Passed 6-0 (Neher, Sturbaum, Sandberg absent)

RESOLUTION 12-10

TO ADOPT A NEPOTISM IN CONTRACTING POLICY IN CONFORMANCE WITH STATE LAW

WHEREAS, the Indiana General Assembly adopted HEA 1005 in the 2012 Regular Session, which added IC 36-1-20.2 to the Indiana Code regarding nepotism; and,

WHEREAS, IC 36-1-20.2-9(a) requires a local unit of government to adopt a nepotism in contracting policy that includes at a minimum the requirements set out in the statute; and,

WHEREAS, the Bloomington Common Council has considered the requirements of the Act and wishes to comply with its provisions:

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

Section I. The Bloomington Common Council adopts the following policy on nepotism in contracting:

NEPOTISM IN CONTRACTING

Section 1. DEFINITIONS

A. "Relative" means any of the following:
(1) A spouse.
(2) A parent or stepparent.
(3) A child or stepchild, including an adopted child or stepchild.
(4) A brother, sister, stepbrother, or stepsister, including a brother or sister by half blood.
(5) A niece or nephew.
(6) An aunt or uncle.
(7) A daughter-in-law or son-in-law.
(8) A brother-in-law or sister-in-law.
(9) A cousin.
(10) A registered domestic partner.
(11) A mate.
(12) A grandparent.

B. "Elected official" means:
(1) the Mayor of the City of Bloomington
(2) a member of the Bloomington Common Council

Section 2 CONTRACTING POLICY

A. The City may enter into a contract or renew a contract for the procurement of goods and services or a contract for public works with:
(1) an individual who is a relative of an elected official; or
(2) a business entity that is wholly or partially owned by a relative of an elected official;
only if the requirements of this section are satisfied and the elected official does not violate IC 35-44-1-3.

B. The City may enter into a contract or renew a contract with an individual or business entity described in Subsection (A) if all of the following are satisfied:
(1) The elected official files with the City a full disclosure, which must:
(a) be in writing;
(b) describe the contract or purchase to be made by the City;
(c) describe the relationship that the elected official has to the individual or business entity that contracts or purchases;
(d) be affirmed under penalty of perjury;

(e) be submitted to the Common Council and be accepted by the Common Council in a public meeting prior to final action on the contract or purchase; and

(f) be filed, not later than fifteen (15) days after final action on the contract or purchase, with:

(i) the state board of accounts; and

(ii) the clerk of the circuit court in the county where the City takes final action on the contract or purchase;

(2) The appropriate agency of the City:

(a) makes a certified statement that the contract amount or purchase price was the lowest amount or price bid or offered; or

(b) makes a certified statement of the reasons why the vendor or contractor was selected; and

(3) The City satisfies any other requirements under IC 5-22 or IC 36-1-12.

(4) The elected official complies with the disclosure provisions of IC 35-44-1-3, if applicable.

C. This section does not affect the initial term of a contract in existence at the time the term of office of the elected official of the City begins.

Section 3. CERTIFICATION.

A. Each elected officer of the City shall annually certify in writing, subject to the penalties for perjury, that the officer is in compliance with this Policy. An officer shall submit the certification to the Executive and Clerk of the City not later than December 31 of each year.

B. The annual report filed by the City with the State Board of Accounts under IC 5-11-13-1 shall include a statement by the Mayor of the City stating whether the City has implemented a policy under IC 36-1-21.

SECTION II. If any sections, sentence or provision of this resolution, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this resolution which can be given effect without the invalid provision or application, and to this end the provisions of this resolution are declared to be severable.

SECTION III. This resolution shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 1st day of August, 2012.

TIMOTHY MAYER, President
Bloomington Common Council

ATTEST:

REGINA MOORE, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 2nd day of August, 2012.

REGINA MOORE, Clerk
City of Bloomington

SIGNED and APPROVED by me upon this 2nd day of August, 2012.

MARK KRUZAN, Mayor
City of Bloomington

SYNOPSIS

This resolution is intended to bring the City of Bloomington in compliance with newly-enacted state standards regarding nepotism in contracting. It prohibits the City from entering into contracts with relatives of elected officials unless certain conditions are met, including public disclosure, certification that the contract was the lowest bid offered or that the appropriate City agency explained why the vendor or contractor was selected and approval by the Common Council.

Note: This resolution was revised after it was distributed in the weekly Council Legislative Packet but before it was introduced at the Council. In order to conform with procedures set forth in State law, the revision affects Section 3 of the policy and requires that the elected officials file the necessary certifications with the Executive of the City. As a matter of local policy, the elected officials will also be required to file those certifications with the City Clerk.

Signed copies to:
Controller
Legal
Human Resources
OA/CA
Human Rights Atty
Clerk (2)
Public Works