

# RESOLUTION OF THE CITY COUNCIL

*No. 434*

**Approved December 21, 2022**

WHEREAS, The Providence Redevelopment Agency (the "Agency") financed the acquisition by ProvPort, Inc. ("ProvPort") from the City of Providence (the "City") of the marine terminal and related appurtenant facilities comprising the Port of Providence through the issuance of \$19,700,000 Certificates of Participation (Port of Providence Lease) Series 1994A (the "1994 Certificates"); and

WHEREAS, The Agency issued \$20,820,000 Certificates of Participation (Port of Providence Lease) Series 2003 A and its \$2,835,000 Taxable Certificates of Participation (Port of Providence Lease) Series 2003 B (collectively, the "2003 Certificates") to refund the 1994 Certificates and reimburse the City for payments made by the City, in accordance with its obligations pursuant to the Trust Agreement dated as of September 1, 1994 relating to the 1994 Certificates, to replenish shortfalls in the debt service reserve account, to reimburse the City for certain expenses paid by the City in connection with the operation and maintenance of the Port of Providence, and to fund certain capital improvements, including but not limited to dredging; and

WHEREAS, In 2006, the Agency extended the Facilities Lease between the Agency and ProvPort dated May 1, 2003, and amended on May 11, 2006 (the "Facilities Lease") as for an additional twelve years, and in connection therewith, financed ProvPort's upfront payment to the City of the present value of the in-lieu tax payments under the 2004 Tax Exemption Agreement by and between the City and ProvPort for the period September 24, 2004 - September 23, 2014 and financed additional capital projects at the Port of Providence through the issuance of \$6,857,571.15 Providence Redevelopment Agency Certificates of Participation (Port of Providence Lease) Series 2006 A (the "2006 Certificates"); and

WHEREAS, The Agency proposes to extend the Facilities Lease for an additional thirty years, and in connection therewith, to finance additional Port Capital Projects (defined below) and certain City capital projects (defined below) through the issuance of additional certificates in one or more series an amount not to exceed \$20,000,000 (the "Additional Certificates"); and

WHEREAS, The transaction provides for enhanced contributions by ProvPort to the City and reporting by ProvPort to the Agency with regard to ProvPort's ongoing financial relationship with the City and the Agency, and remedies for ProvPort's failure to do so: and

WHEREAS, The transaction is intended, in part, to facilitate the ability of the Port of Providence to increase its participation in the offshore wind industry and to address environmental justice issues.

**NOW, THEREFORE, BE IT RESOLVED, THAT:**

1. The City Council hereby authorizes the Mayor to take any and all action and to execute, file, and deliver any and all agreements, indentures, certificates and other documents in such form as he may deem necessary or desirable to further the issuance of the Additional Certificates. Proceeds of the Additional Certificates allocable to City Capital Projects shall be expended (a) to acquire and remediate real property in that area of land in the City that coincides with the M-2 and W-3 zoning districts shown on the Official Zoning Map as of December 6, 2022, and as depicted in Exhibit A hereto; and (b) if the Certificates are issued on a tax-exempt basis and the proceeds of the Certificates allocable to City Capital Projects have not been expended by January 30, 2025, then the proceeds shall be applied to finance capital projects which are "redevelopment projects" pursuant to the Redevelopment Act of 1956, as amended, codified as Title 45, Chapters 31-33, inclusive, of the General Laws of Rhode Island, as amended, such redevelopment projects to be designated by the Agency in such M-2 and W-3

zoning districts. Any such designation by the Agency shall be accompanied by an opinion of nationally recognized bond counsel to the effect that the application to such redevelopment projects will not adversely affect any applicable exemption from federal income taxation of the interest on any Additional Certificates.

2. The Additional Certificates shall not be issued unless the transaction generates useable project fund proceeds, net of bond premium, original issue discount, costs of issuance, capitalized interest, if any, and funding of reserves, of at least \$7,000,000 for the City Capital Projects, and at least \$4,000,000 and no more than \$4,750,000 for capital improvements at the Port of Providence (the "Port Capital Projects"), which capital improvements are required to include; (a) improvement of adjacent properties for port expansion, (b) master plan preparation, (c) purchase of two streets vacated by City; and (d) construction and equipping of a workforce training facility.


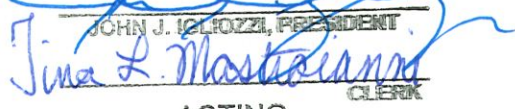
3. In order to enhance the marketability of the Additional Certificates, the Mayor is authorized on behalf of the City to enter into an agreement which provides that in the event that the revenues pledged for the repayment of the Additional Certificates is insufficient to pay such Additional Certificates, that the Mayor shall submit a request to the City Council to fund the amount of any shortfall. Any such agreement shall provide that such payment shall be subject to appropriation by the City Council.

4. The City's Director of Finance is authorized to execute and deliver a continuing disclosure certificate in connection with the issuance of the Additional Certificates, in such form as shall be deemed advisable by the City's Director of Finance. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the continuing disclosure certificate, as it may be amended from time to time. Notwithstanding any other provision of this Resolution or the Additional Certificates, failure of the City to comply with the continuing disclosure certificate shall not be considered an event of default; however, any certificate holder may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Resolution and under the continuing disclosure certificate.

5. The City Council, pursuant to Section 45-32-5(3) of the General Laws of Rhode Island, as amended, authorizes the Providence Redevelopment Agency to retain a leasehold interest in the buildings, structures or other improvements constituting the Port of Providence until the Additional Certificates are retired.

6. This Resolution shall not take effect immediately upon passage, but rather, shall become effective upon passage by the City Council and approval by the Mayor of an Ordinance of the City Council providing for a tax exemption agreement between the City and ProvPort, Inc. that provides for revenue sharing with the City for an additional period not to exceed thirty (30) years. Once this Resolution becomes effective, it shall expire on the date two years from the date of its effective date, unless the Additional Certificates are issued prior to such expiration date.

IN CITY COUNCIL  
DEC 15 2022  
READ AND PASSED

  
JOHN J. DIORIO, PRESIDENT  
  
Tina L. Mastrianni  
CLERK  
ACTING

I HEREBY APPROVE.

  
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Mayor  
Date: 12/21/22