

CHAPTER 2022-32

No. 259 **AN ORDINANCE ESTABLISHING A TAX STABILIZATION AGREEMENT BY AND BETWEEN THE CITY OF PROVIDENCE, A RHODE ISLAND MUNICIPAL CORPORATION ("CITY") AND 8 HEWITT STREET, LLC ("HEWITT STREET")**

Approved July 14, 2022

Be it ordained by the City of Providence:

WHEREAS, 8 Hewitt Street, LLC ("Project Owner") is the owner of certain real property located in the City at 10 Hewitt Street, Assessor's Plat 28, Lot 1080; and

WHEREAS, Project Owner has proposed and committed to construct a 24-unit residential building, wherein several of the units will be workforce housing, thus returning the property to productive residential use; and

WHEREAS, pursuant to Rhode Island General Laws (R.I.G.L.) § 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 the Providence Code of Ordinances, as amended, specifically Chapter 21, Article XVIII, the granting of the tax stabilization will inure to the benefit of the City of Providence and its residents by reason of:

- (A) An improvement in the physical plant of the City that will result in a long-term economic benefit to the City or state;
- (B) The willingness of Project Owner to construct new or to replace, reconstruct, convert, expand, retain, or remodel buildings, facilities, fixtures, machinery, or equipment, resulting in an increase or maintenance in plant, residential housing, or commercial building investment by the Project Owner.

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 10 Hewitt Street, Assessor's Plat 28, Lot 1080.

"Property Owner" shall mean any entity with a recorded 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 ten year tax stabilization in favor of the Property Owner with respect to the Property.

Section 2.2. Term. The tax stabilization term ("Term") shall be the period commencing on December 31, 2021 and terminating on December 31, 2027. (Tax Years 2022-2028).

Section 2.3. Plan. During the Term, 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, is as follows: for the first two tax years of the stabilization term, the Property Owner shall make a tax payment equal to the \$300,000 multiplied by the then-current tax rate (hereinafter the "Base Assessment Tax"). For each tax year thereafter, the Property Owner will pay the Base Assessment Tax plus a percentage of the taxes due and owing on the difference between the Base Assessment and then-current assessed value of the Property multiplied by the then-current rate. See "Tax Stabilization Plan" incorporated herein as if fully reproduced and attached hereto and as Exhibit A.

Section 2.4. Payment Deadlines. During the Term and in accordance with the tax stabilization plan outlined therein, 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 Term and in accordance with the tax stabilization plan outlined herein, 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 stabilization, an Agreement formed hereunder, or otherwise.

Section 2.7. Recording of Agreement, Running with Land. The Property Owner shall cause this stabilization and the certification in Section 9.4 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 stabilization and shall be regarded as supplemental and in addition to the powers conferred by other state and local laws.

SECTION 3. ADDITIONAL REQUIREMENTS OF STABILIZED PROJECTS.

Section 3.1. Commencement of Performance. Construction or rehabilitation shall commence within twelve (12) months, and the Property Owner shall obtain a Certificate of Occupancy from the Department of Inspections and Standards within twenty-four (24) months of the effective date of said agreement. Property Owners who fail to meet either of these deadlines will be required to retroactively pay the difference between their actual stabilized tax payments and what they would have paid if ineligible for the specified tax considerations. The owner may, twelve (12) months prior to the applicable deadline, submit a request to the city council for approval of an extension to such applicable deadline.

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.

Section 3.3. MBE/WBE. During the Term, the Property Owner shall comply with any and all requirements under Chapter 21, Article II, Section 52 of the Providence Code of Ordinances as it pertains to Minority and Women Business Enterprises.

Section 3.4. 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 3.5. First Source. During the Term, the Property Owner shall enter into a First Source Agreement with the Director of First Source Providence in accordance with Chapter 21 Article III1/2 of the Providence Code of Ordinances, including at least one (1%) percent of the total amount of discounted taxes to be directed to the first source trust fund, per Section 21-95.

Section 3.6. Equal Employment. During the Term, the Property Owner shall work with the City's Office of Human Resources, Division of Equal Employment Opportunity to ensure the City's goals to prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin are met. Moreover, the Property Owner will take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.

Section 3.7. "Buy Providence" Initiative. During the Term, the Property Owner shall use best 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 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 of the project. 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.

Section 3.8. Apprenticeship. The Property Owner shall ensure that one hundred (100) percent of the hours worked on the project shall be performed by all trade construction contractors and subcontractors who have or are affiliated with an apprenticeship program as defined in 29 C.F.R. § 29 et seq. for craft employed. Additionally, the Property Owner shall ensure that all bidding documents for the work to be performed on the Eligible Project includes express and conspicuous language evidencing the requirement found in this sub-section.

As part of its contract with the construction manager and/or general contractor, the Property Owner shall require that not less than ten (10) percent of the total hours worked by the contractors' and subcontractors' employees on the project are completed by apprentices registered in the aforementioned apprenticeship programs. Failure to comply with or meet the requirements of this subsection shall be a material violation of the owner's obligations under this chapter.

The Property Owner, its Prime Contractor, or any other person/entity authorized by the Property Owner, may petition the City of Providence's Director of Planning and Development, or his/her designee to adjust the requirements found in this subsection to a lower percentage upon a showing that:

- (A) 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) The size and scope of the work will not allow for the contractor to comply with apprenticeship ratio requirements for the craft affected; or
- (C) For any other non-economic justifiable reason that demonstrates good cause.

Accompanying the petition mentioned in this sub-section, the petitioning entity must provide contemporary evidence of the efforts taken to comply with this section, including but not limited to the bidding and responsive documents for the scopes of work for which the petitioning entity is seeking an exemption.

Section 3.9. Project Compliance. This stabilization shall in no way confer that the underlying project (construction or rehabilitation) is either compliant with the Providence Zoning Ordinance or has received the necessary approvals from any board or commission, including (but not limited to) the Historic District Commission, the Downtown Design Review Committee, the Capital Center Commission, the City Plan Commission, the Zoning Board of Review, or the I-195 Redevelopment Commission (as applicable).

Section 3.10. Prohibited and Restricted Uses. The following uses, as defined by Chapter 27 of the Providence Code of Ordinances, shall not be permitted on the Property during the Term: Adult use (including adult bookstore/retail, adult arcade, adult cabaret, adult motion picture theater, and adult hotel/motel), compassion center or cultivation center, contractor storage yard, fraternity or sorority, landfill, materials processing of scrap metal, storage yard (outdoor), and the retail use for gun stores, payday lending, or check-cashing operations. The following uses, as defined by Chapter 27 of the Providence Code of Ordinances, shall not exceed twenty-five percent (25%) of the usable square footage of the Property during the Term: bar, nightclub, and retail sales of alcohol.

Section 3.11. City of Providence Parks and Recreation Trust Fund. The Property Owner shall make annual payments to the Fund in the amount of seven percent (7%) of the estimated total of taxes abated (as shown in the Tax Assessor's Fiscal Note) amortized over the Term. Notwithstanding anything mentioned in this subsection, the Property Owner shall pay \$1,000.00 in the Fund annually in the tax years in which the Property Owner pays a base assessment tax. Said annual payments will be payable within thirty (30) days of receipt of an invoice for the same from the Office of the Tax Assessor. If, for any reason, this Ordinance is retroactively revoked, payments to the fund shall remain and will not be forfeited due to a default.

Section 3.12. Monitoring Fee. Within thirty (30) days of receiving a statement from the Tax Assessor, the Property Owner shall remit a monitoring/compliance fee to the City in the amount of 0.01 percent of the total project costs as presented in the Property Owner's application for each respective tax year during the term of this stabilization.

SECTION 4. TRANSFER OF PROPERTY.

Section 4.1. Transfer Generally. Stabilized tax payments shall be an obligation of the Property Owner during any of the tax stabilization terms as defined in Section 2 above and in accordance with the tax stabilization plan outlined therein, without regard to any transfer of the Property. Additionally, in accordance with Section 2.7, the burdens and benefits of this stabilization 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 must 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 this stabilization 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 stabilization 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 stabilization shall be jointly and severally liable for the full taxes due and owing from said effective date forward.

Section 4.3. Post-Expiration Transfers. In the event that the Property Owner transfers the Property to a tax-exempt entity within five years from the end of any 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. ANNUAL PROGRESS REPORT.

Section 5.1. Reporting Generally. The Property Owner shall provide monthly reports to the City Council, or the Council's designee, and in such instance that the Property is within the jurisdiction of the I-195 Commission then the Commission as well, on its progress in complying with the provisions of this stabilization.

Section 5.2. Reporting Requirements. The reporting format shall be provided by the City Council of Providence in its sole discretion to document construction-based employment information and demographics related to the terms of this stabilization. If the Property Owner, its developer and/or other person/entity authorized by the Property Owner, does not timely submit their monthly reports to the City Council, or its designee, the City Council or its designee shall notify the Property Owner. The Property Owner shall have ten (10) days thereafter to provide the information to the City or its designee. The project site owner, the Director of Planning and Development, the Director of First Source, and a representative of the third-party entity monitoring apprenticeship requirements shall annually report to the City Council on progress in complying with the provisions of this stabilization, including but not limited to, sections 2 and 3. Specifically, its report shall include a performance report on construction or rehabilitation with evidence of final construction costs, status of stabilized tax payments, and evidence of compliance with Section 3. Upon receipt and review, the City Council may require and request additional information.

SECTION 6. DEFAULT.

The following events shall constitute an event of default:

- (A) Failure of the Property Owner to pay any amount due under or with respect to Section 2; or
- (B) Failure of the Property Owner to record a Notice of this stabilization as required by and in accordance with Section 2 or 8.4; or
- (C) Failure of the Property Owner to meet any of the performance obligations set forth in Section 3; or
- (D) Failure of the Property Owner to annually report as required by Section 5; or
- (E) Failure of the Property Owner to notify the City in writing within thirty (30) days of the transfer of the Property; or
- (F) Transfer of the Property by the Property Owner outside of the terms of this stabilization; or
- (G) Failure of the Property Owner to comply with any other obligation or promise contained within any section or subsection of this stabilization; or
- (H) 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
- (I) Failure of the Property Owner to remain current on any and all other financial obligations to the City of Providence.

SECTION 7. NOTICE AND CURE.

Section 7.1. Notice and Cure Period. In event of potential Default (as defined in Section 6), the City Solicitor (or outside counsel hired by the City Council) shall provide written notice to the Property Owner of such potential Event of Default ("First Notice") and notify the Property Owner that it shall have sixty (60) days, from the date the Notice herein is sent, to cure any Event of Default pursuant to this stabilization ("Initial Cure Period"). If said Event of Default is not cured within the Initial Cure Period, then the City Solicitor (or outside counsel hired by the City Council) shall notify the Property Owner in writing ("Second Notice") that this stabilization is terminated and that a bill will be sent out by the Tax Assessor sixty (60) days from the date of the Second Notice. Said bill will be for the abated taxes to date and those amounts including, but not limited to, any amounts of taxes due and owing but not paid, interest, penalties, assessments, and fees associated therewith ("Delinquency Bill").

The Property Owner may petition the City Council in writing for additional time beyond the Initial Cure Period in order to cure any alleged Event of Default (“Extended Cure Period”). Once filed with the City Clerk, a petition requesting an Extended Cure Period will toll the time period between the Second Notice and the issuance of the Delinquency Bill until the petition is either approved, denied, or withdrawn. An indefinite continuance shall constitute a denial.

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 and shall be sent registered or certified mail, or by nationally recognized overnight courier (such as Federal Express or UPS) 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: 8 Hewitt Street, LLC
Michael Lemoi
334 Carpenter Street
Providence, RI 02909

SECTION 8. RIGHTS AND REMEDIES.

Section 8.1. Collection of Taxes. At any time during the Term, the City of Providence may pursue any and all rights and remedies arising under any state or local law, including but not limited to R.I.G.L. Chapters 7-9 of Title 44, and/or arising under this stabilization to collect stabilized taxes due and owing in accordance with the tax stabilization plan and/or to collect any retroactive taxes.

Section 8.2. 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 General Laws. Rather, this stabilization 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 8.3. Waiver. Failure or delay on the part of the City to exercise any rights or remedies, powers or privileges at any time under this stabilization 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 8.4. 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 9. MISCELLANEOUS TERMS.

Section 9.1 Severability. The sections of this stabilization 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 9.2. Applicable Law. This stabilization 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 9.3. Entire Agreement; Amendments. This stabilization and all attachments, addenda, and/or exhibits attached hereto shall represent the entire agreement between City and the Property Owner. This stabilization shall not be modified, amended, extended or altered in any way by oral representations made before or after the execution of this stabilization. Any and all modifications, amendments, extensions or alterations must be in writing duly executed by all parties, and passed by City Council.

Section 9.4. Effective Date. This stabilization shall take effect upon passage of this Ordinance by the Providence City Council, approval by the Mayor (or the Ordinance otherwise becoming effective), and notarized execution and recordation of this Ordinance and the statement found in Exhibit B by the Property Owner and all individuals or entities with a fee or leasehold interest in the Property.

IN CITY COUNCIL
JUN 16 2022
FIRST READING
READ AND PASSED

Tina L. Mastrosianni CLERK

ACTING

IN CITY
COUNCIL
JUL 07 2022
FINAL READING
READ AND PASSED

[Signature]
JOHN J. GLOZZI, PRESIDENT
Tina L. Mastrosianni CLERK

ACTING

I HEREBY APPROVE.

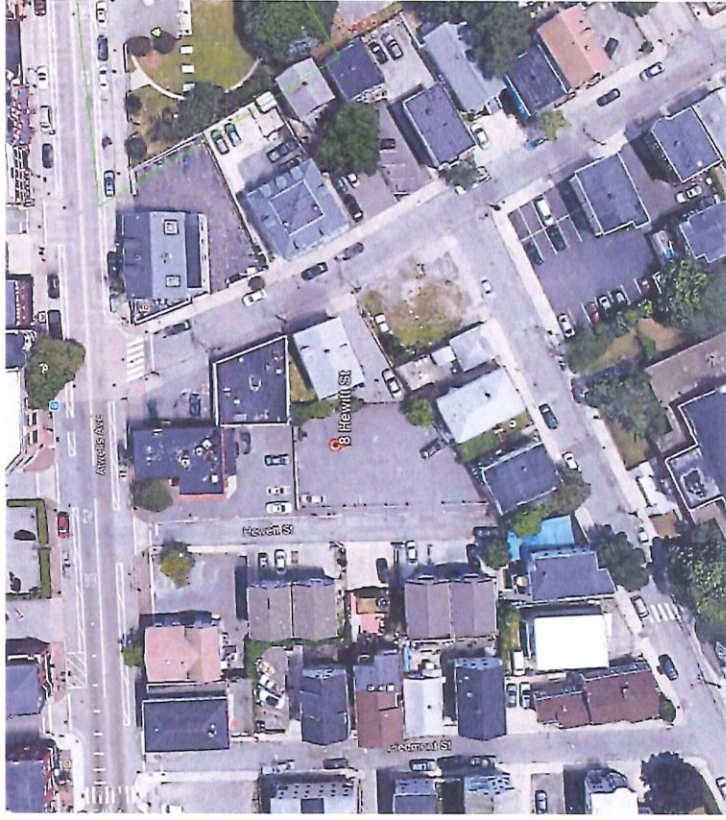
[Signature]

Mayor
Date: *7/14/22*

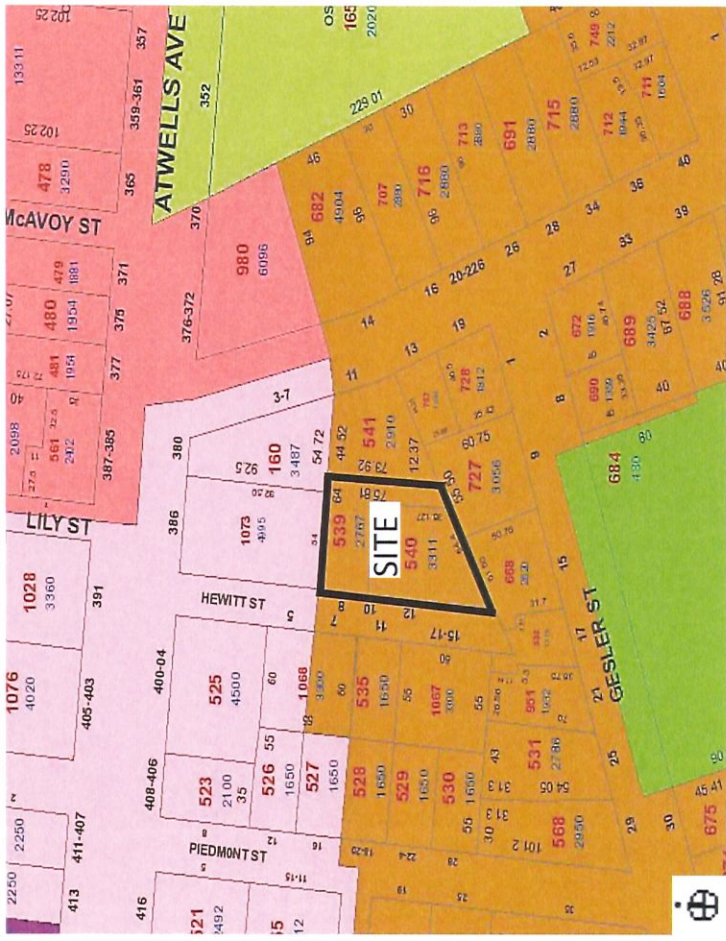
ZDS

HEWITT STREET
TSA HEARING

JUNE, 2022



AERIAL



LOCUS MAP

HEWITT STREET
 JUNE, 2022





PRE-CONSTRUCTION
HEWITT STREET
JUNE, 2022

ZDS



EXTERIOR RENDERING
HEWITT STREET
JUNE, 2022

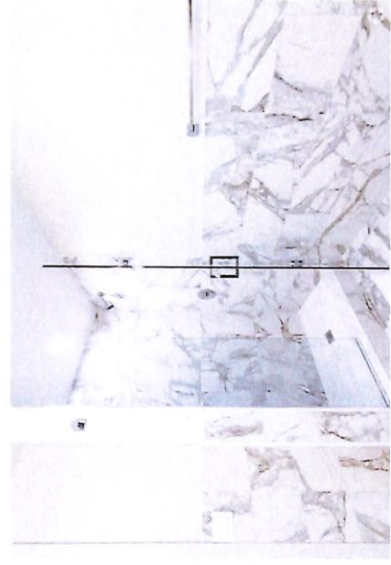


AS-BUILT

HEWITT STREET

JUNE, 2022

ZDS



TYPICAL ONE BEDROOM UNIT- AS BUILT
HEWITT STREET
JUNE, 2022



8-10 HEWITT STREET TSA INFORMATION

1. What is the present value of the building?
Response: purchased as vacant land, now assessed at \$85,400, but building is under construction to be completed next month
2. What will be the value of the building upon completion?
Response: \$4,800,000
3. How much money is being invested into project?
Response: approx. \$3,000,000
4. Will it be new construction dollars?
Response: Yes.
5. What are the costs of permits (building and otherwise) you are paying to the City of Providence?
Response: \$60,000
6. What is the amount of taxes being abated?
Response: TBD
7. What is total square footage of the building to be built?
Response: footprint is 4,429 sf, total square footage is 15,899
8. How is each space being allocated? i.e., restaurant, office, retail, residential, etc.
Response: Residential
9. What is the square footage for each space?
Response: Residential Square footage: Varies – 430-536 SF
10. What will be the prices of the residential units? The average rent?
Response: \$1800-\$2000/month
11. How large/small will each residential unit be? The square footage?
Response: See above.
12. How many jobs will be created, temporarily & permanently & type of same?
Response: 12 Construction jobs, 1 permanent job
13. If project moves forward, how long will it take to construct project?
Response: Estimated completion June 2022 (approx 18 months).
14. If project moves forward, do they have the full financing to begin project?
Response: Yes