

RESOLUTION OF THE CITY COUNCIL

No. 565

Approved October 22, 1996

RESOLVED, That, His Honor, the Mayor is hereby authorized to execute the Tax Treaty Agreement, as amended, for the Providence Place Project, pursuant to R.I.G.L. §42-63.5-3 and authorized by Ordinance 1996-1, No. 1, approved January 10, 1996, between the Economic Development Corporation, Providence Place Group and the City of Providence; provided, however, that:

- 1.) the Mayor be the final signatory on the document;
- 2.) that the document be in the form attached to this Resolution; and
- 3.) that the State Agreements remain substantially in the form

delivered to the City of Providence.

IN CITY COUNCIL
OCT 17 1996
READ AND PASSED, AS AMENDED.

Evelyn V. Fargnoli
PRES
Michael R. Clement
CLERK

APPROVED
OCT 22 1996
Vincent Craney
MAYOR

THE COMMITTEE ON
FINANCE

Approves Passage of
The Within Resolution

As Amended and
Barbara A. Frazier
10/10/96 Clerk

THE COMMITTEE ON
URBAN REDEVELOPMENT
RENEWAL & PLANNING
Approves Passage of
The Within Resolution

As Amended
Barbara A. Frazier
10/10/96 Clerk

EXHIBIT II TO ORDINANCE
ESTABLISHING A TAX STABILIZATION PLAN
TAX TREATY AGREEMENT FOR
THE PROVIDENCE PLACE PROJECT

THIS AGREEMENT made and entered into as of the 22nd day of October, 1996 by and among the City of Providence, Rhode Island (the "City"), The Rhode Island Economic Development Corporation (the "Corporation") and Providence Place Group, a limited partnership organized under the laws of the State of New York, its successors and assigns ("PPG").

W I T N E S S E T H:

WHEREAS, pursuant to Chapter 400 of the Public Laws of 1995, the Rhode Island General Assembly has authorized the City and the Corporation to execute a tax treaty agreement with PPG with respect to all real and personal property taxes or payments in lieu of such taxes which relate to the Project (as hereinafter defined); and

WHEREAS, the City has authorized and approved the form of this agreement pursuant to Ordinance No _____, Chapter 1996 (the "Ordinance"); and

WHEREAS, PPG and the Corporation have entered into a Ground Lease dated September 9, 1996 (the "Ground Lease") with respect to the development and construction of the Project to be located on the Site (as defined in the Ordinance), and more particularly, described in Exhibit A attached hereto (the "Site"), which agreement supersedes an Amended and Restated Development Agreement dated August 22, 1994, as amended, between the Corporation and PPG with respect to the Site and the Project:

WHEREAS, representatives of the City, PPG and the Corporation have met and discussed the proposed terms of the tax treaty agreement related to the Site, the Project and the Personal Property (as hereinafter defined);

WHEREAS, PPG, the Corporation and the City desire to fix and stabilize the level of payments of taxes or payments in lieu of taxes to be made with respect to the Site, the Project and the Personal Property;

WHEREAS, this Agreement contains all the terms and conditions of such agreement relating to payments of taxes or payments in lieu of taxes to be made with respect to the Site, the Project and the Personal Property.

NOW THEREFORE, in consideration of the mutual agreements, understandings and obligations set forth herein, the City, the Corporation and PPG hereby agree as follows:

1. Providence Place.

PPG shall develop and construct on or within the Site (i) an enclosed shopping mall consisting of no less than 1,150,000 square feet and no more than 1,300,000 square feet of gross leasable area (the "Shopping Mall"), together with personal property and fixtures constituting leasehold improvements to the Shopping Mall and inventory ("Personal Property") to be owned and/or leased by tenants and business entities located within the Shopping Mall for retail purposes and other uses customarily found in first class regional shopping malls, but excluding any office space not directly affiliated with the above mentioned uses within the Shopping Mall and excluding any office building or other commercial property described as additional property in Section 12, (ii) a partially enclosed parking garage with approximately 4,000 spaces (the "Garage") beneath and adjacent to the Shopping Mall, all to be constructed by PPG; and (iii) certain other appurtenances, including without limitation the aerial pedestrian bridge connecting the Shopping Mall to the Convention Center Complex. The "Garage" shall not provide free parking to any office building described as additional property in Section 12 and shall not provide free parking to any converted use provided in Section 11(v). All of the real property listed in clauses (i), (ii) and (iii) hereof are collectively referred to hereinafter as the "Project." It is the intention of the parties that the Shopping Mall be utilized primarily for retail purposes and that restaurants be a secondary or ancillary use.

2. Consideration.

(a) As consideration for and to induce the City to enter into this Agreement and to accept the payments hereunder in full satisfaction of any and all taxes or payments in lieu of taxes that might otherwise be levied or assessed by the City on the Site, Project or the Personnel Property, PPG shall pay Nine Hundred Thousand Dollars (\$900,000) to the City on or before June 30, 1997. Failure to make said payment or payment of the \$250,000.00 due under the property/condemnation ordinance, No. 2 Chapter 1996-2, on or before June 30, 1997 shall render this Agreement null and void. The City agrees that such payment shall represent full payment for any and all fees or expenses that can or would be charged to PPG or the Anchor Tenants (as defined in Section 7(i) of this Agreement) by the City's fire and building officials in connection with the

construction of the Project and the Anchor Tenants' stores or other improvements to the Site by PPG or the Anchor Tenants, provided, however, such payment shall not include any fees or expenses payable by tenants, other than the Anchor Tenants, for construction of individual stores.

(b) PPG agrees to pay on or before June 30, 1997, \$25,000 in full and complete payment for the ordinary and customary fees imposed by the City and presently in effect in connection with construction of the Project not referred to in (a) above, including, without limitation, permit, filing and inspection fees, signage permits and fees, fees for accepting the dedication of any streets and sidewalks, street and sidewalks rentals or opening or closing fees, fees for temporary street closing (whether by Council resolution or administrative action), curb cut fees, temporary construction easements or licenses, (but excluding the cost of any police details).

3. Payments. On behalf of the Corporation, and of all the owners, tenants, and users of all or any portion of the Site, Project or the Personal Property, PPG shall pay the amounts shown in the column titled "Base Annual Payment in Lieu of Tax" on Schedule A (the "Tax Payments") in the manner set forth herein, in lieu of all taxes that could be levied on the Site, Project or the Personal Property by the City. For the first twenty years in which payments are to be made hereunder, PPG shall pay 100% of each of the Tax Payments directly to the lender or lenders (as designated from time to time by PPG or its successor) which are providing the original or subsequent financing or refinancing of the Project. For the last ten years in which payments are to be made hereunder, PPG shall pay (i) ten percent (10%) of each of the Tax Payments directly to the City Collector, to be deposited in the City's general fund and (ii) ninety percent (90%) of each of the Tax Payments directly to the lender or lenders (as designated from time to time by PPG or its successor) which are providing the original or subsequent financing or refinancing of the Project, as long as the principal and interest owed by PPG or its successor with respect to such financing or refinancing of the Project on a given payment date is equal to or greater than the Tax Payment amount to be applied thereto. If the principal and interest owed by PPG or its successor with respect to the financing or refinancing of the Project on a given payment date shall be less than the Tax Payment amount referred to above, only the amount actually owed to Project lenders on the payment date in question shall be applied thereto, and PPG shall pay the remainder of the Tax Payment in question to the City Collector, to be deposited in the City's general fund. On the earliest date on which the principal

and interest owed by PPG or its successor or the amount otherwise remaining unpaid to lenders or Leasehold Mortgagees or with respect to the financing or refinancing of the Project shall be reduced to \$0, this Agreement shall terminate in accordance with Section 11(b)(iv) hereof. Notwithstanding the foregoing, in the event that such principal and interest is reduced to zero, or such principal and interest owed by PPG is less than the Tax Payment referred to above as a result of the elimination or reduction of the financing amount due to (a) the completion of a foreclosure or the acceptance of a deed or other transfer in lieu of foreclosure by any such lender, Leasehold Mortgagee or its nominee, or (b) any subsequent transfer by such lender, Leasehold Mortgagee or its nominee, then the provisions of the immediately preceding two sentences shall be inapplicable and such lender, Leasehold Mortgagee or its nominee shall be entitled to collect all taxes due from tenants of the Project as if such financing or refinancing remained unpaid.

The portion of the Tax Payments to be paid to the City representing payments of taxes or in lieu of taxes upon or in respect to the Site, Project and Personal Property as provided in this Section 3 shall be made semiannually, on December 31 and June 30 of each year in which the City is entitled to such payments. No taxes shall be due or payable with respect to the Site, Project or the Personal Property prior to December 31, 1998. The City shall, within thirty days following receipt of (1) its share of a Tax Payment for any six-month period, if any, and (2) a copy of a confirmation from any designated lender of its receipt of the amount paid to such lender for such six-month period, send to PPG a written acknowledgment that such Tax Payment (or portion thereof, as the case may be) has been paid. The financing or refinancing documents to which the Tax Payments are to be applied shall provide that each lender thereunder shall provide a confirmation to the City of its receipt of such amounts to enable the City to make such acknowledgment as provided in the preceding sentence. The liability for all payments due and owing under this Agreement shall constitute a full faith and credit obligation of PPG (but shall not include recourse to any individual partner thereof), and notwithstanding any provision to the contrary in the Ground Lease, any other Project Document (as defined in the Ground Lease) or any related document, the City shall be granted by PPG a first lien on the Project and a first lien on the Personal Property, which lien shall be provided to insure that the City's right and priority to foreclose on such property is no less than those rights and priority of foreclosure provided under applicable laws and ordinances if taxes were being paid to the City thereon. As set forth in the "Mall Act," to the extent that all

or any portion of a Tax Payment is required to be made directly to a lender, such lender shall have the sole right to collect such Tax Payments and enforce such liens and the City hereby assigns its rights to such lenders without further action hereunder.

It is understood by the parties that payments made under this Section 3 to the City and/or lenders are deemed by the City to be tax payments, and PPG (and all tenants and owners of space within the Project) shall be entitled to the rights and privileges of a taxpayer in the City. It is further understood and agreed that the City's recourse to the Corporation for the payments hereunder are limited to the City's first lien on the Project and the Personal Property as described above. Upon termination of this Agreement for any reason, to the extent the Corporation holds title to any portion of the Project or the Personal Property, the Corporation acknowledges the importance to the City that the Project be subject to property taxation to the fullest extent feasible, and the Corporation shall cooperate with the City and agrees to use reasonable and diligent efforts to sell or lease the Project and any such Personal Property as soon as possible so that taxes will again be payable to the City under applicable laws and ordinances. Prior to such sale or lease of the Corporation's interest in the Project and the Personal Property, the Provisions of R.I.G.L. 42-64-20 shall apply, and the City shall receive payments in lieu of real property taxes as provided thereunder. To this end, if the Corporation shall have held title to the Project for three months and the Project and the Personal Property shall not have been sold or leased to an entity which agrees or is required to pay taxes or payments in lieu of taxes under all applicable laws and ordinances, the Corporation shall establish an Advisory Committee to assist in the sale or lease of the Project. The Advisory Committee shall have nine members, three of whom shall be appointed by the Corporation. The remaining six members shall be the following officials of the City of Providence: the Mayor, the Director of Planning and Urban Development, the City Solicitor or designee, the City Council President or designee, the Chairperson of the City Council Finance Committee or designee and the Chairperson of the City Council Urban Redevelopment Committee or designee. So long as the Site is subject to the Ground Lease or any "New Lease" (as defined in the Ground Lease) and the payment of the rent thereunder, the Site shall not be subject to taxation.

Other than the payments required pursuant to R.I.G.L. 42-64-20, neither the State nor the Corporation shall be obligated to make the payments hereunder, and

neither the faith and credit of the State or of any political subdivision thereof is pledged to the payment of the obligations hereunder.

4. Payment Adjustments. Each Tax Payment scheduled for the fiscal years 2019 through 2028 shall be adjusted higher to reflect any increase in the Consumer Price Index ("CPI") over the immediately preceding calendar year. For example, the Tax Payment due for the fiscal year beginning July 1, 2012 shall be increased by an amount calculated by multiplying the Tax Payment otherwise payable for such fiscal year by the percentage increase in the CPI for the period from January 1, 2020 through December 31, 2020 over the preceding year. For purposes of this Agreement, the CPI shall mean the Consumer Price Index All Items (1982-1984=100) as published by the Bureau of Labor Statistics of the United States Department of Labor. In the event such index ceases to be published, a comparable index shall be agreed upon between the City and PPG.

5. Total Payments. Except as specifically provided herein, the Project and the Personal Property owned by PPG or any tenant, user or any owner of space within the Project (and substitutions therefor or replacements thereof), shall not, during the period covered by Section 3 above prior to termination of this Agreement as provided herein, be liable to taxation, levy or assessment of any kind, direct or indirect, by the City (except for any uniform assessment for the planned Downtown Management District or any uniform assessment for the Fox Point Hurricane Barrier).

6. Option to Purchase Garage Interest. Not later than nine months before the end of the ninety-eighth year of the initial term of the Ground Lease, PPG shall notify the City of the impedance of and the City shall have the independent option to purchase a one-half interest in the Garage for nominal consideration at any time during the last year of the initial ninety-nine (99) year term of the Ground Lease, provided that the City shall have, as conditions precedent to the transfer to it of such one-half interest, (i) agreed to any recorded easements referred to in Section 2.3 of the Ground Lease between Providence Place Group and Rhode Island Economic Development Corporation, (ii) executed a management contract with PPG or its designee and (iii) executed an ownership agreement with PPG, the State or whichever entity is the owner of the other behalf interest in the Garage, providing for, among other things, appropriate mechanisms for resolution of any deadlock between the parties so that the operation of the Garage is not materially disrupted. In no case, shall the City have any financial responsibility for the Garage.

7. Additional Agreements of PPG and the Corporation.

(a) PPG agree to meet its obligations under the Ground Lease and related agreements described in the Ground Lease to the extent not inconsistent with the terms and conditions of this Agreement.

(b) Notwithstanding anything to the contrary in the Ground Lease, any other Project Document (as defined in the Ground Lease) or any related document, PPG agrees that it (and its successors in interest) shall construct and maintain the buildings and structures constituting the Shopping Mall as a first-class regional shopping mall of not less than 1,150,000 square feet and no more than 1,300,000 square feet of gross leasable area, including space for not less than three Anchor Stores, and shall include a street level along Francis Street other retail shops and/or restaurants ("Street Level Retail"). It is the intention of the parties that the Shopping Mall be utilized primarily for retail purposes and that restaurants be a secondary and ancillary use. It is further the intention of the parties that the Shopping Mall exclude office space not directly affiliated with retail purposes or other uses customarily found in first class regional shopping malls, within the Shopping Mall.

(c) It shall be the goal of PPG to award to Minority Business Enterprises as defined in Rhode Island General Laws, Section 31-14.1 ("MBE Act") no less than 10% of the dollar value of the construction costs for the Project (as determined in accordance with the rules and regulations promulgated pursuant to MBE Act). It shall be a further goal to award to women business enterprises (WBE's) no less than 10% of the dollar value of the construction costs for the Project (as determined in accordance with Section 21-52 of the Code of Ordinances of the City of Providence). It shall be a further goal of PPG to achieve a minimum level of 10% for minority and 10% for female employment as measured by gross accumulated hours for trades people. The City's MBE/WBE Coordinator shall monitor compliance with this subsection.

(d) The State and City, in cooperation with PPG, shall develop a retail sales and management training program for prospective employees at the Shopping Mall, such program shall provide that residents of the City shall be given preference in participating in the training program at the Shopping Mall subject to applicable federal, state and local laws. PPG will use its best efforts to publicize the training program and will encourage its tenants to consider applicants from the training program for permanent employment. Such efforts shall include, but shall not be limited to, including a statement in each tenant lease describing the training

program and providing guidance as to procedures to obtain access to those who have successfully completed the training program.

(e) PPG will explore with the Providence Foundation, the Greater Providence Chamber of Commerce and the City the possibility of PPG taking a lead role in the establishment and operation of a Downtown Management District and use its best efforts to cause the establishment and operation thereof.

(f) For a five-year period beginning upon the opening of the Shopping Mall, PPG shall contribute 50 percent of the cost of a downtown advertising campaign, with an annual series of ads that strengthen the image of downtown as an employment, education, arts & entertainment center. PPG shall be required to provide the funds only if (i) the budget for such downtown advertising campaign is acceptable to PPG and the City and (ii) such funds are matched by the City from contributions from various parties and sources.

(g) PPG, the State, the City and RIPTA shall develop and implement plans for the operation of a shuttle bus linking Providence Place and historic downtown Providence, beginning at the time when the Shopping Mall opens. It is understood that the City shall have no financial obligation for such service. The intent is to provide this service for as many hours of the Shopping Mall's operation as economically feasible. The shuttle is intended to move downtown employees, users of the Garage and visitors to and from the Garage, and to transport such people from the Shopping Mall to shopping, entertainment and other destinations elsewhere in downtown Providence.

(h) PPG hereby agrees (i) to indemnify, defend and save the City, its officers, its servants, its employees, agents and representatives harmless from any and all loss, costs, liability, claims, damages, expenses and attorneys fees resulting from activities under the Ground Lease, this Agreement, the Ordinance and the property/condemnation ordinance with respect to the site (including without limitation any claims of third parties in connection with any condemnation proceedings) and operation of the Site or the Project; and (ii) to maintain or cause to be maintained liability insurance naming the Corporation and the City as the additional insured. For purposes of the Ground Lease, this subsection (h) (ii) shall constitute the written consent of PPG and the Corporation under the Ground Lease, to the naming of the City as an additional insured, as provided above. PPG shall indemnify and hold the City, its agents, servants, officers and employees harmless from any and all claims, losses, actions, causes of action, costs, charges, fees (including attorneys' fees), violations (including any administrative action for

violation of any Federal, State or local law, statute, regulation, rule or ordinance brought by any quasi-governmental or governmental entity or any board, bureau, agency, department, division thereof), on account of the presence of any contaminant, or hazardous or toxic substance at or near the Project and/or Site; and shall indemnify, defend and save the City, its officers, servants, employees, agents and representatives harmless from any and all loss, costs liability, claims, damages, expenses of litigation and attorney fees resulting from actions brought within 10 years of the execution hereof resulting from reliance upon the Legislation, the Ordinance establishing a tax stabilization plan and the ordinance consenting to the condemnation of certain city property by the EDC and the granting of other easements. Notwithstanding anything herein or elsewhere to the contrary, the indemnification obligation of PPG hereunder (i) shall survive the termination of this Agreement and (ii) shall not in any way be affected by the absence in any case of any covering insurance or by the failure or refusal of any insurance company to perform any obligation on its part.

(i) PPG represents that the three original Anchor Tenants shall be: Nordstroms, Lord & Taylor and Filene's. PPG acknowledges the importance of the prime retail Anchor Tenants to the City, and, accordingly, if due to circumstances beyond PPG's reasonable control, a substitution of one or more of the Anchor Tenants is required prior to completion of the Project, PPG may, with the consent of the Mayor of the City and the City Council, which consent shall not unreasonably be withheld, substitute one of the following stores for such Anchor Tenant: Saks, Neiman-Marcus, Jacobsons, Parisian, Bloomingdales, Dillard's or Macys.

(j) PPG agrees that the Garage will always be operated and maintained as a first class parking facility with such amenities and security so as to attract retail customers. To this end, PPG covenants and agrees that the Garage will be operated such that all parking receipts generated by the Garage will be used in the following order of priority to repair and maintain the Garage as a first class facility, to provide for improvements, to provide security for all users and to pay financing costs (up to \$5.7 million annually) of the Garage. In any case where parking receipts exceed expenses, parking and HOV rates will be reduced to make parking more attractive. After the City and/or the Corporation exercise their respective options to purchase an interest in the Garage, it is not expected that parking receipts in excess of the expense of maintaining the Garage and reducing parking fees as set forth above will ever be generated. To the extent, however, that

such excesses should be generated, the City and the Corporation shall be entitled to such share of parking receipts as is commensurate with their respective interest in the Garage.

(k) PPG will provide within the Shopping Mall, at least three information stations that will advertise and promote the Civic Center, the Convention Center, downtown's restaurants, shops, arts, cultural and entertainment facilities and historical attractions, etc. The development and location of the information stations will be planned in conjunction with The Providence Foundation.

(l) The Shopping Mall will include a multi-screen cinema of no more than twenty (20) screens (the "Mall Cinema"). Additionally, PPG has worked in conjunction with the Coalition for Community Development (the"CCD") and its membership and has secured a commitment of a national theater operator to be a tenant in the development of a "first-class" cinema in the Downcity area of Providence (the "Downcity Cinema"). PPG hereby agrees to the following terms and conditions with respect to the development of the Downcity Cinema:

(1) PPG shall contribute fifty percent of the equity required to develop the Downcity Cinema, up to \$ 2.5 million dollars;

(2) The site for the Downcity Cinema will be the land located at the corner of Fountain and Mathewson Streets, consisting of no less than 20,000 square feet;

(3) The Downcity Cinema shall be a facility consisting of no less than seven (7) screens and shall contain at least 1200 seats;

(4) The Downcity Cinema lease will provide at least two (2) of the screens in the Downcity Cinema will regularly run new releases, popularly known as "first-run" movies and one (1) of the remaining screens will be available for use by the City of Providence, including but not limited to, the City of Providence Film Commission and other arts and community groups. One of the screens may also have a stage area for performance groups;

(5) The Downcity Cinema will be designed in such a manner so as to provide for glass storefronts on Mathewson and Fountain Streets to allow light and pedestrian view into the lobby of the cinema and the retail/coffee shop;

(6) The marquee for the Downcity Cinema shall be at the corner of Fountain and Mathewson Streets; and the overall design of the Downcity Cinema must be approved by the City's Downtown Design Review Commission;

(7) The ground floor of the Downcity Cinema must contain some retail/ coffee shop or similar use;

(8) The Downcity Cinema owner agrees that the minimum real and personal property taxes will be annually equal to the amount of taxes currently being paid on the site; provided, however, that Downcity Cinema owner agrees that any and all increases in the tax rate will be assessed against the currently assessed taxes on the site of the Downcity cinema as well as any revaluation on the land; it is further understood that this document does not constitute a tax treaty between the City of Providence and the Downcity Cinema owner and that any such tax treaty would need to be approved by the Mayor and City Council;

(9) The Downcity Cinema will be leased to the operator of the Mall Cinema, and the leases will contain an operating covenant which will be coextensive with the operating covenant in the mall cinema lease so as to ensure that the Downcity Cinema and the Mall Cinema will run concurrently throughout the terms of the two leases, which lease will contain twenty-five (25) year operating covenants;

(10) Coalition for Community Development ("CCD"), acting through a related entity owned in whole or in part by members of the CCD, will own the cinema jointly with PPG;

(11) The Downcity Cinema will be completed on or before September 1, 1998, or such later date as may be caused by "Unavoidable Delay" as defined herein ("Completion Date").

In the event that the above terms and conditions are not satisfied by the Downcity Cinema Owner on the Completion Date, PPG will pay to the City the sum of \$2.5 million ("Penalty Payment") to be used by the City, in its sole discretion, on other Downcity projects. The obligations of PPG to make the Penalty Payment shall be secured by an irrevocable Letter of Credit ("LOC") issued by a nationally recognized bank on or before the date on which PPG closes on its construction loan on the Shopping Mall. Upon the above terms and conditions being satisfied as of the Completion Date by the Downcity Cinema Owner, the Penalty Payment obligation shall terminate.

As used in this Section 7(1), the term "Unavoidable Delay" means delays incurred by the Downcity Cinema Owner due to causes beyond the reasonable control of such owner, and shall include, without limitation and only by way of example, delays incurred by the Downcity Cinema Owner due to strikes, lockouts, work stoppages, labor disputes, acts of God, inability to obtain labor or materials,

riot or civil commotion, fire, casualty or other causes beyond the reasonable control of the Downcity Cinema Owner; the term shall also include, without limitation, any unlawful failure of any delay in granting any permit, consent or approval reasonably determined to be essential to the timely completion of the Downcity Cinema project; the term shall also include discovery of any Hazardous Substance which may exist on the Downcity Cinema site which requires redemption work provided the Downcity Cinema Owner diligently seeks approval of governmental authorities to remediate the the Downcity Cinema site. In no event will any financial difficulty experienced by the Downcity Cinema Owner or the CCD constitute Unavoidable Delay.

(m) The parties to this Agreement recognize the importance to the City of the proposed pedestrian infrastructure improvements with respect to the linkage of the Shopping Mall to the Downcity area. Pursuant to Section 7 of Chapter 42-63.5 of the General Laws of the State of Rhode Island (hereinafter "the Act"), the State is responsible for funding the design, permitting and construction of certain pedestrian infrastructure improvements included in the Project, including the aerial pedestrian bridge. The State, at its option, may undertake these improvements itself or pay PPG to undertake them. It is clear that the parties are relying on the Act to the extent that the pedestrian infrastructure improvements are a term of this Agreement. The pedestrian infrastructure improvements shall include, but not be limited to, 1) the pedestrian skybridge which will connect the Shopping Mall and the Westin Hotel; 2) the sidewalks surrounding the Shopping Mall including, without limitation, plantings, light poles, benches, railings and kiosks; and 3) the extension of the Riverwalk over or under Francis Street on both sides of the river into the Project site.

(n) PPG and the Corporation shall execute and deliver any additional documents reasonably necessary including, but not limited to, tax compliance and other certificates, (i) to evidence its obligations hereunder, or (ii) to comply with the provisions of the law of the State of Rhode Island pertaining to this Agreement.

(o) The City acknowledges that covenants of PPG contained in subsections (c),(d), (e), (f), (g) (h),(l) and (m) are personal obligations of PPG or its successors or assigns and no Leasehold Mortgagee or its nominee who takes title to PPG's interest in the Project through foreclosure or other such action shall be required to fulfill such covenants. However, with the exception of a Leasehold Mortgagee, any successor or assign of PPG or any future owner of the Project

entitled to the benefits of this Agreement shall be subject to all subsections of this Agreement.

8. Community Reinvestment. PPG agrees to pay to the City, in addition to and apart and separate from the amounts payable under Section 3 hereof, a Community Reinvestment Payment calculated as set forth hereinafter to be deposited in the City's General Fund.

(a) Definitions. For purposes of this section 8, the following terms shall have the meaning described to them herein:

"Common Areas" means the total area within the Providence Place Mall that is not designed for rental to tenants but that is available for common use by all tenants or groups of tenants, their invitees and adjacent stores. Parking and appurtenances, malls, sidewalks, landscaped areas, public toilets, truck and service facilities, and the like are included in the Common Areas.

"Gross Sales" means the amount of gross sales made at Providence Place Mall in a calendar year as reported to and certified by the Tax Administrator of the State.

"Gross Leasable Area" means the total area in the Providence Place Mall that is leased to tenants and excludes all Common Areas.

"Square Foot Sales" equals Gross Sales divided by Gross Leasable Area.

b. Calculation of Initial Payments. In each of the first full five calendar years of operation in which Square Foot Sales exceed \$400, PPG shall pay the City a Community Reinvestment Payment of \$200,000 within 30 days of the end of such calendar year.

c. Additional Payments. For the sixth through thirtieth full calendar years of operation, PPG will pay the amounts and at the times described on Schedule B hereto including the footnotes to such schedule.

9. Specific Performance. In addition to (i) any other remedies which the City may have under law or equity and (ii) the termination rights of the City under Section 11 hereof, if PPG shall breach any of its obligations under this Agreement, the parties hereby agree that the City shall have the right to a remedy of specific performance to cure any such breach, and PPG hereby waives any right to claim that such specific performance remedy is inappropriate or unavailable to enforce its obligations hereunder if the City shall first have proven that PPG has breached its obligations hereunder. The parties hereby acknowledge that this Section 9 was added to this Agreement as bargained for consideration from PPG in lieu of more

extensive termination rights in the City if this Section 9 were not included in this Agreement.

10. Effectiveness of this Agreement. This Agreement shall become effective only upon the execution and delivery by the parties out of escrow thereto of the Ground Lease and the remaining Project documents, as defined by the Ground Lease.

11. Termination of Agreement

(a) PPG may terminate this Agreement by giving the City written notice of termination only under the following circumstances:

(i) if after completion of the Shopping Mall, PPG permanently shuts down or abandons the use of the Shopping Mall as a retail shopping mall as a result of an act of God, civil or military authority, civil disturbance, war, fire, actions of regulatory authorities or other catastrophe or similar occurrence beyond PPG's reasonable control.

(b) The City may terminate this Agreement upon delivery of written notice to PPG and the Corporation only under the following circumstances:

(i) the occurrence of any "Material Event of Default" under paragraphs (b), (c), (d), (e), (f), (h), (i), (k), (l), or (m) of Section 21.1 of the Ground Lease (it is expressly understood that PPG's obligations under the above mentioned paragraphs of Section 21.1 of the Ground Lease to provide documents or copies of documents to the Corporation, shall also result in a material event of default if the documents are not concurrently provided to the City), subject, however, to the provisions of Article XIX of the Ground Lease; and to the restriction that the only insurance cancellation, notice of cancellation, termination or expiration which shall give rise to a termination right in the City hereunder shall be with respect to insurance under which the City shall be entitled to be a named insured as provided in Section 7(h) of this Agreement;

(ii) the Ground Lease is terminated for any reason, by any party thereto and no New Lease is requested by a Leasehold Mortgagee or transferee to be between the Corporation and a successor in interest under Article XIX of the Ground Lease; or

(iii) PPG fails to pay the City or to the Lender designated by PPG pursuant to Section 3 any sum required to be paid by PPG hereunder when the same shall be due and payable and such failure shall continue for twenty (20) days after written notice from the City to the Corporation and PPG;

(iv) the principal and interest owed by PPG or its successors with respect to the financing of the Project shall be reduced to \$0;

(v) there shall be a change in use of the Shopping Mall or the Garage in violation of Sections 1 and 7(b) or 7(j) of this Agreement; provided, however, that it shall not be a termination event under this paragraph if there is a change in use of the Shopping Mall which results in conversion to a non-retail commercial use ("converted use") of not more than two hundred and fifty thousand (250,000) square feet of space within the Shopping Mall without prior approval of the Mayor and the City Council if (i) PPG is in default under its loan documents and (ii) such converted use is subject to additional assessment of taxes comparable to assessments of like uses in the City and provided further that such additional taxes are paid to the lenders up to the amounts payable to the lenders under Section 3 hereof, with any excess payable directly to the City;

(c) Notwithstanding the foregoing, any lender or leasehold mortgagee of the Project or Anchor Tenant of the Shopping Mall shall have the rights, benefits and obligations set forth in Article XIX of the Ground Lease, as applied hereto, with such changes as the context may require.

(d) In the event of termination with respect to all or part of the property covered hereunder, PPG shall make the payments required pursuant to Section 3 for the then current fiscal year, prorated as of the date of termination, but shall have no further obligations with respect to Tax Payments and the other matters covered hereunder. The City shall, after such termination, assess and collect taxes on such property under the then applicable laws and ordinances.

(e) Notwithstanding anything to the contrary herein or elsewhere, the indemnification obligations of PPG set forth in Section 7(h) herein shall survive the termination of this Agreement without regard to the cause for such termination.

12. Additional Taxes or Payment

If PPG or its successor in interest develops or constructs a commercial office building or any other commercial facility in addition to the Project and the Personal Property, either on-site or off-site, even if it is adjacent or affixed to the Project, such property will be subject to property or other taxes on a regular tax basis, and shall not be covered by the terms of this Agreement. In addition, the Garage shall not be utilized as free parking for any such office building or commercial facility; provided, however, that the Garage may be utilized for free parking for the Downcity Cinema, referred to in Section 7(l) herein.

13. Assignment

(a) If the Project or any part thereof is sold or transferred or any interest in PPG is sold or transferred in accordance with provisions of the Ground Lease or approvals of PPG's financial lenders for the Project or otherwise, PPG shall provide written notice to the Mayor of the City and the President of the City Council at least thirty (30) days prior to such sale or transfer. If the Project or any part thereof is sold or transferred, the agreements contained herein shall run with the part so sold or transferred and benefit the transferee who shall be bound by the provisions hereof. In each such case, PPG shall have no further obligations hereunder with respect to the part sold or transferred, provided, however, such transferee has agreed, in writing, to be bound by all of the terms of this Agreement.

(b) In the event a portion of the Shopping Mall is sold to an Anchor Tenant, as defined in the Ground Lease and such Anchor Tenant applies for a separate tax lot designation from the City's Tax Assessor, and such Anchor Tenant agrees under an agreement in writing to be bound by the terms of this Agreement with respect to such separate tax lot, then, notwithstanding anything herein to the contrary, the provisions herein including, but not limited to, payments and defaults provisions, shall apply to such Anchor Tenant with respect to its separate tax lot and payments of taxes thereon (determined, with respect to total payments owed under Section 3 hereof, on a pro rata basis or on any other basis mutually acceptable to the City, PPG and such Anchor Tenant.) A default incurred by PPG under this Agreement shall not constitute a default hereunder with respect to an Anchor Tenant who is a party to this Agreement and is not in default of its payment obligations hereunder with respect to its separate tax lot. Any agreement entered into with an Anchor Tenant in accordance with the provisions herein shall include the right of PPG to cure a default by an Anchor Tenant under such Agreement. Notwithstanding anything herein to the contrary, PPG shall remain liable, as set forth in Section 3, regardless of whether one or more Anchor Tenants with separate tax lots have also become independently bound by the provisions of this Agreement, provided, however, that the liability of PPG under such Section 3 shall be limited to the difference between the amount due pursuant to such Section 3 and any amount paid by an Anchor Tenant pursuant to an agreement entered into as provided in this Section 13(b).

14. Severability.

In the event that any of the agreements, terms or provisions contained herein shall be deemed invalid, illegal or unenforceable in any respect, the validity of the remaining agreements, terms or provisions contained herein shall be in no way affected, prejudiced or disturbed thereby.

15. Validity and Enforceability.

The validity and enforceability of this Agreement is expressly conditioned upon and subject to receipt by the City of the Downcity Letter of Credit in a form acknowledged as acceptable to the City in writing and the execution and delivery of the Ground Lease and the Project Documents.

16. Expiration of Treaty -- City Taxes.

At the expiration or termination of this Agreement, the City shall assess taxes on the property subject to this Agreement under the then applicable laws and ordinances.

17. Entire Agreement.

This Agreement constitutes the entire understanding and agreement of the parties hereto with respect to all of the matters which are dealt with herein, including, without limitation, the payment of taxes or payments in lieu of taxes with respect to the Site, the Project and the Personal Property, and supersedes all prior understandings and agreements, both written and oral, between the parties with respect thereto. This Agreement shall not be amended or altered except in writing signed by the parties hereto. This Agreement shall be governed by and construed under the laws of the State of Rhode Island.

Notwithstanding anything to the contrary in the Ground Lease, any other Project Document (as defined in the Ground Lease) or any other related document to which the City is not a party, the City shall not be obligated, bound or restricted in any manner nor shall the rights and protections of the City hereunder be affected to any degree, by any provision in any document to which the City is not a party. The Corporation has joined in this Agreement solely for the purpose of entering into an agreement with the City pursuant to R.I.G.L 42-64-20 to establish the extent of the obligation for the payment of taxes and payments in lieu of taxes with respect to the Site, the Project and the Personal Property, all as more particularly set forth in Sections 3,4, and 5 hereof, and for no other purpose. Accordingly, the City, the Corporation and PPG hereby agree that to the extent there is any inconsistency between the provisions of this Agreement, the Ground Lease, any Project Document or other related document to which the City is not a party, then

as between the City and PPG , the provisions of this Agreement shall prevail and be given full force and effect and that notwithstanding the fact that the Corporation is a party to this Agreement, nothing contained in this Agreement shall affect or otherwise modify the terms of the Ground Lease or any other Project Document (as defined in the Ground Lease) or other related document as between PPG and the Corporation.

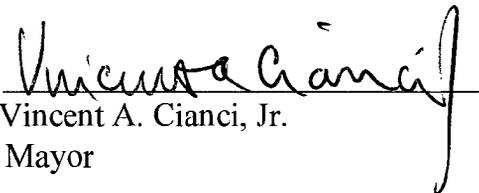
The parties to this Agreement, recognizing that the construction and development of the Project will be complex and will cover a period of many years, anticipate that circumstances may arise in the future which will require this Agreement to be amended in order to equitably adjust to such circumstances. Accordingly, the parties agree that this Agreement may be amended by the parties from time to time during the term hereof provided all such amendments are in writing, signed and approved by the parties hereto.

IN WITNESS WHEREOF, the parties hereto by their duly authorized officials have executed this Agreement as of the day and year first above written.

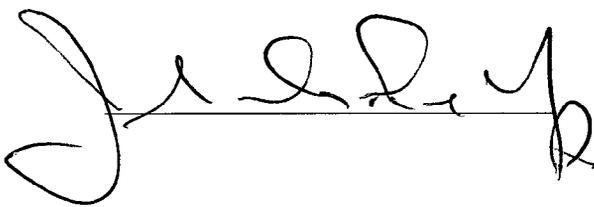
Witness:

CITY OF PROVIDENCE



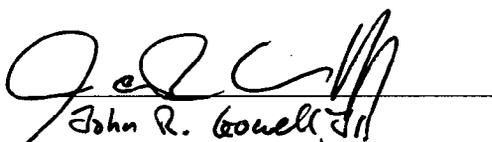
By: 
Vincent A. Cianci, Jr.
Mayor

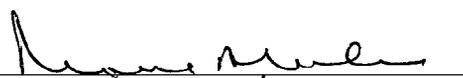
PROVIDENCE PLACE GROUP



By: 
J. Daniel Lugosch,
General Partner

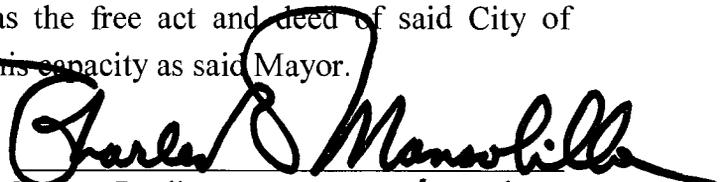
THE RHODE ISLAND ECONOMIC
DEVELOPMENT CORPORATION


John R. Cowell, III

By: 
Name: Marcel A. Valois
Title: Executive Director

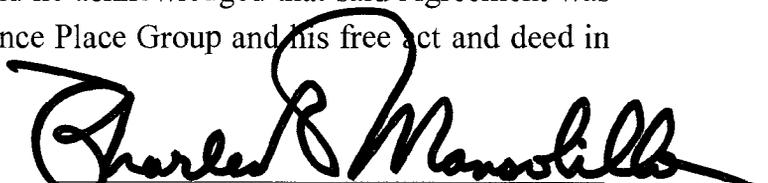
STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

In the City of Providence in said County on this 22nd day of October, 1996, before me appeared Vincent A. Cianci, Jr., to me personally known, who, being by me duly sworn, did say that he is the Mayor of the City of Providence, a municipality in the State of Rhode Island and that this Agreement was signed by him on behalf of the City of Providence, and he acknowledged that said Agreement was the free act and deed of said City of Providence and his free act and deed in his capacity as said Mayor.


Notary Public
My Commission Expires: 9/25/1997

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

In the City of Providence in said County on this 22nd day of October, 1996, before me appeared J. Daniel Lugosch, to me personally known, who, being by me duly sworn, did say that he is the General Partner of Providence Place Group and that this Agreement was signed by him on behalf of Providence Place Group, and he acknowledged that said Agreement was the free act and deed of said Providence Place Group and his free act and deed in his capacity as said General Partner.


Notary Public
My Commission Expires: 9/25/1997

STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE

In the City of Providence in said County on this 21st day of October, 1996, before me appeared Marcel A. Valois, to me personally known, who, being by me duly sworn, did say that he ~~she~~ is the Executive Director of The Rhode Island Economic Development Corporation and that this Agreement was signed by him ~~her~~ on behalf of The Rhode Island Economic Development Corporation, and he ~~she~~ acknowledged that said Agreement was the free act and deed of said Rhode Island Economic Development Corporation and his ~~her~~ free act and deed in his ~~her~~ capacity as said Executive Director.


Notary Public JOHN R. GOWELL, JR.
My Commission Expires: 6/8/97

EXHIBIT A

PROVIDENCE PLACE

That certain tract or parcel of land with all buildings and improvements thereon, situated on the southerly side of Hayes Street, westerly side of Francis Street, easterly side of Interstate Route 95, and the northerly side of the Civic Center Interchange, in the City of Providence, County of Providence, State of Rhode Island and delineated on that plan entitled "Plan of Land in Providence, Rhode Island, surveyed for Providence Place, surveyed and drawn by Marrier Surveying, Inc. Scale: 1"=40', May, 1990";

Beginning at the northwesterly corner of the herein described parcel said corner being sixty-three and 90/100 (63.90) feet westerly, on the extension of the southerly line of said Hayes Street, from the intersection of the southerly line of Hayes Street with the easterly line of Park Street;

thence S 85-20'-00" E, crossing said Park Street, a distance of sixty-three and 90/100 (63.90) feet to the intersection of the southerly line of said Hayes Street with the easterly line of Park Street;

thence S 85-20'-00" E along the southerly line of Hayes Street, a distance of four hundred fifty-eight and 71/100 (458.71) feet to a corner;

thence S 61-24'-44" E along the southwesterly line of said Francis Street, a distance of ninety-five and 52/100 (95.52) feet to a corner;

thence S 05-41'-29" W, a distance of one hundred five and 75/100 (105.75) feet to a point of curvature;

thence southerly bearing southeasterly along the arc of a curve having a radius of five hundred eight and 00/100 (508.00) feet, a distance of along said arc of forty-one and 86/100 (41.86) feet to a point of tangency;

thence S 00-58'-12" W, a distance of one hundred fifty-three and 25/100 (153.25) feet to a point of curvature;

thence southerly bearing southwesterly along the arc of a curve having a radius of four hundred ninety and 00/100 (490.00) feet, a distance along said arc of forty and 38/100 (40.38) feet to a point of tangency;

thence S 05-41'-29" W, a distance of four hundred ninety-one and 28/100 (491.28) feet to a point of curvature;

thence southerly bearing southeasterly along the arc of a curve having a radius of seven hundred fifty-five and 00/100 (755.00) feet, a distance along said arc of two hundred sixty-one and 37/100 (261.37) feet to a point of reverse curve, the last six (6) courses bounding easterly by said Francis Street;

thence southwesterly bearing westerly along the arc of a curve having a radius of thirty-six and 00/100 (36.00) feet, a distance along said arc of fifty-six and 50/100 (56.50) feet to a point of compound curve;

thence southwesterly bearing westerly along the arc of a curve having a radius of four hundred seventy-one and 00/100 (471.00) feet, a distance of two hundred seventy and 25/100 (270.25) feet to a point of compound curve;

thence westerly bearing northwesterly along the arc of a curve having a radius of four hundred seventy-one and 00/100 (471.00) feet, a distance along said arc of two hundred seventy-one and 35/100 (271.35) feet to a point of tangency;

thence N 38-20'-23" W, a distance of twelve and 18/100 (12.18) feet to a point of curvature;

thence northwesterly bearing northerly along the arc of a curve having a radius of four hundred seventy-one and 00/100 (471.00) feet, a distance along said arc of sixty-seven and 11/100 (67.11) feet to a point of curvature;

thence northerly bearing northeasterly along the arc of a curve having a radius of five hundred seventy-two and 00/100 (572.00) feet, a distance along said arc of three hundred fifty-seven and 65/100 (357.65) feet to a point of tangency, the last five (5) courses bounding on the Civic Center Interchange;

thence N 05-38'-56" E along the easterly line of said Interstate Route 95, a distance of three hundred fifty-two and 66/100 (352.66) feet to an angle;

thence N 07-31'-50" E, a distance of two hundred ninety-nine and 10/100 (299.10) feet to the point and place of beginning.

The above described parcel contains an area of seven hundred thousand two hundred fifty-nine (700,259) sq. ft. be the same more or less.

Schedule A

TAXES ASSESSED DECEMBER 31	FOR FISCAL YEAR	BASE ANNUAL PAYMENT IN LIEU OF TAX
1993	July 1, 1994 - June 30, 1995	\$ - 0 - *
1994	July 1, 1995 - June 30, 1996	\$ - 0 - *
1995	July 1, 1996 - June 30, 1997	\$ - 0 - *
1996	July 1, 1997 - June 30, 1998	\$ - 0 - *
1997	July 1, 1998 - June 30, 1999	\$3,500,000.00
1998	July 1, 1999 - June 30, 2000	\$3,500,000.00
1999	July 1, 2000 - June 30, 2001	\$3,500,000.00
2000	July 1, 2001 - June 30, 2002	\$3,500,000.00
2001	July 1, 2002 - June 30, 2003	\$3,500,000.00
2002	July 1, 2003 - June 30, 2004	\$4,700,000.00
2003	July 1, 2004 - June 30, 2005	\$4,700,000.00
2004	July 1, 2005 - June 30, 2006	\$4,700,000.00
2005	July 1, 2006 - June 30, 2007	\$4,700,000.00
2006	July 1, 2007 - June 30, 2008	\$4,700,000.00
2007	July 1, 2008 - June 30, 2009	\$4,700,000.00
2008	July 1, 2009 - June 30, 2010	\$4,700,000.00
2009	July 1, 2010 - June 30, 2011	\$4,700,000.00
2010	July 1, 2011 - June 30, 2012	\$4,700,000.00
2011	July 1, 2012 - June 30, 2013	\$4,700,000.00
2012	July 1, 2013 - June 30, 2014	\$4,700,000.00
2013	July 1, 2014 - June 30, 2015	\$4,700,000.00
2014	July 1, 2015 - June 30, 2016	\$4,700,000.00
2015	July 1, 2016 - June 30, 2017	\$4,700,000.00
2016	July 1, 2017 - June 30, 2018	\$4,700,000.00
2017**	July 1, 2018 - June 30, 2019	\$4,700,000.00
2018**	July 1, 2019 - June 30, 2020	\$4,700,000.00
2019**	July 1, 2020 - June 30, 2021	\$4,700,000.00
2020**	July 1, 2021 - June 30, 2022	\$4,700,000.00
2021**	July 1, 2022 - June 30, 2023	\$4,700,000.00
2022**	July 1, 2023 - June 30, 2024	\$5,900,000.00
2023**	July 1, 2024 - June 30, 2025	\$5,900,000.00
2024**	July 1, 2025 - June 30, 2026	\$5,900,000.00
2025**	July 1, 2026 - June 30, 2027	\$5,900,000.00
2026**	July 1, 2027 - June 30, 2028	\$5,900,000.00

Total \$141,000,000.00

(Avg \$4.5 million per year)

* Construction period, no payments made.

** To be adjusted for CPI increase.

**Schedule Of Community
Reinvestment Payments**

Schedule B

Year	Annual Payment	Cumulative Total
1	0*	0
2	0*	0
3	0*	0
4	0*	0
5	0*	0
6	200,000	200,000
7	200,000	400,000
8	200,000	600,000
9	200,000	800,000
10	200,000	1,000,000
11	200,000	1,200,000
12	200,000	1,400,000
13	300,000	1,700,000
14	300,000	2,000,000
15	300,000	2,300,000
16	300,000	2,600,000
17	300,000	2,900,000
18	300,000	3,200,000
19	300,000	3,500,000
20	300,000	3,800,000
21	500,000	4,300,000
22	500,000	4,800,000
23	500,000	5,300,000
24	500,000	5,800,000
25	500,000	6,300,000
26	500,000	6,800,000
27	500,000	7,300,000
28	500,000	7,800,000
29	500,000	8,300,000
30	500,000	8,800,000

* Payment of \$200,000 will be made in any of the first five years of operation in which sales at The Providence Place Mall exceed \$400 per square foot. The total payable by PPG shall not exceed \$8.8 million, consequently, payments made during the first five years of operation will reduce the Additional Payments in years 29 and 30.

PROVIDENCE PLACE GROUP

30 EXCHANGE TERRACE, 2nd FLOOR
PROVIDENCE, RHODE ISLAND 02903
401 453-2100 FAX 401 453-2232

October 17, 1996

The Providence City Council
City Hall
Providence, Rhode Island 02903

Dear Council Members:

As you know, Providence Place Group will be a fifty-percent partner in the entity which will own the Downcity Cinema. We recognize the importance of free or nominal parking for Downcity Cinema patrons and will provide such parking to ensure the success of this important new facility.

Sincerely,



J. Daniel Lugosch, III
Managing Partner

JDL:md

PROVIDENCE PLACE GROUP

30 EXCHANGE TERRACE, 2nd FLOOR
PROVIDENCE, RHODE ISLAND 02903
401 453-2100 FAX 401 453-2232

September 25, 1995

The Honorable Vincent A. Cianci
Mayor of the City of Providence
City Hall
Providence, Rhode Island 02903

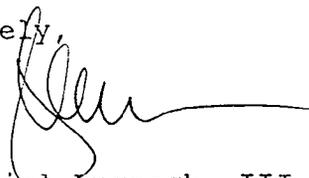
RE: Providence Place Mall

Dear Mayor Cianci:

I share your concern that Rhode Island businesses and working people benefit to the greatest degree possible from the development of Providence Place. To that end, I want to assure you that in the selection of our general contractor or construction manager, we will make every reasonable effort to choose a Rhode Island firm.

Further, our construction manager will utilize qualified Rhode Island contractors and vendors whenever possible. We shall strive to build the best possible shopping facility at the best price, but in choosing between equally qualified bidders, preference shall be given to the qualified Rhode Island contractors or vendors.

Sincerely,



J. Daniel Lugosch, III

PROVIDENCE PLACE GROUP

30 EXCHANGE TERRACE, 2nd FLOOR
PROVIDENCE, RHODE ISLAND 02903
401 453-2100 FAX 401 453-2232

October 10, 1995

Honorable Evelyn Fagnoli
President Pro Tempore
City Council
City of Providence

Dear Madam President:

This is to confirm that PPG has agreed to contribute \$10,000 per year to the Smith Hill Center for a ten year period commencing in 1996, provided that construction of the Providence Place Mall has begun. At the end of the ten year period, PPG will consider extending the payment for an additional period of ten years.

This commitment is being made because the Smith Hill Center is located in the same ward as Providence Place, and we at PPG wish to assist the community in which we will be located.

We are prepared to enter a formal agreement with the City and the Smith Hill Center as soon as one is prepared by the City Solicitor and our attorneys.

Very truly yours,

PROVIDENCE PLACE GROUP

BY:



J. Daniel Lugosch, III
General Partner

JDL:md