect the remaining provisions of this Resolution.

BE IT FURTHER RESOLVED that this Resolution shall take effect on March 23, 2006.

BE IT FURTHER RESOLVED that the Clerk forward a certified true copy of this Resolution to every Department Head in the County of Monmouth.

Seconded by Freeholder BURRY and adopted on roll call by the following vote:

| | YES | NO | ABSTAIN | ABSENT |
|----------------|-----|----|---------|--------|
| Mrs. Burry | X | | | |
| Mr. Narozanick | X | | | |
| Mr. Clifton | X | | | |
| Mr. Barham | X | | | |

CERTIFICATION

I HEREBY CERTIFY THE ABOVE TO BE A TRUE COPY OF A RESOLUTION ADOPTED BY THE BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF MONMOUTH AT A MEETING HELD FEB 23 2006

James H. King
CLERK