AN ORDINANCE BY PRINCETON CONCERNING PAY-TO-PLAY REGULATIONS AND CAMPAIGN CONTRIBUTIONS AND AMENDING THE "CODE OF THE TOWNSHIP OF PRINCETON, NEW JERSEY, 1968".

WHEREAS, the Borough of Princeton and Township of Princeton pursuant to the provisions of the New Jersey Municipal Consolidation Act, *N.J.S.A.* 40:43-66.35 consolidated as Princeton on January 1, 2013; and

WHEREAS, pursuant to *N.J.S.A.* 40:43-66.64, the Princeton Council on January 1, 2013 adopted a Resolution continuing in effect Ordinances of the former Borough of Princeton and the former Township of Princeton as a new Code for Princeton is prepared; and

WHEREAS, the Princeton Council's Code Subcommittee has reviewed and updated portions of Articles XIX and XXI of Chapter 2 of the "Code of the Township of Princeton, New Jersey, 1968," pertaining to Political Fundraising and Pay-to-Play Regulations, respectively; and

WHEREAS, the Princeton Council wishes to adopt said Code revisions which will become a part of the new Princeton Code at a future date.

NOW, THEREFORE, BE IT ORDAINED by the Princeton Council as follows:

Section 1. Article XIX, Sections 2-81 through 2-83, and Article XXI, Sections 2-87 through 2-92, of Chapter 2 of the "Code of the Township of Princeton, New Jersey, 1968," are hereby repealed in their entity.

Section 2. Revisions to Article XIX, Sections 2-81 through 2-83, and Article XXI, Sections 2-87 through 2-92, of Chapter 2 of the "Code of the Township of Princeton, New Jersey, 1968," as set forth on Exhibit A attached hereto and made a part hereof are hereby adopted to set forth provisions governing political fundraising and pay-to-play and to replace the aforementioned

sections of the "Code of the Township of Princeton, New Jersey, 1968".

Section 3. All ordinances and resolutions or parts thereof inconsistent with this Ordinance are repealed.

Section 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

Section 5. The foregoing provisions of this Ordinance shall be applicable within Princeton upon final adoption and shall become a part of the new Princeton Code once completed and adopted.

The foregoing ordinance was introduced at a meeting of the Mayor and Council of Princeton held on May 5, 2014 and will be further considered for final passage after a public hearing thereon at a meeting of said Mayor and Council to be held at the Princeton Municipal Complex, 400 Witherspoon Street on May 27, 2014 which begins at 7:00 p.m.

Kathleen K. Brzezynski

Kathleen K. Brzezynski
Deputy Clerk

EXHIBIT A

CHAPTER 2 - ADMINISTRATION

Article XXI. Pay-to-Play Regulations; Campaign Contributions.

Sec. 2-87. Prohibition on awarding public contracts to certain business entities.

(a) Any other provision of law to the contrary notwithstanding, Princeton 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, including those awarded pursuant to a "fair and open" bid process, from any business entity, if that entity has solicited or made any contribution of money, or pledge of a contribution, including in-kind contributions, and/or loans, to a municipal campaign committee or fund of any candidate, or holder of, a public office within Princeton having ultimate responsibility for the award of the contract, or campaign committee financially supporting such candidate or officeholder, or to any Princeton or Mercer County party committee, or to any political action committee (PAC) that regularly engages in the support of municipal elections and/or municipal parties in excess of the thresholds specified in subsection (d) within one calendar year immediately preceding the date of the contract or agreement.

(b) No business entity which enters into negotiations for, or agrees to, any contract or agreement with Princeton 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" bid process, shall violate this section by making or soliciting any contribution of money, or pledge of a contribution, including in-kind contributions, or loans, to a municipal campaign committee or fund of any candidate for, or holder of, a public office within Princeton having ultimate responsibility for the award of the contract, or campaign committee financially supporting such candidate or officeholder, or to any political action committee (PAC) that engages in the support of municipal elections and/or municipal parties, or to any Princeton or Mercer County party committee, between the time of first communications between that business entity and Princeton regarding a specific contract or agreement and the later of the termination of negotiations or the completion of the contract or agreement.

(c) For purposes of this article, a "business entity" seeking a public contract means an individual including the individual's spouse, if any, and any child living at home; person; firm; corporation; professional corporation; partnership; organization; or association. The definition of a business entity includes all principals who own ten percent 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.

(d) An individual meeting the definition of "business entity" under this section may annually contribute during the twelve month period prior to local government contract negotiations a maximum of three hundred dollars each for a municipal campaign committee or fund of any candidate, or holder of, the Princeton public office having the ultimate responsibility for the award of a contract or agreement, and a maximum of three hundred dollars to any Princeton or Mercer County party committee. However, any group of individuals meeting the definition of "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 two thousand five hundred dollars to a municipal campaign committee or fund of all Princeton candidates, Princeton and/or Mercer County political parties and PACs referenced in this article combined, during the twelve month period prior to local government contract negotiations.

(e) The limitations set forth in subsection (d) above shall not apply in the event the subject contract is offered to the lowest responsible bidder after public advertising for bids and quotes, pursuant to the competitive bidding requirements of the Local Public Contracts Law and Rules, N.J.S.A. 40A:11-1 *et seq.*

Sec. 2-88. Contributions made prior to the effective date.

No contribution of money or any other thing of value, including in-kind contributions, made by a business entity to any municipal candidate for mayor or council or office holder, or any Princeton or Mercer County party committee or PAC referenced in this article shall be deemed a violation of this article, nor shall an agreement for property, goods, or services, of any kind whatsoever, be disqualified thereby, if that contribution was made by the business entity prior to the effective date of this article.

Sec. 2-89. Contribution and disclosure statement by business entity.

(a) Prior to awarding any contract or agreement to procure services, including banking or insurance coverage services, with any business entity, Princeton or any of its purchasing agents or agencies, as the case may be, shall receive a sworn statement from the business entity made under penalty of perjury that the business entity has not made a contribution in excess of the limits contained in section 2-87(d), or in violation of the time period and recipients specified in section 2-87(a) and (b).

(b) The business entity shall have a continuing duty to report any violations of this article that may occur during the negotiation or duration of a contract or agreement with Princeton. The certification required under this section shall be made prior to entry into the contract or agreement with Princeton and shall be in addition to any other certifications that may be required by any other provision of law.

(c) The business entity shall append a "Contribution Disclosure Statement" to its sworn

certification, which statement shall be a list specifying the amount, date, and the recipient of any and all contributions reportable under N.J.S.A. 19:44A-1 *et seq.*, made by the entity and its principals to or on behalf of any candidate, candidate committee, joint candidates committee, continuing political committee, or political party committee of, or within Mercer County for the time period reference in sections 2-87 and 2-88 above. The business entity shall have a continuing duty to update said statement during the course of negotiations and/or contract performance, as the case may be. No contract shall issue if the entity has failed to submit a Contribution Disclosure Statement.

Sec. 2-90. Return of excess contributions.

A business entity or Princeton candidate or officeholder or municipal or county party committee or PAC referenced in this article may cure a contribution which violates section 2-87(b) or is in excess of the limits contained in section 2-87(d), if, within thirty days after the general election following any such contribution, or upon written notice of violation from Princeton, whichever occurs sooner, the business entity notifies the mayor and council in writing and seeks and receives reimbursement of a contribution from the municipal committee or fund of a Princeton candidate or office holder, or any Princeton or Mercer County political party or PAC referenced in this article.

Sec. 2-91. Penalty.

(a) All Princeton professional, banking, insurance and consulting services contracts shall provide that it shall be a breach of the terms of the contract for a business entity to: (i) make or solicit a contribution in violation of this article; (ii) knowingly conceal or misrepresent a contribution given or received; (iii) make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution, or the intended beneficiary; (iv) make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee of any candidate or holder of the public office of Princeton; (v) engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of this article; (vi) fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engage in any exchange of contributions to circumvent the intent of this article; or (viii) directly or indirectly, through or by any other person or means, do any act which would subject that entity to the restrictions of this article.

(b) Any business entity who violates (a) i-viii shall be disqualified from eligibility for future Princeton contracts for a period of four calendar years from the date of the violation.

(c) It shall be a rebuttable presumption that failure to disclose a contribution made in violation of this article is a knowing and intentional act.

Sec. 2-92. Severability and effectiveness clause.

(a) If any section, subsection, sentence, clause or phrase of this article is for any reason held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of this article.

(b) And any ordinance inconsistent with the terms of this article is hereby repealed to the extent of such inconsistency.

Sec. 2-93. Prohibition of campaign contributions on municipal property.

For State law prohibiting the solicitation and making of campaign contributions on municipal property, see N.J.S.A. 19:44A-19.1 (P.L. 2011, c.204).