

City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER 2007-16

No. 27 **AN ORDINANCE** ESTABLISHING AND
GRANTING A TAX STABILIZATION PLAN FOR PROVIDENCE
PIERS, LLC, ON BEHALF OF TAX ASSESSOR'S LOT 630 OF PLAT
46, BEING DESIGNATED THE CONLEY WHARF PROJECT

Approved January 8, 2007

Be it ordained by the City of Providence:

WHEREAS, the City Council of the City of Providence, pursuant to the General Laws of the State of Rhode Island, as amended from time to time, and Sections 21-160 through 21-172 of the Code of Ordinances of the City of Providence, has the authority to exempt real and personal property used for manufacturing, commercial, and/or residential purposes from the payment of property taxes, or to stabilize said taxes, if the granting of the exemption or stabilization plan inures to the benefit of the City of Providence by reason of physical improvements within the City of Providence which will result in long-term economic benefit, and/or by reason of the willingness of a commercial enterprise to construct new buildings or to replace, reconstruct, renovate, convert, expand, retain or remodel existing buildings; and

WHEREAS, the City Council of the City of Providence enacted Section 21-169 of the Code of Ordinances of the City of Providence whereby eligible properties, upon application, may be granted tax stabilization by the Providence City Council upon finding that project will incur to the benefit of the citizens of the City of Providence (Section 21-169 property); and,

WHEREAS, the City Council of the City of Providence enacted Section 21-172 of the Code of Ordinances of the City of Providence whereby eligible properties, defined as properties designated on the landmark list as part of the mill restoration program and the arts and entertainment district in the City of Providence as approved by the City Council and certified by the building inspector of the City of Providence as in need of substantial rehabilitation, may be provided tax considerations, upon application, for a

period beginning with the assessments of December 31, 2000 up to and including December 2011, so that the annual taxes on the eligible and approved land and buildings for this period shall equal the taxes based on the assessment date of December 31, 2000 for the tax year 2001, regardless of any increase in value attributable to the substantial rehabilitation undertaken, provided such rehabilitation commences prior to December 31, 2005, with any business or businesses located in such eligible and approved property or moving to such property from outside the City of Providence being considered, by application, for a tax program taxing their tangible personal property at the rate of \$33.44 per thousand dollars of assessed value for the same period as discussed above (Section 21-172 property)

WHEREAS, there is underdeveloped land and improvements in need of renovation located at 200 Allens Avenue, Providence, Rhode Island, more specifically described as Tax Assessor's Plat 46, Lot 630, a portion of which is Section 172 property and a portion is Section 21-169 property, the whole of which to be treated under Section 21-172; and

WHEREAS, Providence Piers, LLC (defined below as the "Project Owner"), as the property owner of said Lot 630 of Plat 46 has made application under Sections 21-169 and 21-172 of the Code of Ordinances of the City of Providence for tax stabilization, the whole to be treated under Section 21-172, and has satisfied each condition of said sections of the Code of Ordinances of the City of Providence in relation to its "Conley Wharf Project," more particularly described in its application to the City Council of the City of Providence for consideration of its request for tax stabilization as attached hereto and incorporated herein as Exhibit A; and

WHEREAS, the Project Owner has evidenced a willingness to renovate the existing improvements on the Project Site, as hereinafter defined, to create a mixed-use complex featuring a "banquet facility" consisting of approximately five thousand five hundred (5,500) square feet ("Patrick's Pier One"), a "meeting facility" of approximately three thousand five hundred (3,500) square feet for use by not-for-profit entities ("Conference Center"), upon request, for no fee, and approximately thirty-two thousand (32,000) square feet for artist studio space to be rented to Artists (defined below) at below market rates of \$6.00 per square feet for a term not less than five (5) years and a

second term of five (5) years for no more than \$9.00 per square foot ("Artist Studio Space"); and

WHEREAS, it is in the public interest to provide and attract new residential and retail/commercial/warehouse uses as envisioned in the Conley Wharf Project; and

WHEREAS, the Conley Wharf Project shall incorporate three (3) buildings to undergo substantial rehabilitation, as certified by the building inspector of the City of Providence, for commercial and artist studio space, with related parking, uses as located on Lot 630 of Tax Assessor's Plat 46; and

WHEREAS, the City Council of the City of Providence has determined that the Conley Wharf Project will assist the City of Providence in its mill restoration program by renovating buildings designated on its landmark list and contributing to the economic well-being of the City of Providence by renovating existing structures and providing below market rentals for artists, thereby increasing the tax base of the City of Providence, expenditures by guests and residents of the City of Providence and employment opportunities in the City of Providence; and

WHEREAS, the City Council of the City of Providence has determined it is in the interest of the residents of the City of Providence to grant such tax stabilization to the Conley Wharf Project so as to induce the renovation of mill buildings in the City of Providence, and such tax stabilization will inure to the long-term benefit of the City of Providence:

Be It Ordained by the City of Providence:

Section 1. That the findings set forth in the preceding recitals are hereby made and confirmed in their entirety.

Section 2. Definitions. The following terms shall have the meanings set forth herein:

(a) "Artists" means those individuals, working individually or collectively, in the categories of visual, performing and/or literary arts, architects and designers in conformance with the eligibility guidelines propounded by PCIS, amended from time to time, as attached herein and incorporated by reference.

(b) "Commencement Date" means the date of passage of this ordinance.

(c) "Personal Property" means any and all tangible personal property, including, but not limited to, all fixtures, equipment, furnishings and other personal property, now or hereafter located at the Project Site, as hereinafter defined.

(d) "Project" means and shall consist of the complete interior/exterior renovation of the Real Property, as hereinafter defined, so as to provide for a "banquet facility" consisting of approximately five thousand five hundred (5,500) square feet for use for the general public for a fee ("Patrick's Pier One"), a "meeting facility" of approximately three thousand five hundred (3,500) square feet for use by not-for-profit entities ("Conference Center"), upon application, for no fee, and approximately thirty-two thousand (32,000) square feet for use by Artists for working studio and/or gallery space at the Project Site ("Artist Studio Space") for not more than \$6.00 per square foot for a period not less than five (5) years from the date of passage of this ordinance (Initial Term) nor more than \$9.00 per square feet for the five (5) year period following the Initial Term (Second Term).

(e) "Project Owner" means Providence Piers, LLC, being a Rhode Island limited liability company, or any successor and/or assign permitted hereunder.

(f) "Project Site" means the land, as well as improvements found thereon, designated as Lot 630 of Assessor's Plat 46 located at 200 Allens Avenue, Providence, Rhode Island, more particularly described in the application made by Project Owner to the City Council of the City of Providence for consideration for tax stabilization as attached hereto and incorporated herein by reference as Exhibit A.

(g) "Project Taxable Properties" means, collectively, the Project Site, as proposed, the Real Property Improvements, as hereinafter defined, and the Personal Property, together constituting the Project.

(h) "Real Property Improvements" means all structures, buildings, renovations and improvements currently proposed to be located at the Project Site as identified in Exhibit A as attached hereto; provided, that it is understood that any material additional improvements, excluding customary repairs and renovations, shall require an amendment of this tax stabilization ordinance.

(i) "Stabilized Tax Payment(s)" means, with respect to the Project Taxable Properties, the amounts listed on the attached schedule found on Exhibit B, as prepared

by the tax assessor of the City of Providence and attached hereto and incorporated herein by reference.

(j) "Termination Date" means June 30 of the year in which Stabilized Tax Payment(s) based on the December 31, 2011 assessment date are to be paid in full.

Section 3. Tax Stabilization. That the City of Providence hereby grants to the Project Owner for the Project Site the stabilized assessment at the stabilized tax rate in accordance with Exhibit B, as attached hereto, for the period commencing as of the December 31, 2005 assessment date through the dates shown on Exhibit B.

Section 4. Term. The term of the tax stabilization hereby granted shall be for a period commencing on the Commencement Date and terminating on the Termination Date, all as more particularly described on Exhibit B, as attached hereto, unless earlier terminated as provided herein.

Section 5. Stabilized Tax Payments. As long as Project Owner, or any permitted transferee, owns or operates the Project Site, it will continue to make the Stabilized Tax Payment(s) as set forth in Exhibit B as attached hereto, during the term of this tax stabilization plan. Project Owner, and any transferee permitted hereunder, agrees that the Project Site will be subject to taxation, without regard to any tax stabilization, as of the Termination Date and thereafter. Project Owner agrees not to transfer the Project Site, or any portion thereof, to any tax-exempt entity which does not waive in writing its exemption and right to assert any exemption from any real and/or personal property taxes assessed by the City of Providence ("Waiver") or to allow any transfer by any subsequent transferee to any tax-exempt entity which does not also provide such Waiver during the term of this plan to stabilize taxes. Project Owner is required as a condition precedent to this tax treaty to record notice in the Land Evidence Records of the City of Providence of the requirement that the subject property covered by this ordinance be transferred only to a tax paying entity or to a tax exempt entity which provides such Waiver as long as this agreement is in effect. In the event that the subject property covered by this ordinance is transferred to a tax-exempt entity without such Waiver, despite the prohibition against such transfer, whether by Project Owner or any subsequent transferee of such property, Project Owner will be responsible to make payments in lieu of taxes to the City of Providence equal to the amount of taxes as set

forth in Exhibit B, as attached hereto, which would have been paid to the City of Providence if such prohibition against transfer to a tax-exempt entity without a Waiver had not been violated. In the event that Project Owner shall divide the Project Site or convert all or any portion thereof into residential and/or commercial condominium or a cooperative, such residential and/or commercial condominium and/or cooperative so converted and sold as a condominium and/or cooperative unit shall, upon recording of the deed for transfer of such unit by the Project Owner to a third party purchaser, no longer be covered under this ordinance and shall be subject to taxation without regard to any tax stabilization agreement (the remaining portion of the Project to be prorated accordingly and the Tax Stabilized Payments scheduled hereunder will thereby be reduced accordingly), provided that Project Owner provides written notice of any such sale to the tax assessor of the City of Providence indicating the name(s) of the purchaser, the date of purchase and the purchase price of the unit sold, otherwise said unit shall remain as a part of the tax payments due from Project Owner.

Section 6. Payment of Taxes. The following shall pertain to the payment of taxes set forth herein:

(a) Project Owner shall make Stabilized Tax Payment(s) to the City of Providence as prescribed in the attached schedule set forth in Exhibit B in lieu of all other real property and personal property taxes and assessments of every kind and nature which would now or hereafter otherwise be levied upon the Project and the City of Providence agrees to accept the Stabilized Tax Payments in lieu of all such other real property and personal property taxes.

(b) Stabilized Tax Payment(s) due to the City of Providence, pursuant to the terms of this agreement, may be made in either a lump sum during the first quarter of the applicable tax year or in equal quarterly installments. If quarterly payments are to be made, they shall be due on the same dates that quarterly taxes are due for all other taxpayers in the City of Providence for property taxes and similarly subject to interest and late fee penalties if not timely made.

(c) It is understood by the parties that the Stabilized Tax Payment(s) made hereunder are tax payments; and, the Project Owner shall be entitled to all the rights, privileges, and obligations of a taxpayer in the City of Providence.

(d) The liability for the Stabilized Tax Payment(s) due and owing under this agreement shall constitute an obligation of Project Owner, and the City of Providence shall be granted by the Project Owner a lien on the Project Taxable Properties, which lien shall be of the same priority and entitle the City of Providence to the same foreclosure remedy as the lien and foreclosure remedy provided under applicable laws and ordinances with respect to real and personal property taxes, not subject to a tax treaty or this agreement.

Section 7. Satisfaction of Obligations. The City of Providence agrees that so long as the Stabilized Tax Payment(s) are made by the Project Owner in accordance with the terms of this agreement, the City of Providence shall, during the term of this agreement, accept said payments in full satisfaction of the obligations of the Project Owner as to the payment of any and all taxes and property assessments to the City of Providence which would otherwise be levied upon or with respect to the Project Taxable Properties, including future customary repairs and customary renovations of the Real Property Improvements and the Personal Property which may now exist or which may hereafter be placed or erected thereon or located thereat or used therein, but excluding material renovations or improvements beyond that contemplated in the Project.

Section 8. Minority and Local Contractors/Vendors. It shall be the goal of the Project Owner and the Project Owner shall use its best efforts to hire contractors and subcontractors and to purchase construction materials from entities which/who are situated in and/or are residents of the City of Providence. Further, the Project Owner shall use its best efforts to award 25% of the total dollar value of construction to Minority Business Enterprises ("MBEs") and Women Business Enterprises ("WBEs"), as defined and pursuant to Section 21-52 of the Code of City Ordinances, City of Providence, as certified by state agency or the Director of the Department of Planning and Development, City of Providence. The total fee and non-biddable "General Conditions" of the prime contractor will be deducted from this calculation. The Project Owner will use its best efforts to work with the prime contractor to reduce the size of bid packages where possible so as to maximize accessibility of contract work to small contractors from the community.

It is the intent of the parties that the participation of each element of minority and women business enterprise not fall below twelve and a half (12.5%) percent.

Section 9. First Source and Employment. Project Owner shall in all respects comply with the First Source Ordinance, so-called, and shall enter a contract with the City of Providence which contract shall set forth the obligations of the Project Owner. Further, Project Owner will include in all subcontracts an affirmative action and community hiring program in which the contractor commits to notify Project Owner of any job openings at the Project Site and to a willingness to interview candidates identified through said program. Project Owner has set a target minimum of ten (10%) percent of total hires as community hires over the course of the Project construction period. In addition, Project Owner agrees to provide training and/or apprenticeships for City of Providence residents hired on the Project. Such training and/or apprenticeship program shall be submitted in writing to the Director of the Department of Planning and Development, City of Providence, for his or her written approval, as a condition precedent to any tax stabilization as envisioned under this ordinance, which may include an apprenticeship created under Section 28-45-1, et seq., of the General Laws of Rhode Island, as amended.

Section 10. Purpose. The City of Providence has entered into this tax stabilization plan to renovate mill buildings and to provide commercial, not-for-profit meeting and artist studio space in the City of Providence and to increase its tax base as a result of such renovation. This plan shall be in effect during its term as long as the property is utilized primarily for the Project with the meeting space, so-called, to be made available for use by not-for-profit organizations for no fee upon request and the artist studio space to be rented for no more than \$6.00 per square foot during the Initial Term, as defined herein, and no more than \$9.00 per square foot during the Second Term, as defined herein, and failure to use the Project Site primarily for such purposes, under such terms, renders this tax stabilization plan null and void. It is understood that this ordinance does not extend to any building or buildings used as a "dormitory" or "apartment dormitory". The use of any building or portion of a building for "dormitory" or "apartment dormitory" purposes renders the treaty null and void. The tax stabilization plan being rendered null and void for any reason would require the Project Owner to pay

all taxes and fees as would have been due and owing as if no plan had been entered, *ab initio*.

Section 11. Basis of Calculation for Tax Payment(s). The schedule listed in Exhibit B, as attached hereto, is based, in part, upon information provided to the tax assessor of the City of Providence by Project Owner including, but not limited to, estimated construction costs. In the event any of this information is inaccurate or proves to be materially erroneous, this treaty shall be modified to reflect the accurate information. This tax treaty is conditioned upon commencement of construction by December 31, 2005. Failure to begin construction by December 31, 2005 renders the plan null and void and shall subject the Project Owner liable for the difference of the taxes due under Exhibit B and the taxes that would have been payable but for the tax treaty as if no treaty had been entered, all in accordance with Sections 169 and 172 of the Code of Ordinances of the City of Providence.

Section 12. Back Taxes. This treaty is conditioned upon Project Owner at all times owing no back taxes to the City of Providence and remaining current on all payments due under this tax stabilization plan. Failure to make timely payments renders this treaty null and void, *ab initio*.

Section 13. Assignment. Notwithstanding any thing to the contrary contained herein, this tax treaty is not assignable by Project Owner without the express written consent of the Director, Department of Planning and Development, City of Providence, which consent will be not be unreasonably withheld.

Section 14. Reporting and Monitoring. Project Owner shall, not less than sixty (60) days after the end of each fiscal year of the Project Owner, submit to the Director, Department of Planning and Development of the City of Providence, a report that will provide evidence of compliance with Sections 8, 9 and 10 hereof on forms provided by said director for said purpose. The director may require additional information to demonstrate compliance.

Section 15. Notices. All notices, certificates, requests, demands, consents, approvals, and other communications which may or are required to be served or given hereunder (for the purposes of this section, collectively called "Notices") shall be in writing and shall be sent by registered or certified mail, postage pre-paid, return receipt

requested and received overnight delivery by a recognized public or private carrier, or by facsimile, in either case as evidenced by a receipt or other evidence of delivery showing the date, time and, for facsimile, telephone number or receipt and addressed to the party to receive such Notice as identified below:

If to: City of Providence
 City Hall
 25 Dorrance Street
 Providence, RI 02903
 Attn: Mayor, City of Providence

Copies to: City Solicitor
 City of Providence
 275 Westminster Street, 2nd Fl.
 Providence, RI 02903

Director, Department of Planning and Development
 400 Westminster Street
 Providence, RI 02903

If to: Providence Piers, LLC
 1445 Wampanoag Trail
 East Providence, RI 02915

Copy to: Patrick Conley, Esq.
 1445 Wampanoag Trail
 East Providence, RI 02915

Section 16. Penalties and Petition for Relief. In the event that Project Owner does not comply in all material respects with any and/or all of the material provisions of this ordinance, the Director of the Department of Planning and Development, City of Providence, or the City Council of the City of Providence by resolution, may provide written notice, mailed, postage-prepaid, to Project Owner at its/his/her last known address, setting forth the nature of the non-compliance and the date upon which the tax stabilization agreement shall be rendered null and void because of the non-compliance, unless said non-compliance is cured prior to said date ("Early Termination Date"). The full tax which would otherwise have been due and payable, if there had been no tax agreement, plus interest and penalties as provided by law ("Full Tax"), will become immediately due and payable on the Early Termination Date, with the calculation thereof being contained in the notice. However, the Early Termination Date shall be at least one hundred and twenty (120) days from the mailing of written notice. Project Owner may petition the City Council, City of Providence, for a hearing with respect to the issue of

non-compliance. The hearing shall be held within sixty (60) days of the receipt of the petition by the City Clerk, City of Providence. At the hearing Project Owner shall have an opportunity to present evidence of compliance and/or request relief. In the event that the City Council, City of Providence, does not act after a hearing of Project Owner prior to the Early Termination Date, the determination of the Director, Department of Planning and Development, City of Providence, shall be conclusive and Project Owner shall immediately make payment of the Full Tax to the City of Providence.

Section 17. Expiration Dates. That in accordance with the laws of the State of Rhode Island and the Code of Ordinances of the City of Providence, the City Council hereby approves the Project Owner's application for tax stabilization as set forth as Exhibit A and authorizes said tax stabilization as provided in this ordinance in accordance with it and with the schedule of payments set forth in Exhibit B as attached hereto.

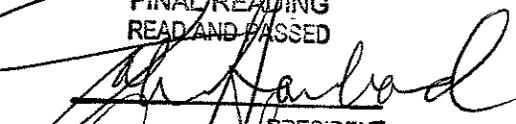
Section 18. Applicable Law. This agreement shall be construed under the laws of the State of Rhode Island.

Section 19. Effective Date. This ordinance shall take effect upon its passage.

IN CITY COUNCIL
DEC 21 2006
FIRST READING
READ AND PASSED

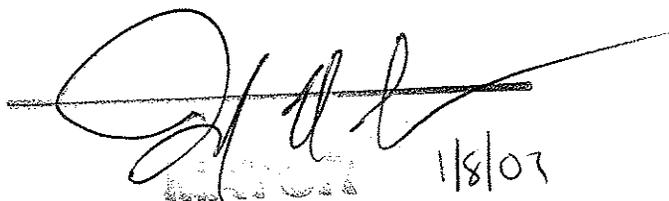

CLERK

IN CITY COUNCIL
COUNCIL
DEC 28 2006
FINAL READING
READ AND PASSED


PRESIDENT

CLERK

APPROVED


1/8/07