

MASON, GRIFFIN & PIERSON
A PROFESSIONAL CORPORATION
COUNSELLORS AT LAW

MEMORANDUM

To: Mayor & Council of Princeton

From: Edwin W. Schmierer, Esq.
Assistant Municipal Attorney



Date: July 31, 2014

Re: Princeton - Mamoun's Princeton, LLC: 20 Witherspoon Street License Agreement

A new restaurant, Mamoun's Falafel has received approval from the Princeton Planning Board to locate at 20 Witherspoon Street. A component of the approved site plan involves having an awning across the frontage of the restaurant.

A condition of approving this element of the site plan involved having the restaurant enter into a license agreement with Princeton since the awning technically encroaches into the Princeton right-of-way along Witherspoon Street. To this end, I attach hereto a proposed resolution and the proposed license agreement. The license agreement is in the form utilized with other retailers in the central business district who have awnings (i.e., Subway, etc.). Basically the agreement provides that Mamoun's Princeton, LLC properly maintain the awning and indemnify and hold Princeton harmless for any claim associated with the awning.

We would appreciate very much if you would consider authorizing the execution of the licensing agreement as a part of your agenda on August 25, 2014.

EWS:kaj

cc: Robert W. Bruschi, Administrator
Kathryn Monzo, Assistant Administrator
Linda McDermott, Clerk
Robert V. Kiser, P.E., Princeton Engineer
Lee O. Solow, P.P./A.I.C.P., Planning Director
Christine M. Lewandoski, P.P., Historic Preservation Officer

RESOLUTION 2014-_____
OF THE MAYOR AND COUNCIL
OF THE MUNICIPALITY OF PRINCETON APPROVING
LICENSE AGREEMENT FOR AN AWNING IN THE PUBLIC RIGHT OF WAY
OF 20 WITHERSPOON STREET IN THE MUNICIPALITY OF PRINCETON

WHEREAS, the Municipality has determined the need for a License Agreement to permit the encroachment into the public right of way for Mamoun's Princeton, LLC of the installation of an awning on Witherspoon Street, and

WHEREAS, Mamoun's Princeton, LLC has indicated a willingness to enter into a License Agreement with the Municipality in consideration of one dollar (\$1.00).

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Municipality of Princeton that the Mayor and Clerk are hereby authorized to enter into the attached License Agreement with Mamoun's Princeton, LLC (the Licensee), for the installation of an awning on Witherspoon Street along with all provisions of said License Agreement and consideration of payment by the Licensee of One Dollar (\$1.00).

Councilperson	Absent	Present	1 st	2 nd	Yea	Nay	Abstain	Disqualified
Mr. Miller								
Ms. Butler								
Ms. Crumillier								
Ms. Howard								
Mr. Liverman								
Mr. Simon								
Mayor Lempert								

I, LINDA S. McDERMOTT, Clerk of the Municipality of Princeton, do hereby certify that the above is a true and complete copy of a resolution adopted by the Mayor and Council of said Borough at a meeting held August 25, 2014.

IN WITNESS WHEREOF, I hereunto set my hand and affix the corporate seal of said Municipality, this 25th day of August, 2014.

LINDA S. McDERMOTT,
Municipal Clerk

LICENSE AGREEMENT

THIS AGREEMENT made this 25th day of August, 2014 between the **Municipality of Princeton**, a municipal corporation of the State of New Jersey, with a business address at 400 Witherspoon Street, Princeton, Mercer County, New Jersey 08540 (hereinafter referred to as "Princeton") and **Mamoun's Princeton, LLC**, a New Jersey limited liability company, with a business address at 28 Ambassador Drive, Red Bank, New Jersey 07750 (hereinafter referred to as "Licensee").

W I T N E S S E T H

1. Princeton hereby grants to Licensee, a license to permit the following encroachment (herein after the "encroachment") into the public right of way located at **20 Witherspoon Street, Block 20.01, Lot 33: a five (5) foot projection of building mounted awning into the public ROW, along the front façade of the building.**

The annual charge for this license shall be One Dollar (\$1.00) for an indefinite term beginning August __, 2014. Princeton may elect and shall have the right to terminate this license upon one hundred and eighty (180) days prior written notice to Licensee sent by U.S. certified mail, return receipt requested, postage prepaid, addressed to **Mamoun's Princeton, LLC, 28 Ambassador Drive, Red Bank, New Jersey 07701, with a copy to Lionel J. Frank, Esq., Szaferman, Lakind, Blumstein & Blader, P.C., 101 Grovers Mill Road, Suite 200, Lawrenceville, New Jersey 08648**, or to any other address then known to Princeton if notice cannot be effectuated on Licensee or its attorneys as provided herein. Upon the termination of this license, Licensee shall remove the encroachment and leave the property in a condition satisfactory to Princeton. In default thereof, Princeton may do the same at the cost and expense of the Licensee, which Licensee agrees to pay upon reasonable prior written notice and presentment of a bill for the reasonable cost of removal. Upon such termination it shall be lawful for Princeton, its successors or assigns, to re-enter the licensed area and to have again, repossess and enjoy it, anything herein contained to the contrary notwithstanding.

2. The Licensee agrees the payment of the aforesaid compensation shall not in any way restrict the right of Princeton to terminate this agreement as provided herein, or be construed as establishing any term during which this agreement is to continue.

3. The Licensee will at its own expense conduct any work on the property necessary to make it suitable for the encroachment. Said work to be done by, and at the sole cost and expense of Licensee.

4. Licensee during the course of this agreement shall provide Princeton with annual proof of general liability and property damage coverage in the minimum amount of One Million Dollars (\$1,000,000.00) naming the Mayor and Council of Princeton as additional insured.

5. Licensee will comply with the regulations and requirements of every public or governmental body exercising control at the licensed premises and secure and pay for all necessary permits or consents required for the use of the premises.

6. The Licensee will assume all risks of and liability for and shall indemnify and hold harmless and hereby releases Princeton, and its officers, agents, servants and employees, and successors and assigns, from any and all liability, loss, claims, fees or judgments which may in any manner arise out of or result from the license granted herein whether occasioned by the Licensee or by any employee, licensee, invitee or agent of the licensee. This obligation will survive termination of this agreement.

7. The license granted herein is subject and subordinate to any and all easements, rights and privileges heretofore granted by Princeton, or the rights created which might affect such property including, but not limited to, streets, roadways, underground conduits, gas mains, sewers, pipes or rights of way. The Licensee shall have no right to assign or transfer the license herein granted to any other party or prospective purchaser without the prior permission of Princeton which shall not be unreasonably withheld, delayed or conditioned.

