

**AN ORDINANCE BY PRINCETON
AUTHORIZING LEASE AGREEMENT
FOR THE KIOSK LOCATED AT
WITHERSPOON AND NASSAU
STREETS**

WHEREAS, pursuant to N.J.S.A. 40A:12-14(c), Princeton Council and the Princeton Regional Chamber of Commerce (“Chamber”), a non-profit corporation, desire to enter into a lease agreement for use of the informational kiosk located at the corner of Nassau Street and Witherspoon Street for the nominal consideration of \$1.00 per year; and

WHEREAS, the kiosk is currently in disrepair and the lease will advance the public purpose by rebuilding the kiosk and providing public information to the Princeton Regional Community; and

WHEREAS, the lease shall be for a term of five years with an option to renew; and

WHEREAS, the Princeton Administrator shall be responsible for enforcing the terms of the lease; and

WHEREAS, the Chamber shall annually submit a report to the Administrator setting out the use to which the lease was put during each year; the activities of the lessee undertaken in furtherance of the public purpose for which the lease was granted; the approximate value or cost, if any, of such activities in furtherance of such purpose; and an affirmation of the continued tax-exempt status of the Chamber pursuant to both state and federal law.

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

1. Pursuant to N.J.S.A. 40A:12-14(c), Princeton is hereby authorized to enter into the lease attached hereto as Exhibit A by and between Princeton and the Chamber for lease of the

kiosk located at the corner of Nassau and Witherspoon Streets.

Linda S. McDermott, Clerk

Liz Lempert, Mayor

Ordinance Introduced: April _____, 2013

Ordinance Adopted:

Exhibit A

**LEASE AGREEMENT BETWEEN PRINCETON AND THE PRINCETON REGIONAL
CHAMBER OF COMMERCE FOR THE KIOSK LOCATED AT WITHERSPOON AND
NASSAU STREETS**

THIS LEASE AGREEMENT (this "Lease") is made as of the last date set forth in the signature block below, by and between PRINCETON, a municipal corporation of the State of New Jersey, located in the County of Mercer, with a mailing address of 400 Witherspoon Street Princeton NJ 08540 ("Princeton") and the PRINCETON REGIONAL CHAMBER OF COMMERCE, a non-profit corporation of the State of New Jersey, located in the County of Mercer, with a mailing address of 182 Nassau St., Suite 301, Princeton, New Jersey 08542 (the "Chamber").

WHEREAS, pursuant to N.J.S.A. 40A:12-14(c) Princeton desires to lease the informational kiosk at the corner of Nassau Street and Witherspoon Street, which is Princeton's personal property but is not needed for public use, to the Chamber for the public purpose of providing information to the public in the form of maps, directories and promotional material; and,

WHEREAS, N.J.S.A. 40A:12-15(i) defines public purpose as any activity for the promotion of the health, safety, morals and general welfare of the community of any nonprofit corporation or association; and,

WHEREAS, this Lease of the Kiosk shall be for a five (5) year term with an option to renew this Lease for an additional five (5) years and contemplates a nominal consideration of One Dollar (\$1.00) per year to be paid by the Chamber to Princeton; and,

WHEREAS, the Chamber shall replace the existing Kiosk with a new structure to display promotional materials as well as maps and other directories; and,

WHEREAS, the Chamber and Princeton have agreed that the new structure shall be constructed as reflected in Exhibit A attached hereto and made a part hereof; and,

WHEREAS, the proposed new structure shall be reviewed and if acceptable approved by the Administrator or his designee prior to replacement; and,

WHEREAS, the Chamber shall retain any revenues from the Kiosk; and,

WHEREAS, this Lease and the public purpose of the Chamber listed above are intended to benefit Princeton residents and businesses as well as visitors to Princeton, through the provision of valuable information about Princeton and the Princeton Region; and,

WHEREAS, the Administrator shall be responsible for enforcement of the conditions of this Lease; and,

WHEREAS, as set forth below, the Chamber shall be required to annually submit a report to the Administrator.

WITNESSETH:

1. Leasehold defined. Princeton hereby leases to the Chamber the Kiosk at the corner of Nassau Street and Witherspoon Streets and the portion of the public sidewalk beneath it. The Kiosk is located on the northwest corner of Nassau and Witherspoon Streets, 3' feet north of the northerly curb of Nassau St., and 20' feet west of the westerly curb of Witherspoon St.

2. Term. This Lease shall have a five (5) year term, beginning April 22, 2013 and ending April 31, 2018 with the option to extend this Lease for an additional five (5) years on the same terms, ending April 31, 2023.

3. Rental payments. The Chamber shall pay to Princeton a consideration of \$1.00 per year, which takes into consideration the costs of removing the existing Kiosk and constructing its replacement.

4. Insurance and indemnity. The Chamber shall obtain commercial liability insurance in commercially reasonable amounts and shall continue to provide proof to Princeton that (a) such insurance coverage has been maintained for the Kiosk, and (b) such insurance has been extended to cover Princeton as an additional insured. Such proof shall be in the form of Certificate of Insurance from the Chamber's insurer. In addition to the insurance provided hereunder, the Chamber shall save, hold harmless and indemnify Princeton and its officers, officials, agents, servants, administrators, and employees (collectively, "Indemnitees"), from and against any and all liability arising out of the replacement or use of the Kiosk, whether such liability is direct or vicarious or otherwise. To the extent that such insurance policies provide coverage therefor, the Chamber further agrees to indemnify the Indemnitees even for the negligence of such Indemnitees, regardless of whether such negligence is responsible wholly or in part for the damages suffered. This provision shall be construed as broadly in favor of indemnification as permitted by New Jersey law.

5. Maintenance. Throughout the term of this Lease, Princeton shall maintain the sidewalks, curbs, and adjoining public property to the Kiosk and will keep the same in good order and condition, and shall make all necessary repairs thereto, including the removal of snow and ice. The Chamber shall keep and maintain all portions of the Kiosk in good repair and free of dirt and rubbish, and shall make any and all necessary repairs thereto.

6. Default and termination. In the event of the failure by the Chamber to perform any of its obligations under this Lease, Princeton shall give written notice of such event or default to the Chamber and the Chamber shall have a period of thirty (30) days to cure all such breaches. If the Chamber fails to correct any such breach within the thirty (30) day period, then Princeton may terminate this Lease. It is understood and agreed between the parties hereto that

the Chamber shall not be considered to be in default of any of its covenants to do work or to remedy conditions or violations, if the Chamber has in good faith taken steps to do the work or to rectify the conditions or violations and shall continue working toward the completion thereof without undue delay. Likewise, in the event of Princeton's failure to perform any of its obligations under this lease, the Chamber shall give written notice of such event or default to Princeton and Princeton shall have a period of thirty (30) days to cure all such breaches. If Princeton fails to correct any such breaches within the thirty (30) day period (or has not commenced and continued to cure), then the Chamber may terminate this Lease.

7. Sublet and assignment. The Chamber shall not sublet the Kiosk, nor assign or otherwise transfer this Lease to any other person or entity, whether by operation of law or otherwise, unless Princeton provides its written consent, Princeton agrees not to lease the other kiosk located at the corner of Nassau Street & Vandeventer Street to any organization without first providing the Chamber the opportunity to lease the structure on the same terms as the lease for the Witherspoon and Nassau Street Kiosk. Notwithstanding the foregoing, the Chamber shall be entitled to contract with others to provide the necessary Kiosk construction, maintenance and repairs.

8. Compliance with the law. The Chamber agrees to observe and comply with all laws, ordinance, rules and regulations of the federal, state, county, municipal authorities which are applicable to any of the activities to be conducted by the Chamber regarding the Kiosk (except that this Lease shall govern the municipal regulation of the Kiosk and shall not be amended except by the written agreement of the parties). The Chamber further agrees to observe and comply with any local, state, federal or constitutional free speech requirements applicable to the kiosk.

9. Surrender of Kiosk. The Chamber shall quit and surrender the Kiosk to Princeton at the end of the term or any extension thereof, or at the earlier expiration or termination thereof, the Kiosk to be left in good condition, subject to the effects of the weather and the passage of time.

10. Statutory obligations. In accordance with N.J.S.A. 40A:12-14(c), the Chamber shall be required to annually submit a report to the Princeton Administrator setting out the use to which the leasehold was put during each year, the activities of the Chamber's Convention and Visitors Bureau undertaken in furtherance of the public purpose for which the leasehold was granted and an affirmation of the continued tax-exempt status of the Chamber pursuant to both State and federal law.

11. Integrated contract. This Lease is an integrated contract, and there are no other terms, conditions, or modification which is not stated in this Lease. Any changes or modification to this Lease must be in writing signed by each of the parties hereto.

12. Governing law. The laws of the State of New Jersey shall govern this Lease.

13. Binding effect. This Lease is binding upon the signatory parties, and upon their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed as follows.

ATTEST:

PRINCETON REGIONAL
CHAMBER OF COMMERCE

By: _____
Peter Crowley
President and CEO
Dated:

ATTEST:

THE MAYOR AND COUNCIL OF
PRINCETON

Linda S. McDermott
Clerk of Princeton
Dated:

By: _____
Liz Lempert
Mayor
Dated:

