

**City of Providence**  
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

COMMITTEE ON FINANCE & BUDGET  
REFERRED TO SPECIAL  
FINANCE COMMITTEE  
CITY CLERK

**CHAPTER 2014-21**

**No. 295 AN ORDINANCE ESTABLISHING A TAX EXEMPTION AND STABILIZATION PLAN FOR THE SOUTH STREET LANDING PROJECT.**

**Approved June 26, 2014**

*Be it ordained by the City of Providence:*

WHEREAS, the so-called former South Street Power Station, located at 350 Eddy Street, City of Providence Assessor's Plat 21, Lot 430 (the "Property"), has been vacant and exposed to the elements for many years; and

WHEREAS, the South Street Power Station is a prominent landmark in the City of Providence, and was added to the National Register of Historic Places in 2006; and

WHEREAS, the South Street Power Station has not been put to productive use in many years; and

WHEREAS, CV South Street Landing LLC ("Developer") intends to rehabilitate the South Street Power Station and return it to productive use (as more particularly defined below, the "Project"); and

WHEREAS, Developer then intends to lease the Property to (i) Brown University ("Brown") for office space and other uses, as defined in the definition of "Project" below, and (ii) the State of Rhode Island and/or the Rhode Island Board of Education (in either event, the "State") for use as a nursing school and other uses, as defined in the definition of "Project" below, (the State and Brown being hereinafter referred to individually as a "Tenant" and collectively as the "Tenants", the lease with Brown being hereinafter referred to as the "Brown Lease" and the lease with the State being hereinafter referred to as the "State Lease", and the Brown Lease and the State Lease being hereinafter referred to individually as the "Lease" and collectively as the "Leases"); and

WHEREAS, pursuant to the terms of the Leases, Brown and the State will each have an option to purchase their respective leased portions of the Property in years 6 and 12 of the Leases (respectively, the "Brown Option" and the "State Option", separately and collectively, the "Option"); and

WHEREAS, upon Brown or the State exercising its Option, the Developer intends to convert the real estate and improvements located at 350 Eddy Street to a condominium consisting of two (2) condominium units (each, a "Unit"); and

WHEREAS, the Project is within the Jewelry District area of Downtown Providence, and is in close proximity to vacant land made available through the relocation of Interstate I-195 (the "Knowledge District"); and

WHEREAS, the Jewelry District and Knowledge District, by virtue of the vacant land made available through the relocation of Interstate 195, have been identified as critical components of the City's long-term economic plans; and

WHEREAS, the redevelopment of the South Street Power Station is essential to the City's economic outlook, as its current dilapidated state discourages private investment in surrounding properties located within the Jewelry District and Knowledge District; and

WHEREAS, the City of Providence envisions the Project will encourage the construction of new structures in the Jewelry District and Knowledge District, and the City as a whole, significantly increasing the tax base of the City and providing significant tax revenues, creating substantial employment opportunities in the City and enhancing property values in the City, as well as the overall economic climate of the City, while protecting, preserving and showcasing a historic building critical to the Jewelry District; and

WHEREAS, Rhode Island General Laws § 44-3-9 ("Act") authorizes, subject to certain enumerated conditions, the city council of a city for a period not to exceed twenty (20) years, to exempt and determine an amount of taxes to be paid on account of real property used for commercial purposes, notwithstanding the valuation of the real estate or the rate of tax; and

WHEREAS, the tax payments contemplated to be made pursuant to this Ordinance have been determined by the City Council of the City of Providence to be fair, equitable and acceptable to the City; and

WHEREAS, it is in the interest of the residents of the City of Providence to provide for a period of stabilized taxes in order to induce the rehabilitation of the South Street Power Station;

**NOW, THEREFORE, Be It Ordained by the City of Providence:**

Section 1. The findings set forth in the preceding introduction are hereby made and confirmed.

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

(a) "Commencement Date" shall be the effective date of this Ordinance.

(b) "Developer" means CV South Street Landing LLC, as stated above. The term "Developer" also includes any successors, assigns, or affiliates of Developer other than Brown or the State. An "affiliate" of Developer shall mean any entity controlling, controlled by or under common control with Developer.

(c) "Project" means the rehabilitation and redevelopment of the former Narragansett Electric South Street Station into a facility containing approximately 267,941 rentable square feet of space suitable for (a) Brown to commence use of its leased portion of the Project Site as general office, administrative, teaching and classroom use and for other similar types of uses incidental to and supporting its higher education programs, and (b) the State to commence use of its leased portion of the Project Site leased to the State for classroom, meeting, laboratory, clinical, office, administrative and any other similar types of uses reasonably related to or supporting any State research facility, nursing school or other degree granting institution of higher education, including a nursing school for University of Rhode Island and/or Rhode Island College (such uses of Brown and the State, respectively, the "Core Uses"). The Project Site will consist of two leased spaces, which will be leased to the Tenants for the Core Uses, or for such other uses as Developer and such Tenant may agree upon.

(d) "Project Site" means all of the real estate and buildings and improvements thereon from time to time located at City of Providence Assessor's Plat 21, Lot 430.

(e) "Project Site Owner" means an entity with the ownership right and interest in and to the Project Site (or portions thereof), including successors to units and/or sub-units of the Project Site, as well as mortgagees and assignees, but excluding the Tenants.

(f) "Real Property Improvements" means any structures or improvements including but not limited to buildings, parking lots/structures and related improvements now or hereafter constructed and developed on the Project Site.

(g) "Stabilized Tax Payments" means the payments made during the Tax Stabilization Period and described in Exhibit A.

(h) "Termination Date" means December 31, 2029 (i.e. the 15<sup>th</sup> anniversary of the December 31 in which the Project Site is first assessed pursuant to the schedule set forth in Exhibit A). The period of time between the Commencement Date and the Termination Date is referred to herein as the "Tax Stabilization Period".

Section 3. Grant of Tax Stabilization Plan. The City of Providence, in accordance with the laws of the State of Rhode Island and the Code of Ordinances for the City of Providence, is hereby authorized to grant and does grant and consent to the schedule of Stabilized Tax Payments pursuant to Exhibit A. Notwithstanding anything contained herein to the contrary, the Project Site may not be used for any purpose during the Tax Stabilization Period that is inconsistent with the City Council's authority to grant the stabilization plan contemplated herein under the Act.

Section 4. Term. The term of this Ordinance shall be a period commencing upon the Commencement Date and terminating on the Termination Date.

Section 5. Tax Exemption and Stabilization Plan. Stabilized Tax Payments due to the City, as set forth in Exhibit A, may be made in either a lump sum during the first quarter of the applicable tax year or in equal quarterly installments. If the quarterly payments are to be made, they shall be due on the same dates that quarterly taxes are due for all taxpayers in the City. Stabilized Tax Payments shall be made by the Project Site Owner directly to the City of Providence Tax Collector's Office. Failure to receive a stabilized tax bill shall not relieve the Project Site Owner of its obligation to make Stabilized Tax Payments herein. If for any reason the Project Site Owner does not receive an appropriate stabilized tax bill, the Project Site Owner shall have the responsibility and obligation to make reasonable inquiries to the City in order to have such a stabilized tax bill issued and thereafter to make payment of the same no later than the due dates provided herein.

Section 6. Effect of Failure to Make Payments or Otherwise Comply with Ordinance Provisions.

(a) This Ordinance is conditioned upon the Project Site Owner remaining current on all payments required under this Ordinance (which shall include, without limitation, all Stabilized Tax Payments and all other sums to be paid to the City pursuant to the terms of this Ordinance). In addition to all other rights and remedies provided to the City herein, any payments not made as they become due shall be subject to any and all penalties allowed under the Rhode Island General Laws. Upon the occurrence of any of the following: (i) Project Site Owner's failure to make said timely payments or to otherwise observe any of the terms in this Ordinance; or (ii) Tenant's default on its obligations under the Lease as to which the City is a third party beneficiary, the City shall, within a reasonable time of (but in any event within two (2) years of) the date that the City Council knew of such default, provide notice of the default to the Project Site Owner (and to the Tenant, if applicable, pursuant to subsection (ii) above). The Project Site Owner shall have ninety (90) days from the date upon which such notice is received from the City or such longer time period as may be reasonably necessary to cure any alleged default under this Ordinance or otherwise; provided, however, that if the nature of the default is such that the same cannot reasonably be cured within such ninety (90) day period, Project Site Owner shall not be in default hereunder if with reasonable promptness and in all events within ninety days, the Project Site Owner commences to cure said default and thereafter diligently prosecutes the same in good faith to completion (collectively, the "Cure Period"). Said notice shall include, with reasonable specificity, the nature of any alleged default, and the actions which the City believes to be reasonably necessary to cure any alleged default under this Ordinance or otherwise. Failure to cure the alleged default within such Cure Period shall, at the discretion of the City Council, and in addition to all of the City's other rights and remedies under this Ordinance and/or at law or at equity, including without limitation the lien described in subpart (b) below, render this Ordinance (or select portions thereof) to be thereafter, for the remainder of the Tax Stabilization Period, null and void, either in whole or in part, and/or the Project Site Owner may thereafter be assessed any real estate taxes, penalties and interest that would

thereafter, for the remainder of the Tax Stabilization Period, be assessed (and which remain unpaid) had this Ordinance never been passed (the "Revocation Clawback").

(b) Without limiting the provisions of Section 6(a) above, the liability for all amounts due and owing under this Ordinance shall constitute an obligation of the Project Site Owner, and the City is hereby granted by the Project Site Owner, a first lien on the Project Site, which lien shall be of the same priority and entitle the City to the same foreclosure remedies as the lien and foreclosure remedies provided under the applicable laws and ordinances with respect to real property and personal property taxes, subject to the notice and cure provisions set forth in Section 6(a) above (said lien, together with the Revocation Clawback, being hereinafter referred to as the "Revocation Clawback and Lien"). To be clear, the lien described in this subpart (b) is a right that is separate and apart from the Revocation Clawback described above, and the use of the term "Revocation Clawback and Lien" in this Ordinance encompasses both said lien and the Revocation Clawback, which may be exercised by the City separately or collectively, in its sole discretion. While the obligations contained herein are binding on the Project Site Owner (including, without limitation, successors and assigns), the lien described in this section shall run with the land, and liability therefor shall be run to all successors in interest to the Project Site. To be clear, if the City elects to exercise its rights pursuant to the Revocation Clawback and Lien, and the Project Site Owner at the time of a conveyance does not remit the entirety of the Revocation Clawback to the City, then the City shall have the lien set forth herein for the entire amount of the Revocation Clawback, and the new Project Site Owner shall be subject to potential foreclosure upon such lien. Notwithstanding anything contained herein to the contrary, in the event of a dispute between the parties concerning a default under this Ordinance, the prevailing party shall have the right to collect from the other party its reasonable costs and attorneys' fees incurred in enforcing this Ordinance.

**Section 7. Revocation For Failure to Satisfy Performance Milestones.** In the event that Developer fails to satisfy the following performance milestones, then the City shall be entitled to exercise (without limitation) all of its rights and remedies referred to in Section 6, including without limitation the Revocation Clawback and Lien:

(a) Developer, on or before December 31, 2014, both (i) closing on and acquiring fee ownership of the Project Site, and (ii) signing Leases with the Tenants containing the terms set forth in Section 10 below, and delivering to the City written certification from the Developer and each respective Tenant that such Lease has been executed; which certification shall contain copies of the pages in each Lease that contain the provisions of Section 10 below.

(b) Obtaining all necessary permits and approvals from the municipal agencies of the City of Providence or the State of Rhode Island for the Project within eighteen (18) months of the Commencement Date. For the purposes hereof, "Obtaining" all necessary permits and approvals means all necessary permits having been issued, with all appeals periods having lapsed, with no appeal having been taken or if an appeal has been taken, with all appeals having been satisfactorily resolved.

(c) Achieving substantial completion of the Project within thirty-six (36) months of the Commencement Date. The term "substantial completion" shall mean: (1) the issuance of a permanent certificate of occupancy for the Real Property Improvements, and (2) sufficient completion of the Project so that the Real Property Improvements can be occupied and used for the Core Uses, except for minor punch list items.

(d) Developer's affiliate, CV SSL Garage LLC achieving substantial completion of the Parking Garage Project (as defined below) within forty-eight (48) months of the Commencement Date. The term "substantial completion" shall mean: (1) the issuance of a permanent certificate of occupancy for the Parking Garage (defined below), and (2) sufficient completion of the Parking Garage Project so that the Parking Garage can be occupied and used for its intended use, except for minor punch list items. The term "Parking Garage" means that certain approximately 600-space parking garage to be constructed on a portion of certain real property known as 342 Eddy Street, Assessor's Plat 21, Lot 429, and the term "Parking Garage Project" means the

construction of the same. Notwithstanding anything contained herein to the contrary, if CV SSL Garage LLC (which, to be clear, includes its affiliates) fails to satisfy the performance milestone set forth in this Section 7(d), then the City may, following the notice and Cure Period set forth in Section 6(a) above, render this Ordinance null and void for the remainder of the Tax Stabilization Period.

(e) The Tenants opening their respective leased spaces in the ordinary course for their Core Uses within forty-eight (48) months of the Commencement Date and operating for such Core Uses for at least five (5) years after the date of their respective openings.

(f) Notwithstanding anything to the contrary in this Section 7, the Project Site Owner may request the City Council for an extension of the time for performance of the preceding milestones, if for a cause beyond the Project Site Owner's reasonable control, including strikes and/or labor disputes, accidents, invasion, riot, rebellion, civil commotion, insurrection, acts of terrorism against the United States interests, any act or judgment of any court granted in any legal proceeding, acts of god such as fire, wind or lightning, explosion ("Force Majeure Event"), the performance milestones are delayed. In such event, the Project Site Owner may request an extension of such dates from the City Council, which may grant such an extension in its sole discretion, provided that in no event shall the Project Site Owner delay substantial completion of construction of the Project beyond forty-eight (48) months after the Commencement Date. Any such extension granted by the City Council shall not affect the timing of (or amount of) the payment amounts set forth in Exhibit A attached hereto.

**Section 8. Transfers.** The terms "acquisition" and "conveyance" as used herein shall include, without limitation, entering into a lease with an entity where, pursuant to RIGL § 44-4-6 (or any similar applicable law), such entity may be deemed the owner of the Project Site (or portion thereof) for the purposes of taxation, or any other form of transfer, direct or indirect, and including without limitation, transfers of ownership interest in the applicable owner entity, by which a Tax-Exempt Entity (as defined below) becomes the "owner" for purposes of taxation.

(a) **Terms Applicable During the Tax Stabilization Period.** Developer hereby acknowledges, covenants and agrees, for itself and its successors and assigns that, prior to the Termination Date, neither it nor its successors or assigns shall convey the Project Site (or portion thereof) to a tax-exempt entity (other than Brown or the State) that under applicable law would not be required to pay real property taxes in connection with the Project Site (a "Tax-Exempt Entity") unless such entity enters into an agreement with the City (in a form and substance reasonably satisfactory to the City) providing that, notwithstanding any law, ordinance, regulation or agreement to the contrary (including without limitation the 2003 Memorandum of Understanding [the "MOU"] between the City and certain institutions of higher education), the Tax-Exempt Entity agrees to make payments to the City, in lieu of taxes and for the duration of the Tax Stabilization Period, that are equal to the amounts set forth for such duration in Exhibit A (or the portion of such amounts allocable, on a pro-rata square foot basis, to the portion of the Project Site acquired by such Tax Exempt Entity), and to otherwise be bound by all of the terms and conditions of this Ordinance, including without limitation those set forth in Section 6 above (the "Tax-Exempt Agreement"). Any conveyance of the Project Site (or portion thereof) to a Tax-Exempt Entity prior to the Termination Date where such entity has not entered into a Tax-Exempt Agreement with the City shall be null and void. Project Site Owner agrees to provide at least sixty (60) days advance written notice to the City of Providence Tax Assessor and the City Solicitor of any intended conveyance to a Tax-Exempt Entity. In all events, any Tax-Exempt Entity that acquires the Project Site (or portion thereof) during the Tax Stabilization Period shall automatically be deemed to have agreed to be bound by all of the terms and provisions of this Ordinance, including without limitation the obligation to make payments to the City, in lieu of taxes and for the duration of the Tax Stabilization Period that are equal to the amounts set forth for such duration in Exhibit A (or the portion thereof allocable, on a pro-rata square foot basis, to the portion of the Project Site acquired by such Tax Exempt Entity). Project Site Owner shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the City may reasonably request in order to carry out the intent and accomplish the purposes of this

section, including without limitation executing and delivering such notices of this restriction that the City may request, to be recorded in the Land Evidence Records for the City of Providence. Any attempt to transfer the Project Site in violation of the provisions contained herein shall automatically be a default under this Ordinance whereupon the City shall be entitled to exercise (without limitation) all of its rights and remedies referred to in Section 6, including without limitation the Revocation Clawback and Lien.

To be clear, the foregoing provisions shall apply to any conveyance, as defined above, by Brown or the State, or any successor or assigns thereto.

## Section 9. Employment and Contracts.

### (a) Construction.

- i. MBE/WBE. The Project Site Owner shall make reasonable efforts to collectively award to Minority Business Enterprises (MBE's) (as defined in Rhode Island General Laws, Section 37-14.1) and Women Business Enterprises (WBE's) no less than 10% of the dollar value of the hard construction costs for the Project. The Project Site Owner will request the City MBE/WBE office to establish a list of qualified MBE/WBE companies in order to satisfy its MBE/WBE construction goals. In this manner, the City will assist the Project Site Owner in meeting said goals. The process of participating with the MBE/WBE office shall begin upon passage in order to develop a designated MBE/WBE subcontractor list which will encourage MBE/WBE participation and joint ventures with other members with the construction industry.
- ii. Apprenticeship. The Developer shall make reasonable efforts to ensure that all trade construction subcontractors for the construction of the Project shall have or be affiliated with an apprenticeship program as defined in 29 C.F.R. § 29 et seq. for any and all crafts or trades that will or may be working on the Project. This shall not apply to any trade or profession which does not have an apprenticeship program for such trade or profession in the State of Rhode Island.

The Developer shall make a requirement in its contract with its General Contractor that the contracts between its Construction Manager and General Contractor and their subcontractors who have apprenticeship programs as defined in 29 C.F.R. § 29 require that not less than ten percent (10%) of the total hours worked by the subcontractors' employees on the project are completed by apprentices registered in the aforementioned apprenticeship programs.

The Developer shall as part of its contracts between its Construction Manager and General Contractor and their subcontractors require that the subcontractors submit to the Department of Planning and Development quarterly verification reports to ensure compliance with this section.

The Developer, its Construction Manager or General Contractor or other authorized person/entity may petition the City of Providence Department of Planning and Development to adjust the apprenticeship work hour requirements to a lower percentage upon a showing that:

- a. compliance is not feasible because a trade or field does not have an apprenticeship program or cannot produce members from its program capable of performing the scope of work within the contract; or
- b. compliance is not feasible because it would involve a risk or danger to human health and safety or the public at large; or
- c. compliance is not feasible because it would create a significant economic hardship; or

*d.* compliance is not feasible for any other reason which is justifiable and demonstrates good cause.

- iii. Internal Revenue Service reporting. Except as provided under Rhode Island General Laws § 28-42-8, any person performing services at the Project Site shall annually receive either a W-2 statement or an IRS Form 1099.
- iv. First Source List. Pursuant to the City of Providence First Source Ordinance, the Developer shall enter into a First Source Agreement covering the hiring of employees necessary to complete the proposed Project. The Project Site Owner shall work in conjunction with the Director of First Source Providence to develop the First Source Agreement. Notwithstanding anything in this Ordinance or any other ordinance to the contrary, the provisions of the First Source Ordinance shall not be applicable to Brown and the State.
- v. "Buy Providence" Initiative. The Developer will use reasonable efforts to ensure that construction materials are purchased from economically competitive and qualified vendors located in the City of Providence. In furtherance of this effort, the Project Site Owner will work with the City to develop a list of Providence vendors and subcontractors in order to create a preferred vendor list of qualified and economically competitive vendors for the construction of the Project. Furthermore, once the Project Site Owner constructs the development, the Project Site Owner will use reasonable efforts to conduct ongoing business with and provide preference to economically competitive and qualified Providence businesses. In order to further that effort, the Developer will hold seminars upon passage of this Ordinance, with the Providence MBE/WBE office, the Director of First Source Providence and the Providence Chamber of Commerce to inform the local economy of the Developer's development plans in order to maximize the opportunities for Providence businesses to work with the Developer in providing construction services, equipment and materials. To be clear, nothing in the foregoing shall be construed so as to obligate the Project Site Owner to purchase construction materials from any vendor that has not provided the lowest qualified bid in connection with the provision of such materials, as reasonably determined by Developer.

(b) Permanent Employment. In conjunction with its efforts pursuant to this Section and its ongoing efforts to provide equal employment opportunity without regard to race, color, religion, natural origin, sex, age or handicap, the Developer shall use reasonable efforts to liaise with the City and with the Director of First Source Providence to assist in the recruitment of qualified minority, women, and handicap applicants as well as those on the First Source List for all of its permanent non-executive employment positions at the Project Site.

(c) Reporting. The Project Site Owner shall quarterly report to the City Council on its progress in complying with the provisions of this Ordinance, including but not limited to, Section 9. Notwithstanding the foregoing, the Project Site Owner shall submit a report to the City Council detailing its progress in complying with the provisions of this Ordinance within thirty (30) days of a request from the City Council or the Mayor of the City of Providence for the same.

(d) Employment Conditions. For the purposes of this Section 9, the term "reasonable efforts" shall include, without limitation, Developer working with Building Futures (or such other entity or agency as the City may designate from time to time, "BF"), a Rhode Island non-profit organization, with whom the City has contracted to provide support and compliance monitoring in connection with First Source, Apprenticeship utilization, and MBE/WBE requirements for recipients of stabilized tax agreements such as this Ordinance. Developer shall meet with BF prior to the commencement of any work on the Project Site to develop a mutually agreeable plan to ensure compliance with the provisions and standards set forth in this Section (the "Employment Conditions Plan"). Further, Developer shall take all reasonable actions as BF reasonably deems necessary or advisable in connection with achieving the goals set forth herein

and in the Employment Conditions Plan. Such reasonable actions shall include, without limitation, integrating such mutually agreeable (between BF and Developer) provisions into the contracts between Developer and its Construction Manager or General Contractor, in order to ensure that said Construction Manager or General Contractor and their subcontractors adhere to the Employment Conditions Plan, including, without limitation, any reporting requirements set forth therein, as well as all provisions concerning bidding.

(e) In the event that there shall be a failure to materially comply with the provisions of this Section 9 (which, to be clear, shall include a failure of Developer's Construction Manager, General Contractor, or any of their subcontractors to comply), the Department of Planning and Development shall, following the aforementioned notice and Cure Period for defaults hereunder, have standing to seek enforcement of this provision of the Ordinance in the Rhode Island Superior Court. Notwithstanding anything in this Ordinance to the contrary, in the event Developer's Construction Manager, General Contractor or any of their subcontractors fail to materially comply with applicable provisions in this Section 9 then the Department of Planning and Development shall first send notice of such default simultaneously to the noncompliant Construction Manager, General Contractor and/or subcontractor, as well as to the Developer, and if such default is not cured within thirty (30) days of such notice, then the Department of Planning and Development shall send a second notice to the Developer and, following the notice and Cure Period for defaults hereunder, shall have standing to seek enforcement of this provision of the Ordinance in the Rhode Island Superior Court. The Department shall also have the ability to impose a fine of \$500.00 per day (up to a cumulative total of \$10,000.00) for each day of non-compliance with this section beyond the expiration of the aforementioned second notice and Cure Period, unless such non-compliance is not reasonably curable or is being disputed by the Project Site Owner and is being litigated. In the event that the Developer continues to fail to materially comply with the provisions of this Section 9 then (and without limitation to its other remedies) the City shall have the right to terminate this Ordinance in connection with the exercise of its remedies set forth in Section 6 above.

Section 10. Brown and State Leases. Notwithstanding anything contained herein to the contrary, it is an express condition to the Project Site Owner's rights under this Ordinance that the Leases with the Tenants (i.e. Brown and the State) contain the provisions (which are also conditions to this Ordinance) set forth below, and that the Project Site Owner use its best efforts to enforce the same. The City shall be (and the Leases shall state that the City is) a third party beneficiary of the provisions contained in the Leases and which are described in this Section 10.

(a) The Tenant and the Developer agree to do all things reasonably necessary in order to ensure that the Tenant shall not be deemed to be the owner of the Project Site for the purposes of taxation, pursuant to RIGL § 44-4-6 or any other applicable law, during the term of the Lease. To be clear, nothing in the foregoing shall be construed as to prevent the Tenant from being deemed the owner of the Project Site for the purposes of taxation upon acquisition of fee title to the same (or to the relevant portion thereof), in connection with the exercise of the Tenant's Option.

(b) The Brown Lease shall provide that, in the event Brown exercises its Option to purchase the Project Site (or Brown's Unit therein) prior to the Termination Date, Brown will continue to make (or cause to be made, if Brown subsequently assigns, subleases or conveys or otherwise transfers its interest in the Project Site such that its interest comes to be held, through one or more transfers, by a Tax-Exempt Entity, as set forth in Section 8 above) payments to the City, in lieu of taxes, for the duration of the Tax Stabilization Period, that are equal to the amounts set forth in Exhibit A (or the portion of such amounts allocable, on a pro-rata square foot basis, to the portion of the Project Site acquired by Brown). The City shall be a third party beneficiary of such provision, and shall be entitled to enforce the same; further, such provision shall not be modified, altered or amended without the City's prior written consent, and shall survive the expiration or sooner termination of the Lease, as well as any revocation or termination of this Ordinance, in whole or in part. Without limiting the foregoing, such provision shall also be included in any option agreement between the Developer and Brown in connection with Brown exercising its Option, as well as the deed conveying the Developer's interest in the

Project Site to Brown, and the City shall be a third party beneficiary of the same. The City acknowledges and agrees that such payments by Brown for the Tax Stabilization Period are in lieu of any payments which might otherwise be payable under Brown's MOU with the City (or any subsequent or successor MOU).

(c) The State Lease shall provide that in the event the State exercises its option to purchase the State's Unit in the Project Site prior to the Termination Date and if Brown purchases Brown's Unit in the Project Site, the State will thereafter make "PILOT" payments to the City with respect to the Brown Unit (the "PILOT Payments") in accordance with RIGL § 45-13-5.1, as the same may hereafter be amended (as so amended, the "State Pilot Statute"); which PILOT Payments will be in addition to the payments to be made by Brown under subsection 10(b) above. The City shall be a third party beneficiary of such provisions, and shall be entitled to enforce the same; further, such provision shall not be modified, altered or amended without the City's prior written consent. Notwithstanding anything contained herein to the contrary (including without limitation Section 10(e) below), in no event shall the State be obligated to make PILOT Payments to the City in accordance with this Section 10(c) that are greater than the amount (the "Gap Amount") equal to the Stabilized Tax Payments set forth in Exhibit A minus any amounts due and owing from Brown pursuant to Section 10(b) above.

**For illustrative purposes:**

(A) Based upon the following facts and calculations and assuming (x) this Ordinance is terminated with respect to the Brown Unit at the end of 2025 and (y) the percentage of taxes being paid under the State Pilot Statute in 2026 is 25%, then the Gap Amount is calculated as follows

- (i) 2026 calendar year Stabilized Tax Payments (Exhibit A) = \$434,064,
- (ii) Brown's Proportionate Share of such Stabilized Tax Payments =  $51\% \times \$434,064 = \$221,372$ ,
- (iii) The Gap Amount is  $\$434,064 - \$221,372 = \$212,692$ ; and

(B) Then:

- (i) if the non-stabilized amount of taxes otherwise payable for purposes of the State Pilot Statute with respect to the Brown Unit are \$1,000,000, the PILOT Payments to the City will be \$212,692 (i.e. not \$250,000), or
- (ii) if the non-stabilized amount of taxes otherwise payable for purposes of the State Pilot Statute with respect to the Brown Unit are \$350,000, the PILOT Payments to the City will be \$87,500.

(d) The Leases shall provide that only the Developer (i.e., the Developer through its Construction Manager or General Contractor, but not the Tenants) shall perform construction work required to substantially complete the Project.

(e) Notwithstanding anything contained herein to the contrary, in the event that Brown exercises its Option to purchase the Brown Unit and the State exercises its Option to purchase the State Unit, then the City may elect to terminate this Ordinance, in whole or in part, with respect to the Brown Unit only, whereupon the amount of taxes due on the Brown Unit (were the Brown Unit not owned by Brown, i.e., a tax-exempt entity) shall thereafter be a non-stabilized amount, provided however that nothing in the foregoing shall affect Brown's obligation to continue making (or causing to be made) payments to the City in accordance with the provisions set forth in Section 10(b) above. To be clear, the City's election to terminate this Ordinance with respect to the Brown Unit pursuant to this subsection 10(e) shall not affect the amount of the

payments that Brown is obligated to pay to the City, as set forth in Exhibit A attached hereto, pursuant to Section 10(b) above.

Section 11. Severability. If any one section of this Ordinance is found to be unenforceable, then the other provisions herein shall continue to have the same force and effect as if the unenforceable provision were not passed as part of this Ordinance.

Section 12. Applicable Law. This Ordinance shall be construed under the laws of the State of Rhode Island.

Section 13. Successors and Assigns. This Ordinance shall be binding on successors and assigns, and shall run with the land.

Section 14. General Provisions. Captions and section titles are for convenience of reference only, and shall not be used to construe this Ordinance. This Ordinance may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall be deemed to constitute one instrument.

IN WITNESS WHEREOF, each of the parties has caused this Ordinance to be executed by their respective duly authorized officers as of the day and year first written above.

THE CITY OF PROVIDENCE

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Approved as to form and correctness

By: \_\_\_\_\_  
Name: Jeffrey Padwa  
Title: City Solicitor

STATE OF RHODE ISLAND ) SS  
COUNTY OF PROVIDENCE )

In Providence, in said County and State, on the \_\_\_ day of \_\_\_\_\_, 20\_\_, before me appeared the above named \_\_\_\_\_, to me known and known by me to be the \_\_\_\_\_ of said \_\_\_\_\_, and he/she acknowledged the foregoing instrument by him/her so executed to be his/her free act and deed in said capacity and the free act and deed of said \_\_\_\_\_.

\_\_\_\_\_  
Notary Public: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

DEVELOPER

CV SOUTH STREET LANDING LLC

By: \_\_\_\_\_  
Name: Richard A Galvin  
Title: Authorized Member

STATE OF RHODE ISLAND ) SS  
COUNTY OF \_\_\_\_\_ )

In \_\_\_\_\_, in said County and State, on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, before me appeared the above named \_\_\_\_\_, to me known and known by me to be the \_\_\_\_\_ of said \_\_\_\_\_, and he/she acknowledged the foregoing instrument by him/her so executed to be his/her free act and deed in said capacity and the free act and deed of said \_\_\_\_\_.

\_\_\_\_\_  
Notary Public: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**EXHIBIT A**

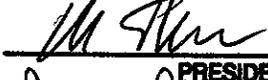
<b>Tax Year</b>	<b>Calculation of Payments</b>	<b>Stabilized Tax Payment ***</b>
December 31, 2014 (2015 calendar year)	Stabilized at 2014 Rate	\$128,088*
December 31, 2015 (2016 calendar year)	Stabilized at 2014 Rate	\$128,088*
December 31, 2016 (2017 calendar year)	Stabilized at 2014 Rate	\$128,088*
December 31, 2017 (2018 calendar year)	\$1.50 per rentable square foot**	\$401,912
December 31, 2018 (2019 calendar year)	\$1.50 per rentable square foot**	\$401,912
December 31, 2019 (2020 calendar year)	\$1.50 per rentable square foot**	\$401,912
December 31, 2020 (2021 calendar year)	\$1.50 per rentable square foot**	\$401,912
December 31, 2021 (2022 calendar year)	\$1.50 per rentable square foot**	\$401,912
December 31, 2022 (2023 calendar year)	\$1.62 per rentable square foot**	\$434,064
December 31, 2023 (2024 calendar year)	\$1.62 per rentable square foot**	\$434,064
December 31, 2024 (2025 calendar year)	\$1.62 per rentable square foot**	\$434,064
December 31, 2025 (2026 calendar year)	\$1.62 per rentable square foot**	\$434,064
December 31, 2026 (2027 calendar year)	\$1.62 per rentable square foot**	\$434,064
December 31, 2027 (2028 calendar year)	\$1.75 per rentable square foot**	\$468,790
December 31, 2028 (2029 calendar year)	\$1.75 per rentable square foot**	\$468,790

\*Notwithstanding anything contained herein to the contrary, upon the earlier to occur of (a) substantial completion (as such term is defined in Section 7(c) above) of the Project, or (b) the Tenants commencing beneficial use of the Project Site pursuant to their Leases, the amount of the Stabilized Tax Payment due hereunder shall be \$1.50 per rentable square foot.

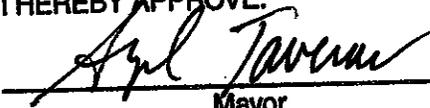
\*\* In no event shall the aggregate rentable square footage of the Project Site be less than 267,941 square feet for purposes of calculating the amount due hereunder (whether pursuant to this Ordinance or in connection with a Tax-Exempt Agreement).

\*\*\*The amount of the Stabilized Tax Payment to be paid by Brown in the event it exercises its Option (pursuant to Section 10(b) above) shall be equal to the applicable Stabilized Tax Payment multiplied by the percentage of the Project Site (on a rentable square foot basis) acquired by Brown. For the purposes of clarity, in the event the State were to exercise its Option first, and in accordance with Section 10(c) above, the amount of the Stabilized Tax Payment due hereunder from the remaining portion of the Project Site shall be equal to the Stabilized Tax Payment multiplied by the percentage of the Project Site not acquired by the State.

IN CITY COUNCIL  
**JUN 09 2014**  
 FIRST READING  
 READ AND PASSED  
  
 CLERK  
 ACTING

IN CITY  
 COUNCIL  
**JUN 19 2014**  
 FINAL READING  
 READ AND PASSED  
  
 PRESIDENT  
  
 ACTING CLERK

I HEREBY APPROVE.

  
 Mayor

Date: 6/26/14