

RESOLUTION OF THE CITY COUNCIL

No. 417

Approved October 24, 2024

WHEREAS, 46 Dike Street Holdings, LLC is the owner of certain real property located in the City of Providence at 46 Dike Street, also known as Assessor's Plat 35, Lot 334; and

WHEREAS, 46 Dike Street Holdings, LLC proposed and committed to rehabilitate an existing building into a mixed-use hotel and commercial space community venue, thus returning the property to a productive mixed use; and

WHEREAS, The tax stabilization agreement between the City of Providence and 46 Dike Street Holdings, LLC was fully executed on January 28, 2021; and

WHEREAS, Pursuant to Section 2.4 of the agreement, stabilized payments shall be made in either a lump sum during the first quarter of the applicable tax year or in equal quarterly installments at the discretion of the property owner; and

WHEREAS, 46 Dike Street Holdings, LLC is in default, as there are unpaid property taxes and administrative fees in the amounts of \$23,713.69 and \$156.23 respectively as of May 9, 2024; and

WHEREAS, The City Council of the City of Providence, through the Office of the Internal Auditor, provided written notice to the property owner that the non-compliance date of this tax stabilization agreement will be considered on April 23, 2024; and

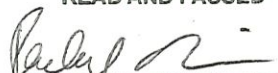

WHEREAS, Pursuant to Section 6 (A) of the agreement, failure of the property owner to pay any amount due under or with respect to the tax stabilization agreement shall constitute an event of default.

NOW, THEREFORE, BE IT RESOLVED, The City of Providence, through the Providence City Council, hereby cancels the tax stabilization agreement between the City of Providence and 46 Dike Street Holdings, LLC, fully executed on January 28, 2021; and

BE IT FURTHER RESOLVED, That upon passage, copies of this resolution be sent to the Tax Assessor and City Solicitor of the City of Providence.

IN CITY COUNCIL

OCT 17 2024
READ AND PASSED


RACHEL M. MILLER, PRESIDENT

CLERK

I HEREBY APPROVE.


Mayor

Date: 10/24/24

TAX STABILIZATION AGREEMENT

This agreement ("Agreement") is made by and between the City of Providence, a Rhode Island municipal corporation ("City") and 46 Dike Street Holdings, LLC ("DSH").

WITNESSETH:

WHEREAS, DSH is the owner of certain real property located in the City at 46 Dike Street, also known as Assessor's Plat 35, Lot 334; and

WHEREAS, DSH has proposed and committed to rehabilitate an existing building into a mixed-use hotel and commercial space community venue, thus returning the property to a productive mixed use in accordance with the construction plans already submitted to the City by DSH; and

WHEREAS, under article 13, section 5 of the Rhode Island Constitution, the General Assembly retains exclusive power over matters relating to municipal taxation. Notwithstanding, and pursuant to Rhode Island General Laws § 44-3-9, the General Assembly has authorized the City of Providence, acting through its City Council and subject to certain enumerated conditions, to exempt or determine a stabilized amount of taxes to be paid on account of real and personal property for a period not to exceed twenty (20) years; and

WHEREAS, pursuant to Ordinance 2015-29 No. 401, as amended by Ordinance 2016-1 No.1, the granting of the tax stabilization will inure to the benefit of the City of Providence and its residents by reason of:

- (A) The willingness of DSH to rehabilitate an existing commercial building into a mixed-use hotel and commercial space community venue, thereby improving the physical plant of the City, which will result in a long-term economic benefit to the City and State; and
- (B) The willingness of DSH to commit to make a significant investment of at least \$390,554.04 in the above-referenced property to complete the rehabilitation of the property referenced herein. This will enhance the tax base of the surrounding area, and generate significant tax revenues for the City of Providence.

NOW THEREFORE, in consideration of the mutual agreements and promises set forth herein and other good and lawful consideration the receipt of which is hereby acknowledged, the parties agree as follows:

SECTION 1. DEFINITIONS.

"Property" shall mean certain real property together with any and all buildings, structures, and/or improvements now or in the future located in the City at 46 Dike Street, also known as Assessor's Plat 35, Lot 334.

"Property Owner" shall mean DSH, or any entity with legal or equitable right and/or interest in and/or to the Property, including any and all successors and assigns.

SECTION 2. TAX STABILIZATION.

Section 2.1. Grant. The City, in accordance with R.I.G.L. § 44-3-9 and the City of Providence Code of Ordinances, does hereby grant a five (5) year tax stabilization in favor of the Property Owner with respect to the Property.

Section 2.2. Term. The tax stabilization term shall be the period commencing on December 31, 2019 and terminating on December 31, 2023. (Tax Years 2020- 2024).

Section 2.3. Plan. During the tax stabilization term as defined in Section 2.2 above, the City has determined the stabilized amount of taxes to be paid by the Property Owner with respect to the Property, notwithstanding the valuation of the Property or the then-current rate of tax as follows: For tax year 2020, the Property Owner shall make a tax payment equal to the taxes due and owing for an assessment value of \$268,000.00 multiplied by a tax rate of \$36.70 per \$1,000.00 in assessment value (hereinafter the "Base Assessment"). For each tax year thereafter, the Property Owner will pay the Base Assessment plus a percentage of the taxes due and owing on difference in assessment value between \$268,000.00 and the then-current assessed value of the property multiplied by the then-current tax rate. See "Tax Stabilization Plan" attached hereto and incorporated herein as Exhibit A.

Section 2.4. Payment Deadlines. During the tax stabilization term as defined in Section 2.2 above and in accordance with the tax stabilization plan outlined in Section 2.3 above, stabilized tax payments shall be made in either a lump sum during the first quarter of the applicable tax year or in equal quarterly installments at the discretion of the Property Owner. If the Property Owner elects to make quarterly installments, each quarterly installment shall be due on the same date that quarterly taxes are due for all other taxpayers in the City of Providence.

Section 2.5. Obligation of Property Owner to Make Payment. During the tax stabilization term as defined in Section 2.2 above and in accordance with the tax stabilization plan outlined in Section 2.3 above, stabilized tax payments shall be an obligation of the Property Owner.

Section 2.6. Non-Receipt of Stabilized Tax Bill. Failure by the City to send or failure by the Property Owner to receive a stabilized tax bill does not excuse the nonpayment of the stabilized tax nor affect its validity or any action or proceeding for the collection of the tax in accordance with this Agreement or otherwise.

Section 2.7. Recording of Agreement, Running with Land. Upon the execution of this Agreement, the Property Owner shall cause a Notice of this Agreement to be recorded at its expense in the City's official public land evidence records. This recording shall be

construed to provide a complete additional alternative method under contract law for the securitization of payments due and owing under this Agreement and shall be regarded as supplemental and in addition to the powers conferred by other state and local laws.

SECTION 3. PERFORMANCE OBLIGATIONS.

Section 3.1. Commencement of Performance.

Significant rehabilitation and/or construction shall commence within twelve (12) months and shall complete within twenty-four (24) months of the effective date of this Agreement.

Section 3.2. Permits and Certificates of Occupancy.

Property Owner shall obtain all permits and certificates of occupancy as required by state and local law in connection with any and all intended construction or rehabilitation at the Property.

SECTION 4. TRANSFER OF THE PROPERTY.

Section 4.1. Transfer Generally. Stabilized tax payments shall be an obligation of the Property Owner during the tax stabilization term as defined in Section 2.2 above and in accordance with the tax stabilization plan outlined in Section 2.3 above, without regard to any transfer of the Property. Additionally, in accordance with Section 2.7, the burdens and benefits of this Agreement will run with the land, and as for payment of taxes shall run in favor of the City regardless of any transfer of ownership. The Property Owner further agrees to provide prior written notice to the City before any transfer of the Property so that the City may make a determination, in its sole discretion, as to whether or not stabilization under this Agreement will continue.

Section 4.2. Transfer to Tax Exempt Entities. In the event that the Property Owner transfers the Property to a tax-exempt entity, this Agreement shall be void ab initio and any entity holding an equitable or legal interest in the Property on or after the Effective Date of this Agreement shall be jointly and severally liable for the full taxes due and owing from the Effective Date of this Agreement and forward.

Section 4.3. Post-Expiration Transfers. In the event that any Property Owner transfers the Property to a tax-exempt entity within five years from the end of the tax stabilization term, as defined in Section 2.2 above, any and all Property Owners will pay the following: five percent (5%) of the sale price in said transfer if sold to a tax-exempt entity in the first year following the end of the Term; four percent (4%) of the sale price in said transfer if sold to a tax-exempt entity in the second year following the end of the Term; three percent (3%) of the sale price in said transfer if sold to a tax-exempt entity in the third year following the end of the Term; two percent (2%) of the sale price in said transfer if sold to a tax-exempt entity in the fourth year following the end of the Term; and one percent (1%) of the sale price in said transfer if sold to a tax-exempt entity in the fifth year following the end of the Term.

SECTION 5. FURTHER ASSURANCES.

Section 5.1. MBE/WBE. The Property Owner shall make a good faith effort to award to Minority Business Enterprises ("MBE") as defined in R.I.G.L. Sections 31-14.1 et seq. ("MBE Act") no less than 10% of the dollar value of the construction costs for the rehabilitation of the Property. The Property Owner shall make a good faith effort to award to Women Business Enterprises ("WBE") no less than 10% of the dollar value of the construction costs for the Property (as determined in accordance with Section 21-52 of the City of Providence Code of Ordinances). The Property Owner will request the City MBE/WBE office and its Supplier Diversity Director 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 Property Owner in meeting said goals. The process of participating with the MBE/WBE office and its Supplier Diversity Director shall begin upon the effective date of this Agreement 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.

Section 5.2. Internal Revenue Service reporting. Except as provided under R.I.G.L. § 28-42-8, any person performing services at the Property shall annually receive either a W-2 statement or an IRS Form 1099.

Section 5.3. First Source. Pursuant to the City of Providence First Source Ordinance, the Property Owner shall enter into a First Source Agreement covering the hiring of employees necessary to complete the proposed work and throughout the term of this Agreement. The Property Owner shall work in conjunction with the Director of First Source Providence to develop the First Source Agreement.

Section 5.4. "Buy Providence" Initiative. The Property Owner will use good faith efforts to ensure that construction materials for the Property are purchased from economically competitive and qualified vendors located in the City of Providence. In furtherance of this effort, the Property 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 on the Property. Furthermore, once the Property Owner constructs the development, the Property Owner will use good faith efforts to conduct ongoing business with and provide preference to economically competitive and qualified Providence businesses. In order to further that effort, the Property Owner will hold seminars upon ratification of this Agreement, with the Providence MBE/WBE office, the Supplier Diversity Director, the Director of First Source Providence and the Providence Chamber of Commerce to inform the local economy of the Property Owner's development plans in order to maximize the opportunities for Providence businesses to work with the Property Owner in providing on-going services, equipment and materials.

SECTION 6. DEFAULT.

The following events shall constitute an event of default hereunder:

- (A) Failure of the Property Owner to pay any amount due under or with respect to the tax stabilization in accordance with Section 2 above; or
- (B) Failure of the Property Owner to record this Agreement as required by and in accordance with Section 2 above; or
- (C) Failure of the Property Owner to meet any of the performance milestones set forth in Section 3 above; or
- (D) Failure of the Property Owner to annually report as required by Section 9 below; or
- (E) Failure of the Property Owner to notify the City in writing prior to the transfer of the Property; or
- (F) Transfer of the Property by the Property Owner outside of the terms contained in Section 4 of this Agreement; or
- (G) Failure of the Property Owner to comply with Section 5 above; or
- (H) Failure of the Property Owner to comply with any other obligation or promise contained within any section or subsection of this Agreement; or
- (I) Failure of the Property Owner to comply with all state and local law regarding building and property maintenance codes, zoning ordinances, and building and/or trade permits; or
- (J) Failure of the Property Owner to remain current on any and all other financial obligations which would diminish the priority of the lien created by this Agreement.

SECTION 7. NOTICE AND CURE.

Section 7.1. Notice and Cure Period. The City Council shall provide written notice to the Property Owner before exercising any of its rights and remedies under Section 8 below. The Property Owner shall have thirty (30) days to cure any alleged default under this Agreement, provided, however, that if the curing of such default cannot be accomplished with due diligence within thirty (30) days, then the Property Owner shall request an additional reasonable period of time from the City Council to cure such default as may be necessary provided that the Property Owner shall have commenced to cure such default within said period, such cure shall have been diligently pursued by the Project Owner and the City Council does not reasonably deem the taxes jeopardized by such further delay, all as determined by the City Council in its sole discretion.

Section 7.2. Agreed Upon Address for Purposes of Written Notice. All notices, requests, consents, approvals, and any other communication which may be or are required to be served or given (including changes of address for purposes of notice) shall be in writing, or by electronic mail, and if in writing, it shall be sent registered or certified mail and addressed to the following parties set forth below:

If to: City of Providence
 Office of the City Clerk
 25 Dorrance St.
 Providence, RI 02903

If to: 46 Dike Street Holdings, LLC
46 Dike Street
Providence, RI 02909

SECTION 8. RIGHTS AND REMEDIES,

Section 8.1. Retroactive Revocation of Tax Stabilization. In the event of a default under this Agreement which remains uncured after the notice and cure period set forth in Section 7 above, the Property Owner shall pay to the City an amount equal to the difference between the stabilized tax payments made under this Agreement and the amount of Property taxes that would have been assessed and paid during the tax stabilization term as defined in Section 2.2 above, but for this Agreement. The entire retroactive tax obligation will become due and owing on the same date that the next quarterly taxes are due for all other taxpayers in the City.

Section 8.2. Collection of Taxes. At any time during the tax stabilization term as defined in Section 2.2 of this Agreement, the City of Providence may pursue any and all rights and remedies arising under any state or local law, including but not limited to Chapters 7-9 of Title 44, and/or arising under this Agreement to collect stabilized taxes due and owing in accordance with the tax stabilization plan outlined in Section 2.3 above and/or to collect retroactive taxes pursuant to Section 8.1 above.

Section 8.3. City's Lien Remedies and Rights. Nothing herein contained shall restrict or limit the City's rights and/or remedies with respect to its first priority lien for taxes as provided under Title 44 of the Rhode Island General Laws. Rather, this Agreement shall be construed to provide a complete additional alternative method under contract law for the collection of taxes, and shall be regarded as supplemental and in addition to the powers conferred by other state and local laws.

Section 8.4. Property Owner's Rights. During the tax stabilization term as defined in Section 2.2, the Property Owner agrees to waive and forever forgo any and all of its rights and privileges under Title 44 of the Rhode Island General Laws, as they pertain to the Tax Payments due and owing pursuant to this Agreement, unless the assessment value of the Property increases by more than ten percent (10%) between any two City-wide revaluations (as referenced in R.I.G.L. § 44-5-11.6) which occur during the term of this stabilization or if there is a substantial change in circumstances regarding the value of the Property. A substantial change in circumstances shall include a vacancy or partial vacancy at the Property, loss of use of the Property as a result of fire, flood or other force majeure, loss of revenue generated by the Property or decline in the real estate market such that it negatively impacts the value of the Property. Nothing herein shall be construed to limit the right of the Property Owner to pursue its rights and remedies under the terms of this Agreement.

Section 8.5. Waiver. Failure or delay on the part of the City to exercise any rights or remedies, powers or privileges at any time under this Agreement or under any state or local law shall not constitute a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, remedy, power of privilege thereunder.

Section 8.6. Joint and Several Liability. In the event of default under this Agreement DSH agrees to remain jointly and severally liable with any and all Property Owners.

SECTION 9. MISCELLANEOUS TERMS.

Section 9.1. Annual Progress Report. The Property Owner shall provide annual reports to the City on its progress in complying with the provisions of this Agreement. Specifically, its report shall include a performance report on rehabilitation and/or improvements with evidence of final construction costs, status of stabilized tax payments, evidence of employment compliance pursuant to Section 6 above, and overall financial well-being. Upon receipt and review, the City may request additional information.

Section 9.2. Monitoring Fee. The Property Owner shall remit a monitoring/compliance fee to the City in the amount of 0.01 percent of the cost of the project annually for the term of this Agreement.

Section 9.3. Severability. The sections of this Agreement are severable, and if any of its sections or subsections shall be held unenforceable by any court of competent jurisdiction, the decision of the court shall not affect or impair any of the remaining sections or subsections.

Section 9.4. Applicable Law. This Agreement shall be construed under the laws of the State of Rhode Island, the City of Providence Home Rule Charter, and the City of Providence Code of Ordinances, as amended.

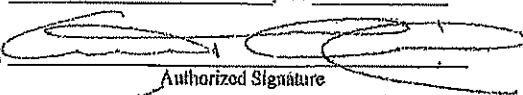
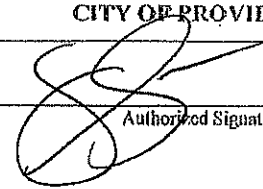
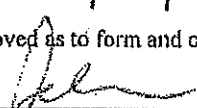
Section 9.5. Modifications Amendments and/or Extensions. This Agreement shall not be modified, amended, extended or altered in any way by oral representations made before or after the execution of this Agreement. Any and all modifications, amendments, extensions or alterations must be in writing duly executed by all parties.

Section 9.6. Entire Agreement. This Agreement and all attachments, addenda, and/or exhibits attached hereto shall represent the entire agreement between City and the Property Owner and may not be amended or modified except as expressed in this document.

Section 9.7. Effective Date. This Agreement shall take effect upon execution by all parties.

[Signature Page Follows]

IN WITNESS WHEREOF, DSH and the City have executed this Agreement.

46 DIKE STREET HOLDINGS, LLC	CITY OF PROVIDENCE
By: _____, Its _____ By:  Authorized Signature	By:  Authorized Signature
Print Name: <u>Everett M. April 2001</u>	Print Name: <u>Jorge O. Elorza</u>
Title: <u>Managing Partner</u>	Title: <u>Mayor of Providence</u>
Address: <u>46 Dike Street Holdings, LLC</u> <u>46 Dike Street</u> <u>Providence, RI 02909</u>	Address: <u>City Hall</u> <u>25 Dorrance Street</u> <u>Providence, RI 02903</u>
Date: <u>January 20th 2001</u>	Date: <u>1/28/21</u>
	Approved as to form and correctness:  Jeffrey Dana, City Solicitor



CITY OF PROVIDENCE

Brett Smiley, Mayor

May 9, 2024

46 Dike Street Holdings LLC
46 Dike Street
Providence, RI 02909

Re: FINAL NOTICE of TSA Non-Compliance
46 Dike Street- Plat 035 Lot 334

Dear Federal Hill Partners,

This is a final notice that the property owner who is the beneficiary of the above-referenced TSA (the "TSA") is in violation of the terms of that ordinance, and may lose the tax benefits outlined therein unless the property is brought into compliance on or before **April 23, 2024**. A prior notice of non-compliance has already been sent on February 19, 2024 and December 15, 2023.

The TSA has been violated as there are unpaid Property Taxes and Admin TSA fees that are overdue. The amount owed to the City of Providence as of the writing of this letter is: \$23,713.69 and \$156.23 respectively.

At this point, either the property owner pays the owed funds or provides proof of payment of the same on or before **April 23, 2024**, or the City Council will act on an ordinance to repeal any future tax benefits available to the property through the Tax Stabilization Agreement.

If you have any questions or concerns, kindly contact The City of Providence Tax Collector at 401-331-5252 or Email at collector@providenceri.gov

Very truly yours,

June Rose
Providence City Council
Chief of Staff

CITY SOLICITOR'S OFFICE

444 Westminster Street, Suite 220, Providence, Rhode Island 02903
401 680 5333 ph | 401 680 5520 fax
www.providenceri.com



CITY OF PROVIDENCE

Brett Smiley, Mayor

May 9, 2024

46 Dike Street Holdings LLC
46 Dike Street
Providence, RI 02909

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Very truly yours,

June Rose
Providence City Council
Chief of Staff

CITY SOLICITOR'S OFFICE

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www.providenceri.com