

CHAPTER 2023-1

**No.71 AN ORDINANCE ESTABLISHING A TAX EXEMPTION AGREEMENT
FOR PROVPORT, INC.**

Approved February 6, 2023

Be it ordained by the City of Providence:

WHEREAS, PROVPORT, INC., a non-profit corporation established under the laws of the State of Rhode Island ("ProvPort") is the owner of certain real property located in the City of Providence (the "City") detailed in Schedule A attached hereto;

WHEREAS, ProvPort has proposed and committed to replace, reconstruct, expand, retain, remodel, and modernize its existing footprint in the City to create long-term economic benefit to the City and State of Rhode Island (the "Project");

WHEREAS, The City envisions that the Project will generate jobs within the City, protect, preserve, and showcase the increasing level of industrial business in the City and increase the City's tax base by virtue of the creation of the Project;

WHEREAS, Pursuant to Rhode Island General Laws § 44-3-9, municipalities in the State of Rhode Island (the "State") are authorized to enter into tax exemption agreements for a term not to exceed twenty (20) years;

WHEREAS, ProvPort has enjoyed the benefit of a twenty (20) year tax exemption on that certain real property located in the City detailed on Schedule A;

WHEREAS, The current tax exemption expires by its terms on September 30, 2024;

WHEREAS, The City intends to introduce at the January 2023 session of the General Assembly legislation which would authorize the City, acting by and through its City Council to determine, by Ordinance or Resolution, an amount of taxes to be paid each year on account of real or personal property owned by ProvPort, Inc. and located in the City, notwithstanding the valuation of the property or the rate of tax, for an additional period not to exceed thirty (30) years (the "2024 Tax Exemption Agreement");

WHEREAS, The 2024 Tax Exemption Agreement has been determined by the City Council to be fair, equitable, and acceptable to the City; and

WHEREAS, It is in the best interest of the residents of the City to grant the 2024 Tax Exemption Agreement in order to receive the benefits of ProvPort, Inc. industrial operations in 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. The findings set forth in the preceding recitals are hereby made and confirmed.

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

- (a) "Agency" means the Providence Redevelopment Agency, a body corporate and politic and an instrumentality and agency of the City.
- (b) "Assessment" shall mean the value placed upon the real property by the City of Providence Tax Assessor.
- (c) "Authorized City Representatives" shall mean the City Solicitor and the City Director of the Department of Planning and Development and may include any person or persons designated by the Mayor and authorized to act on behalf of the City with regard to certain matters, evidence by a written certificate signed by the Mayor and delivered to the trustee, the Agency Board and the Authorized ProvPort Representative.

- (d) "Authorized ProvPort Representative" shall mean the Chairperson of ProvPort or any other person or persons designated by the President or Board of Directors of ProvPort and authorized to act on behalf of ProvPort by a written certificate signed by the Chairperson of ProvPort or by a certified resolution adopted by the Board of Directors of ProvPort and delivered to the Trustee.
- (e) "Commencement Date" shall mean the day after the State legislation described in the seventh WHEREAS paragraph above becomes effective.
- (f) "Community Benefits" shall mean benefits including but not limited to, racial and environmental justice, economic and environmental impact, labor, job training, port/neighborhood relations, parks, and recreation infrastructure as provided in the Master Plan.
- (g) "Community Benefits Reserve Account" shall mean the fund so designated and created in accordance with the Master Plan and held in a custodial account established by the City's Finance Department.
- (h) "Facilities" shall mean the real property constituting the Property, and the improvements thereon.
- (i) "Facilities Lease" shall mean the Facilities Lease, dated as of May 1, 2003, between the Agency and ProvPort, as originally executed or as it is from time to time supplemented, modified or amended.
- (j) "Facilities Sublease" shall mean the Facilities Sublease, dated as of May 1, 2003, between the Agency and ProvPort, as originally executed or as it is from time to time supplemented, modified or amended.
- (k) "Fossil Fuel Infrastructure" shall mean all infrastructure used to generate, extract, receive, manufacture, store, treat, utilize, process, transport, deliver, or dispose of any kind of fossil fuel and waste products thereof, including but not limited to any plant, structure, equipment, real or personal property, mixed real and personal property, well, pipe, pipeline or other transmission line, tank, truck, train, railway, roadway, waterway or other transportation system.
- (l) "In-lieu Payments" shall mean the payments pursuant to the Tax Exemption Plan under Section 4 below, including the revenue sharing payments, the payments to the Community Benefits Reserve Account and the payment to the Sustainability Projects Reserve Account.
- (m) "Manager" shall mean the manager or operator of the Facilities pursuant to a management contract between the Manager and ProvPort.
- (n) "Master Plan" shall mean the master plan prepared jointly by the City Department of Planning and Development and ProvPort with respect to the Facilities and addressing ProvPort's operations, Community Benefits and Sustainability Projects, as the same may be amended from time to time. The Master Plan shall provide that the councilpersons from wards 10 and 11 are consulted regarding Community Benefits and Sustainability Projects in their wards. Prior to completion of the Master Plan, ProvPort and the Department of Planning and Development shall first conduct a minimum of four community meetings throughout those communities immediately impacted by the Port of Providence located within Wards 10 and 11 in order to solicit public comment regarding the proposed Master Plan. Following the completion of the four or more community meetings, there shall also be a Public Hearing conducted in the Council Chambers before the Providence City Council in order to provide a detailed presentation on the proposed Master Plan and to solicit any final public comments.
- (o) "Property" shall mean certain real property owned or controlled by Property Owner now or hereafter, together with any and all buildings, structures, and/or improvements detailed on Schedule A as it may be amended from time to time in accordance with Section 8(b) hereof and any tangible personal property owned by the Property Owner located thereon, but the term "Property" shall not include any Tenant Property as defined in Section 4 (b).

- (p) “Property Owner” shall mean ProvPort, Inc. and its Manager or their successors and assigns.
- (q) “Port of Providence” shall mean and shall be bounded as described on that certain Survey attached as **Exhibit 1.**
- (r) “Revenues” shall mean all gross income and revenue received or receivable by the Agency or ProvPort from the ownership and/or operation of the Facilities, determined in accordance with generally accepted accounting principles, including all rates, fees, charges, and including all other income and revenue howsoever derived by the Agency or the ProvPort from the ownership and/or operation of the Facilities or arising from the Facilities, and also including all income from the deposit or investment of any money in the Revenue Fund established under the Trust Agreement described in Section 9, and all other amounts required to be deposited in the Revenue Fund under such Trust Agreement, the Facilities Lease or the Facilities Sublease, but excluding any grants, donations and contributions made to the Agency or ProvPort respecting the Property and its ownership and/or operation, and excluding insurance proceeds and proceeds of title insurance received by the Agency or ProvPort from the ownership and/or operation of the Property and all payments made by the bond insurer pursuant to the bond insurance policy, all as described in the Trust Agreement described in Section 9.
- (s) “Sustainability Projects” shall mean environmental sustainability projects, as provided in the Master Plan including, but not limited to, air quality testing, environmental remediation, or projects to advance climate adaptation and mitigation infrastructure.
- (t) “Sustainability Projects Reserve Account” shall mean the fund so designated in accordance with the Master Plan and held in a custodial account established by the City’s Finance Department.
- (u) “Tax(es)” shall mean the real and tangible personal property taxes assessed, levied and collected on the Property under Rhode Island General Laws §§ 44-3-1 and 44-5-11.8.
- (v) “Term” shall mean the period commencing on the Commencement Date and terminating on the date on which on the earlier of (i) thirty (30) years from the Commencement Date, or (ii) the date on which no Agency Certificates of Participation in the Lease Agreement (defined in Section 9) remain outstanding.
- (w) “2023 Certificates” shall mean the Providence Redevelopment Agency certificates (Port of Providence Lease) to be issued in one or more series pursuant to the Trust Agreement described in Section 9 hereof.

Section 3. Grant of Tax Exemption. The City, subject to the General Assembly’s grant of authority, does hereby grant a tax exemption in favor of the Property Owner with respect to the Property as described herein for the Term set forth herein.

Section 4. Tax Exemption Plan. The In-lieu Payments due to the City shall be as follows:

- (a) *Property.* The In-lieu Payments for the Property Owner’s property shall be as detailed in the Tax Exemption Plan under **Schedule B.**
- (b) *Other Real and Tangible Property.* Any other real estate or tangible personal property not owned by the Property Owner but located within the boundaries of the Port of Providence shall not be subject to this Ordinance and shall be subject to generally applicable Tax(es).

Section 5. Payment of In-Lieu Payments and Waiver of Appeals Rights.

- (a) It is understood that the In-lieu Payments made hereunder are deemed by the City to be Tax payments. In-lieu Payments due to the City, pursuant to Section 4, 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 other taxpayers in the City.
- (b) The liability for the In-lieu Payments due and owing under this Ordinance shall constitute an obligation of the Property Owner.

- (c) During the Tax exemption term as defined in Section 4, the Property Owner agrees to waive and forever forgo any and all of its Tax appeal rights and privileges, including but not limited to those under Rhode Island General Laws § 44-5-26 and -27, as it pertains to the In-lieu Payments due and owing pursuant to this Ordinance. Nothing herein shall be construed to limit the right of the Property Owner to pursue its rights and remedies under the terms of this Ordinance.
- (d) In-lieu Payments not made by the Property Owner as they become due shall be subject to any and all penalties allowed under Rhode Island General Laws. Failure to receive a Tax bill or statement of an In-lieu Payment due does not excuse the nonpayment of the In-lieu Payment nor affect its validity or any action or proceeding for the collection of the In-lieu Payment under this Ordinance or otherwise. If for any reason the Property Owner does not receive an appropriate Tax bill or statement of In-lieu Payment due, the Property Owner shall have the responsibility and obligation to make reasonable inquiries to the City in order to have such a tax bill Tax bill or statement of In-lieu Payment issued and thereafter to make payment of the same no later than the due dates provided herein. In-lieu Payments shall be made by the Property Owner directly to the City of Providence Tax Collector's Office.
- (e) The Property Owner shall cause this Ordinance 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 exemption and shall be regarded as supplemental and additional to rights and remedies herein and powers conferred by other State and local laws.
- (f) This Ordinance is further conditioned upon the Property Owner, whether now or in the future, remaining current on In-lieu Payments pursuant to Section 4 and remaining current on other Taxes that are not subject to this Ordinance. Failure to make said timely In-lieu Payments may, at the discretion of the City Solicitor, following the Notice and the 30-day cure period set forth in Section 11, render this Ordinance automatically terminated and ProvPort shall be reassessed any unpaid Taxes, penalties and interest which remain unpaid as if this Ordinance had never been passed. This remedy is in addition to all other remedies herein and conferred by State and local law.

Section 6. Additional Employment and Construction Requirements.

- (a) *MBE/WBE.* During the term as defined in Section 4, 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.
- (b) *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 any tenant projects 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:

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.

- (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.

- (c) *Internal Revenue Service reporting.* Except as provided under R.I. Gen. Laws § 28-42-8, any person performing services at the Property shall annually receive either a W-2 statement or an IRS Form 1099.
- (d) *First Source List.* During the term as described in Section 4, 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 an amount equal to at least one (1%) percent of the total amount of In-Lieu Payments and Taxes which are not subject to this Ordinance to be directed to the first source trust fund, per Section 21-95.
- (e) *"Buy Providence" Initiative.* During the term as described in Section 4, 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.
- (f) *Equal Employment.* During the term as described in Section 4, 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.
- (g) *Project Compliance.* This Ordinance 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).
- (h) *City of Providence Parks and Recreation Trust Fund.* The Property Owner shall make annual payments to the Fund in the amount of \$3,000. 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.

- (i) *Payment of Area Standard Wages.* All construction workers shall be paid in accordance with the wages and benefits required by R.I.G.L. § 37-13-1 et seq., and all contractors and subcontractors shall file certified payrolls on a monthly basis to the Department of Planning with the same information required by R.I.G.L. §37-13-1 et seq. Not paying any worker in accordance with this section shall constitute a material violation of this Ordinance and/or a material breach of the developer's agreement with the City and the City or City Council shall have the discretion to initiate the Default Notice and Cure provisions outlined in Section 11 of this Ordinance.
- (j) *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 exemption.
- (k) *Fossil Fuel Infrastructure.* There will be no increase in Fossil Fuel Infrastructure except as may be necessary and appropriate for the purpose of making improvements to already existing infrastructure to incorporate enhanced environmental and safety standards into their operations; or to support new infrastructure to facilitate the delivery of more environmentally friendly fuels to port operations.
- (l) *Additional Remedies for Non-compliance with Section 6.* In the event that there shall be a failure to comply with this Section 6, 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 this Ordinance in the Rhode Island Superior Court. The Department shall also have the ability to impose a fine of \$500.00 per day for each day of non-compliance with this section beyond the expiration of the aforementioned Notice and cure period. This remedy is in addition to any and all other remedies herein or conferred by other State and local laws.

Section 7. Transfers.

- (a) In-lieu Payments under the Tax Exemption Plan as outlined in Section 4 shall be an obligation of the Property Owner during the Term, without regard to any transfer of real property as identified in Schedule A.
- (b) The Property Owner must provide prior written notice to the City before any transfer to another party or entity of real property detailed in Schedule A so that the City may make a determination, in its sole discretion, as to whether or not this exemption will continue. The Property Owner shall also provide prior written notice to the City Council and the Agency regarding any proposed additions to the real property detailed in Schedule A. Such real property will be included as part of this Tax Exemption Agreement, so long it is used for the Project, as defined in the second WHEREAS paragraph herein.
- (c) If any real property described in Schedule A is sold to an entity exempt in whole or part from paying Taxes on real or tangible property located within the City, the City, at the recommendation of the City Solicitor, may terminate this Ordinance at its discretion, following the Notice and the 30-day cure period set forth in Section 11. Unless otherwise agreed to by the City, ProvPort shall be reassessed any unpaid Taxes, penalties and interest which remain unpaid as if this Ordinance had never been passed. This remedy is in addition to any and all other remedies herein or conferred by State or local laws.

Section 8. Annual Progress Report.

- (a) *Reporting Generally.* The Property Owner shall provide quarterly reports to the City Council, or the Council's designee, on its progress in complying with the provisions of this exemption.
- (b) *Leases.* The Property Owner shall further provide the City Council with a complete list of all active leases for all tenants leasing property from ProvPort. ProvPort shall further provide notice to the City Council for any new leases that are executed by ProvPort for use of ProvPort property during the life of this exemption.

All new leases and lease renewals shall contain the following requirements:

- i. Compliance with all Federal, State, and local environmental laws;
- ii. Proactive reporting of environmental law violations to both ProvPort and the City Council;
- iii. Tenants must maintain and provide to the Providence Emergency Management Agency and the Providence Fire Department up to date lists of all chemicals stored at their property on an annual basis; and
- iv. Tenants must comply with all requests from the Providence Emergency Management Agency for participation in local emergency management planning and training.

(c) If the Property Owner does not timely submit such reports, the City Council shall, following the aforementioned Notice and cure period for defaults hereunder, have standing to seek enforcement of this provision of this Ordinance in the Rhode Island Superior Court. The City Council shall also have the ability to impose a fine of \$500.00 per day for each day of non-compliance with this section beyond the expiration of the aforementioned Notice and cure period. This remedy is in addition to any and all other remedies herein or conferred by other State and local laws.

Section 9. 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 the In-lieu Payments in accordance with Section 4 above;
- (b) Failure of the Property Owner to comply with any other agreement, obligation or promise contained within any section or subsection of this Ordinance; or
- (c) Reference is hereby made to that certain Facilities Lease Agreement dated as of May 1, 2003, by and between the Property Owner and the Providence Redevelopment Agency as heretofore amended, and as may be amended prior to and during the term set forth in Section 4 of this Ordinance (the "Lease Agreement"), and the Amended and Restated Trust Agreement by and among the Property Owner, The Bank of New York Mellon Trust Company, N.A., as bond trustee, the Providence Redevelopment Agency and the City to be dated the date of its execution, as it may be amended, supplemented or restated from time to time relating to the real property described in Schedule A (the "Trust Agreement"). It is the parties' intention that this Ordinance, the Lease Agreement (to which the City is a third-party beneficiary) and the Trust Agreement be cross-defaulted and that the Property Owner's default of any of covenant, agreement or requirement of this Ordinance, the Lease Agreement or the Trust Agreement result in the automatic default of the others, subject to any applicable notice and cure period(s).

Section 10. Retroactive Revocation for Default.

In the event of a default under this Ordinance which remains uncured after the notice and cure period set forth in Section 11, then this Ordinance shall be automatically terminated and ProvPort shall be reassessed any unpaid Taxes, penalties and interest which remain unpaid as if this Ordinance had never been passed.

Section 11. Notice and Cure Period.

- (a) The City shall provide written notice to the Property Owner before exercising any of its rights and remedies described herein. The Property Owner shall have thirty (30) days to cure any alleged default under this Ordinance.
- (b) The Property Owner may petition the City Council in writing for additional time beyond the thirty (30) day cure period in Section 11(a).
- (c) Notices, reporting, 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 agreed upon parties' addresses set forth below:

If to: City of Providence
Office of the City Clerk
25 Dorrance St.
Providence, RI 02903
*Accompanied by 9 copies

If to: ProvPort, Inc.
35 Terminal Road
Providence, Rhode Island 02905
Attn: William Brody, Esq.

Section 12. Rights and Remedies.

- (a) *Collection of In-Lieu Payments and Taxes.* At any time during the Term, the City may pursue any and all rights and remedies arising under any State or local law, including but not limited to Rhode Island General Laws, Chapters 7-9 of Title 44, and/or arising under this exemption to collect In-lieu Payments due and owing in accordance with the Tax Exemption Plan and/or to collect any retroactive Taxes.
- (b) *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 exemption 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 any other remedy herein and conferred by other State and local laws.
- (c) *Waiver.* Failure or delay on the part of the City to exercise any rights or remedies, powers or privileges at any time under this exemption 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.
- (d) All rights and remedies provided for herein under any section of subsection of this Ordinance are restated here and are in addition to any remedies conferred by other State and local laws.

Section 13. Severability. The sections of this Ordinance 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 14. Applicable Law. This Ordinance shall be construed under the laws of the State, the City of Providence Home Rule Charter, and the City of Providence Code of Ordinances, as amended.

Section 15. Modifications Amendments and/or Extensions. This Ordinance shall not be modified, amended, extended or altered in any way by oral representations made before or after the execution and passage of this Ordinance by the Providence City Council. Any and all modifications, amendments, extensions or alterations must be in the form of an Ordinance duly adopted by the Providence City Council.

Section 16. Entire Agreement. This Ordinance and all schedules, 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 provided in this Ordinance.

Section 17. Effective Date. This Ordinance shall become effective immediately upon its passage by the City Council and approval by the Mayor and the date of such approval shall be referred to as the "Effective Date."

IN CITY COUNCIL
DEC 15 2022

FIRST READING

READ AND PASSED, As Amended

and Referred back to the Committee on Finance
Jana L. Mastigiani

CLERK

IN CITY COUNCIL
FEB 02 2023
FINAL READING
READ AND PASSED

Rachel M. Miller, PRESIDENT

Jana L. Mastigiani
CLERK

I HEREBY APPROVE.

Brett P. Smith
Mayor

Date: 2/6/23

SCHEDULE A

2022 ProvPort Real Estate Lot list

<u>AP/Lot</u>	<u>Owner</u>		<u>Description</u>	<u>SF</u>
56/271	ProvPort	TENANT	LEHIGH CEMENT (Cement Silo location)	70,000
56/288	City PRA	ProvPort lease	South expansion land--Lease between City PRA/ProvPort	632,237
56/322	ProvPort	bldg/shop area	Purchased from AER Realty (American Aerial and Equip) services as mechanic area	49,530
56/339	ProvPort	TENANT	NEW ENGLAND PETROLEUM TERMINALS- SOUTH TERMINAL (former CITGO Site)	355,509
56/348	ProvPort	TENANT	NEW ENGLAND PETROLEUM TERMINALS- NORTH TERMINAL (former SunOil Site)	228,866
56/349	ProvPort	Dock/Bldg	Berth C & North Berth 1 with admin bldg	224,750
56/350	ProvPort	Dock/Common	Berth 1 and adjacent apron to Terminal RD	183,182
56/351	ProvPort	TENANT	MCINNIS CEMENT	115,916
56/352	ProvPort	Common/TENANT	lay down area behind MTB + WA Mills-McInnis partial lease area	479,113
56/353	ProvPort	TENANT	SCHNITZER NE STEEL (formerly Metals Recycling)	423,131
56/354	ProvPort	TENANT	LEHIGH CEMENT (Cement Dome location)	158,799
56/355	ProvPort	Dock/Common	Berths 2&3&4 / adj dock apron	304,101
56/356	ProvPort	TENANT	Sea-3 Providence/Blackline formerly Enterprise, TEPPCO, Petrolane	429,215
56/357	ProvPort	Dock/Common	North berth 5 and adj apron to Ace	76,619
56/358	ProvPort	Dock/Common	former location of the "Ace warehouse" (demolished 2019-20)	175,671
56/359	ProvPort	Common	Common area	40,520
56/360	ProvPort	TENANT	UNIVAR USA (formerly Vopak, George Mann Co)	342,202
56/361	ProvPort	Dock/Common	South Berth 5 & Berth 6 and apron	109,768
56/362	ProvPort	Common	North former scrap bin	31,721
56/363	ProvPort	Common	South former scrap bin	26,285
56/364	ProvPort	TENANT	Tenant Occupied	487,674
56/365	ProvPort	TENANT	MORTON SALT	108,732
56/367	Commerce RI	ProvPort lease	Former lots 343 & 344	309,711
56/366	Commerce RI	ProvPort Lease	Former NBC Property - pending final closure with Commerce RI	42,846
56/329	Commerce RI	ProvPort lease	Former NBC Property - pending final closure with Commerce RI	11,053
56/371	Johnson & Wales	ProvPort lease	ProvPort lease partial property	318,400
56/292	Johnson & Wales	ProvPort lease	ProvPort lease partial property	245,700

SCHEDULE B

The Property Owner, on behalf of itself, and on behalf of its successors, descendants, subsequent purchasers, and assigns, in exchange for the benefits of the Tax exemption offered by the Providence City Council, explicitly agree to abide by and be bound by the terms of that exemption provided for in this Ordinance. Without limiting the foregoing, this includes the waiver of the rights to appeal Taxes as stated in Section 5(c).

TAX EXEMPTION PLAN

The In-Lieu Payment shall be the sum of the Revenue Sharing Payment plus annual payments of 1% of Revenues (with a minimum payment of \$120,000) due to the Community Benefits Reserve Account (the “Community Benefits Percentage”) and of 1% of Revenues (with a minimum payment of \$120,000) due to the Sustainability Projects Reserve Account (the “Sustainability Projects Percentage”). Any payments required by Section 6 of the Tax Exemption Agreement to which this Schedule is attached shall be in addition to the In-Lieu Payment.

Revenue Sharing Payment

7% of Revenues (with a minimum payment of \$500,000)

For the avoidance of doubt, in no event shall the Revenue Sharing Payment be less than \$500,000, irrespective of the amount of Revenues.

Policies

The Revenue Sharing Payment, the Community Benefits Percentage and the sustainability Projects Percentage would apply to Revenues.

Payments to the Sustainability Projects Reserve Account shall be distributed by the City of Providence’s Office of Sustainability in consultation with the Sustainability Commission for Sustainability Projects.

Payments to the Community Benefits Reserve Account shall be distributed accordingly:

- On an annual basis, \$25,000 shall be distributed to Ward 10 for Community Benefits, at the direction of the Ward 10 Councilperson.
- The remainder shall be distributed by the City of Providence’s Board of Park Commissioners for Community Benefits projects for those communities immediately impacted by the Port of Providence located within Wards 10 and 11.

Payments to the Neighborhood Improvement Fund shall be terminated as of the Commencement Date.

Beginning with the budget for fiscal year 2024, the In-lieu Payments to the City would be budgeted within ProvPort’s Annual Budget. The annual amount budgeted would be based on projected year-end total Revenues.

In connection with the ProvPort annual independent financial audit, the In-Lieu Payment obligation to the City will be reconciled, and the City will be paid the balance of the In-Lieu Payment based on total Revenues without diminution or setoff. (As an addendum to the annual financial statement, the auditor shall state the Revenues pursuant to the Trust Agreement described in Section 9 hereof and provide a certification of the amount required to be paid to the City. The requirement to provide this certification shall be included in the auditor's engagement letter or contract.)

Payments shall be made within ninety (90) days of the end of each Fiscal Year.

In the event that this Tax Exemption Agreement is not approved by the City, there will be no accrual of an obligation to pay, or payment of, any In-lieu Payment to the City under this Agreement.

November 28, 2022

Chairwoman Jo-Ann Ryan
Finance Committee Members
25 Dorrance Street
Providence, RI, 02903
Room 311

Dear Chairwoman Ryan, and members of the Finance Committee,

I am writing in support of the *Ordinance Establishing a Tax Exemption Agreement for ProvPort, Inc.* ProvPort, as only one of only two deep water ports in New England, has been a source of innovation, employment and commerce for our city and our region. Its unique location along the coast provides for continued opportunity both for the port itself and for the community in Providence. It's also critical that we remain competitive with other ports along the coast and rely on the leaders at ProvPort to maintain that competitiveness while supporting the city and our residents who remain impacted by the port and its services. This proposed agreement will allow for that competitiveness, provide sustainable infrastructure improvements for the City of Providence and dramatically increase the community investments. As ports across New England make meaningful investments towards green energy, this agreement will keep Providence as a leader in the sector.

I urge the committee members to support this proposal, the increased community investments and the continued relationship with ProvPort through this agreement. Thank you for your consideration and if you have any specific questions, please reach out to my team at info@smileyformayor.com.

Sincerely,

Mayor-elect Brett P. Smiley

Mastroianni, Tina

From: Steve Ahlquist <atomicsteve@gmail.com>
Sent: Wednesday, November 23, 2022 12:30 PM
To: Clerk, City
Subject: [EXTERNAL] Testimony for the November 28th Committee on Finance

Take your time on the Port

Nearly three decades ago the administration of Providence Mayor **Buddy Cianci** worked out a deal for managing the **Port of Providence**. Here's a quick and dirty overview: A nonprofit, in the form of a 501c3 was established to oversee the city-owned land in the Port. This 501c3 contracted with **Waterson Terminal Services** to run the Port, extracting rent from tenants and sharing a percent of the revenue with the city.

[I'll note here that the same people who privatized the Port of Providence also helped to establish the first private prison in Rhode Island, the problematic and racist **Wyatt Detention Center**. See: **ProvPort's Managers Tied to Creating Wyatt Detention Center's Financial Failure**]

This early stab at privatization in Providence has yielded mixed results. While the city no longer had to worry about the day-to-day operations of ProvPort, something city officials weren't necessarily very good at, they also lost the much of their ability to monitor and regulate activities in the Port. This has led to the Port being the largest emitter of toxic emissions in the region, which has the effect of burdening the abutting communities of Ward 10 and 11 – Washington Park and South Providence – with some of the highest child asthma rates in New England as well as other, less well understood medical issues.

In fact, the area around the Port, said **Julian Rodriguez-Drix**, who chairs the **Providence Sustainability Commission**, "is one of the biggest environmental justice communities in the whole state and highly ranked, in terms of environmental justice [EJ] issues, around the entire country."

It is into this context that **Providence City Council** President **John Iglizzi** has introduced resolutions authorizing a **lease extension and bond indenture** for **ProvPort, Inc**, as well as a **Tax Exemption Agreement**.

What does this mean?

Basically it means 30 more years of the same old stuff at the Port, with some small, mostly cosmetic concessions to the abutting communities. The resolutions are being

fast tracked by a lame duck City Council to prevent incoming city councilmember from having input into the direction of the Port. Whatever deals are made now will impact the city, for better or worse, for the next three decades.

At a meeting of the Providence Sustainability Commission held on Monday, Keith Stokes, Director of **Business and Development** for the City of Providence, who also oversees the **Office of Economic Opportunity**, sat down to answer questions about the tax exemption, lease extension and bond indenture for the Port.

Let's break this down.

The Political Reality:

The Providence City Council, thanks to term limits, is dramatically changing in January. City Council President John Igliozi (Ward 7) is out, and the inside bet is that **Rachel Miller** (Ward 13) will be elected to his position. In addition, **Nirva LaFortune** (Ward 3), **Nicholas Narducci Jr** (Ward 4), **Michael Correia** (Ward 6), **Carmen Castillo** (Ward 9), **Katherine Kerwin** (Ward 12) and **David Salvatore** (Ward 14) were all term limited or did not seek re-election. Seven new city councilors are expected to be sworn in come January, shifting the age, demographics, political alignment and potentially the direction of the legislative body.

Fear that a new city council might not be receptive to a deal that preserves the status quo at the Port necessitated a special meeting of the city council, called by Council President Igliozi, to assign the resolutions he sponsored to the **City Council Committee of Finance on November 15**. Finance Committee Chair **Jo-Ann Ryan** (Ward 5) dutifully scheduled a public hearing on the resolution for the **Monday following Thanksgiving, November 28th at 5:30pm**.

After this public hearing the bill can be voted out of committee, sent to the entire City Council and passed twice before Christmas – a terrific present or those who run the Port, and a lump of coal dust in the lungs of the children who live in Wards 10 and 11.

Director Stokes would not acknowledge the politics at work in fast tracking the Port legislation. During the Sustainability Commission meeting, **Uprise RI** asked about their accelerated timeline.

Uprise RI: What is the timeline? How fast would you see the contract/lease being approved? Before the end of the year, early next year? What does that look like?

Director Stokes: [That is] entirely up to the council.

Uprise RI: I understand that, but I'm wondering, from a political point of view – you understand that next year is very different from this year and it seems like this is happening a little fast.

Director Stokes: No, the timing of it was the timing. Again, it's entirely up to the council and a council has to deliberate. The current council, if they defer to the next council, that's entirely their decision. The timeframe should be based upon what they're comfortable with and what they're willing to move forward.

Earlier, Director Stokes had stated that, "My humble perspective is that the beginning of the public process is to have a contract agreed upon by both parties to be brought before the city council because they are elected to represent the people and they are set up to do the oversight and to provide the input."

The "New" Deal

According to Director Stokes, negotiations between the City and ProvPort, Inc. have been going on for about two years, with the Director's involvement being over the last nine months. The existing deal does not end until December 31, 2024, so there is still over a year to explore options before the lease is up.

"This isn't something they're going to negotiate for two years, three years," said Director Stokes. "If they wait two years, three years, there'll be other ports and other operations that will come forward. It's a highly competitive environment."

That said, negotiations have been ongoing for two years already, with no public input, so the sense of urgency seems to be rather new.

Director Stokes has considerable background in the operation and financialization of Ports. "I ran a state development agency and I was involved in that agency for almost 20 years overseeing and creating what is the **Quonsett Development Corporation**," said Director Stokes. "I sat on that board, I chaired that board, and then worked on the early stages of **Deepwater Wind** and initiating that as a demonstration process. Clearly we were successful in that.

"This began almost two years ago as ProvPort was beginning to think through not only its short term, but long term operations, largely tied to the changing nature of northeast port facilities, driven by the offshore wind industry which is creating what we believe is a significant opportunity to not only meet our renewable energy goals, but also to begin to change the shape and operations of urban seaports from Maine down into the Carolinas," said Director Stokes, "ProvPort would very much like to

position themselves to further expand operations and have the physical capacity to meet the needs of the offshore wind industry.

Director Stokes continued:

"There are a number of offshore wind development projects, including phase two here in Rhode Island. The challenge is that for the most part, the large components of offshore wind – the stanchions, the towers, the turbines – are going to be manufactured in Europe and then transported largely by barge, by shipping lanes, to ports here in the Eastern Seaboard where they'll be assembled, tested, and then barged out for installation in the offshore wind areas. ProvPort, the Port of Davisville at Quonsett, are two viable locations for that.

"One of the challenges we've had in Rhode Island is, Does the Port of Davisville, does the Port of Providence, and now, the South Quay project which is East Providence Waterfront – Will they have the land area available to take these components, lay them out, do the work they need to do, and send them out? Every port is going through this issue.

"I think one of the positive consequences of this, from a community perspective, is that we're starting to see these ports get out of what we call the bulk cargo business, the things that sit there that are not the most environmentally sensitive and community compatible, and getting into more containerized activity and such. Clearly when you're bringing in the multimillion dollar components of an offshore wind system, you don't want it sitting next to trash piles, tire piles, coal, salt, I mean, all those things that aren't congruent."

In other words, the promise of wind energy money has incentivized the ports in Rhode Island to clean up their environmental impacts not because children were suffering from asthma, but because wind energy developers want cleaner facilities.

The Deal

An unusual aspect of ProvPort is that it was established as a **501c3** and as such, is a private nonprofit. For comparison, the Port in Quonsett is a quasi-public entity and therefore subject to the requirements of the **Open Meetings Act** and the **Access to Public Records Act**. ProvPort has decided unilaterally to hold open meetings, but is under no obligation to do so and of course, that could change at any time.

The deal under consideration by the Providence City Council does nothing to change the legal structure of ProvPort. It will continue as a 501c3 if this lease extension and resolution are passed.

ProvPort, said Director Stokes, "was created in the nineties as a 501c3 organization, not for profit organization, which is different than other ports that have publicly created port authorities. I used to sit on the state's **Department of Economic Development Port Authority Board** in the nineties and the Almond Administration statutorily changed that and created the **Quonsett Development Corporation** when I went on that board. That is a quasi state authority created by statute, but is required to follow all public notice, public open meetings laws and such as a public entity. As a 501c3, [ProvPort is] not as clearly obligated as a public entity. I think those are the issues of a 501c3, but that was the organization structure was in place."

There is nothing in the new agreements to change to nature of ProvPort's organization into something more clearly responsive to the public.

The Master Planing Process

A key point Director Stokes leaned on in selling this deal to the Sustainability Commission was the creation of a "Master Planning Process."

"I will tell everyone that as I came to be involved in the process, it was very important to me, representing the Office of Economic Opportunity and my background, that we build into this process opportunities where we had significant investments in the master planning process," said Director Stokes. "I was surprised that this port had never operated under a master plan process. Nearly all competitive quality ports operate under a master plan."

A Master Planning Process would involve a long process of public involvement in determining aspects of how ProvPort acts and operates, though it is unclear how this master planning process can be fully realized after the Port is locked into a legal contract.

A master plan, said Director Stokes, "takes years in some cases. It's a very comprehensive process... I felt very passionate that if we're going to agree upon putting before the city council an opportunity for lease extension and a tax exemption agreement, we have to build in a master planning process and that master planning process would require significant public participation and oversight. It would require significant inclusion of operations that meet environmental sustainability, social justice, and community engagement processes. It would be a very important process and that's been agreed to by all parties.

"PropPort has agreed to set aside significant dollars that would go towards the master plan process, which would be initiated both by the city, led by the Planning and

Development Department, working with the Sustainability Commission, my office, and others," continued Director Stokes.

"A master plan process integrates all aspects of a port operation, but more importantly it is going to be a process that goes out to bid as an RFP and I would think it would be a national RFP," said Director Stokes at another point. "The team who would be overseeing and managing the master plan would include engineers, environmentalists, community planners, community facilitators, architects and operators. I mean, a whole school of individuals will be looking at different aspects of that. The master plan process doesn't happen in 60 days. It's anywhere from six months to a year, as well it should be. There's going to be a significant part of that, which is a community engagement process and that community engagement process will require a very formalized community facilitation process, which will be reviewed by the city and I would think by the council and approved by the council."

Uprise RI asked about the limits of a master planning process being conducted after a contract between the city and ProvPort had been signed.

Uprise RI: After the contract is approved, there will be limits on what a master plan can and cannot do because they won't be able to do things that violate a contract that's been approved by the city. So putting the master plan afterwards limits what the master plan can do. Is that true?

Director Stokes: The master plan is issued and adopted both by ProvPort and the City of Providence. So any of the elements within the master plan as far as overseeing operations, investments, capital impacts, will be approved by both parties and will be incorporated into the operations of ProvPort going forward.

Uprise RI: Although it is hard to see [ProvPort] giving up any rights they have contractually obligated with the city within a master plan negotiation. I don't see that [happening]. The contract will determine the limits of the master plan in real terms.

Director Stokes: Mm-hmm. It could, yes.

Taxes

The deal between the city and ProvPort is not a **TSA (Tax Stabilization Agreement)**.

"Tax stabilization agreements provide a benefit to private developers where they defer or they reduce their tax liability in consideration for whatever they're investing in," said Director Stokes. "This is a **tax exemption agreement**. And in this agreement, it gives us the opportunity to create a revenue sharing partnership. In the revenue

sharing partnership we're looking for, at a starting point, 7% revenue sharing at the end of each year. 7% of the net revenues would come back to the city with a minimum of a half million dollars, regardless of the economic performance or the revenue in that year, a minimum would come back at a half million dollars."

Director Stokes continued:

"On top of that, we also suggested two additional percents. 1% that would go to the creation of the community benefits fund and 1% to a sustainability fund at a minimum of \$120,000 in each fund each year. Those two funds would replace the current neighborhood fund, which I think was at about \$24,000," said Director Stokes. "Our goal was to build in a master planning process that would guide operations and impacts to the port and have some of the best practices of oversight and community engagement. Also, to achieve additional capital dollars for the city's general fund, but also targeted dollars for enhancing community benefits and sustainability. The way we drafted the community benefits, we defined that as benefits including, but not limited to, racial and environmental justice, economic and environmental impact, labor, job training, and port neighbor relations, as guided within the master plan.

"I looked very carefully at the sustainability report. I talked with a number of people to get a sense of what the value was in creating a community benefits project that really understood environmental justice and community needs. And then, under sustainability, the second \$120,000 shall mean environmental sustainability projects that are provided by the master plan. And again, within that master plan process, we also state that Ward Councilmembers, whoever that might be in Ward 10 or 11 Providence, would participate as a part of the master plan and have a say and be consulted each year on how those community benefit sustainabilities are made."

Bond Indenture

"The reason that there's now a suggestion of going before the council to extend [the agreement] over 30 years within a company tax exemption agreement, is to begin to make significant capital investments in land acquisition opportunities, to begin to have ProvPort compete in this offshore industry," said Director Stokes. "Tied to the decision making of why a 30 year tax exemption agreement, why a 30 year lease extension is, that as the part of the process the city would issue certificates of participation bonds, and ProvPort is willing to pay for those bonds over a 30-year period that would make both significant capital improvements support.

Director Stokes continued:

"Also, depending upon what the interest rates are, these bonds, which are terribly challenging in this market, would make anywhere from five to seven to nine million dollars available for dedicated public improvements inwards Wards 10 and 11, in the abutting communities.

"So the issue of why now was simply a case of taking the opportunity to have this public bond, which would make Port improvements and immediate community improvements. The requirements of the term of that bond would require that the port operator, Waterson Terminal Services, on behalf of ProvPort, would like to be able to know that they have a long term agreement in managing the Port. Most importantly, building revenue in that port that should in turn pay the bond debt service. That's the issue.

"Now to speak candidly, the one thing that none of us control at this aspect is the markets and the markets right now are very challenging. There's lots of disruptions and there's no guarantee that anyone's going out into the bond markets – either taxable or tax exempt bonds – anytime in the near future, because of the challenge of inflation, the uncertainty and such. From our perspective, getting the most competitive rate, the lowest rate, allows more dollars that can go towards public projects within the abutting neighborhoods. So if the rates are sky high and the cost of money is higher, then we'll have less dollars available for those public investments. That's the rationale and that's the timing around it."

2022 has been the worst year for bonds since 1976. Though they are likely to recover in 2023, there is no reason to believe that rushing into a bond deal in the next few months is a good idea. There is time to approve a bond indenture.

The Community's Interest

"For many of us and folks in the community, this is the first time that we are hearing of it and are looking for information," said Sustainability Commission Chair Rodriguez-Drix. "The city's **Climate Justice Plan**, that was written through extensive community engagement over a couple of years, has a section on the Port of Providence as a key piece to our sustainability goal for the whole city, given that the Port of Providence is one of the biggest environmental justice communities in the whole state and and highly ranked, in terms of EJ issues around the entire country, is in Black, Latino and indigenous communities, and is also the place where there is the greatest concentration of polluters and fossil fuels coming into not Providence or Rhode Island, but the whole region."

Chair Rodriguez-Drix continued:

"In terms of reducing fossil fuels and local emissions, the Climate Justice Plan prioritizes not reducing emissions in any part of the city, but particularly local point source emissions because of the health impacts of the harmful pollutants that come with carbon pollution. Also the Climate Justice Plan prioritizes the risk of climate change impacts in the Port of Providence area and the resilience goals, whether it be hurricane storm surge or other kinds of impacts.

"This negotiation for a new contract is a rare opportunity. The way it's set up, there's not a lot of opportunity for public oversight in the Port of Providence. Because of how it's set up, there's not a lot that is public information because it is a private non-profit. So this is a rare opportunity for the public to weigh in on that.

"What opportunities are there for public engagement? Who's already been engaged? Who are those entities? How can the public be involved not in the public hearing coming up, but in the process, in the oversight? What is the timeline? My understanding of the lease doesn't expire for another year, so we've got some time and it seems like this is a rush thing that a lot of us are hearing for the first time.

"I understand that it's been a two year process, but one that has been behind closed doors. And while I'm sure negotiations require a certain level of that, I wanted to open up with is, Is this the beginning of being able to have public involvement? What does that public involvement look like? How can people weigh in? How does this align with or not aligned with the climate justice goals and the things that this Commission is concerned about?"

Later, Chair Rodriguez-Drix added, "when we think about climate change timelines or what [industries] we need to phase out so we have space for things like offshore wind, we don't have time to wait for another 30 year lease to be able to weigh in on that... We have already done a couple years worth of intensive community engagement around creating the climate justice plan that lays out what that is. It isn't enough to say there's more communication to be done in the future. Why can't that be built into the agreement? [Why can't we specify] types of industries that we want ProvPort to phase out and get rid of? ... Why can't that be written into the process?"

Trust and Harm

"There's a trust issue here," said Director Stokes. "I've heard from some of the people here, very rightfully so, there's been ongoing concerns about trust and communication. Well, the same will go on the private sector side. They're looking for a level of trust and obligation. Their feeling is that they've made years of contributions and investments here, which have value. Their current contract has created a value addedness... The goal is how do we create the best plan and best process going forward."

"I have two children. We live in South Providence. My children have asthma, they have long seated, deep rooted asthma and it's only getting worse. And it's not just my children, it's all the children," said Commissionmember **Chandelle Wilson** who later added, "you can't evaluate the value added without evaluating the harm that's been done."

Steve Ahlquist
UpriseRI.com
401-474-9266

November 23, 2022

Providence City Council Finance Committee
Finance Chairperson, Councilwoman Jo-Ann Ryan
Councilman Nicholas J. Narducci Jr.
Councilwoman Carmen Castillo
Councilwoman Helen D. Anthony
Councilman James E. Taylor

Dear Chairperson Ryan and members of the Providence City Council Committee on Finance,

The City of Providence's Sustainability Commission, formerly known as the Environmental Sustainability Task Force, was officially established through ordinance ORD-2021-18. The Sustainability Commission has responsibilities including to "Advise the council, mayor, municipal departments, and other boards and commissions on the city's sustainability and climate agenda" and "Provide a level of accountability and transparency for the sustainability initiatives the city is currently implementing or planning to implement." The Sustainability Commission is grateful to Councilwoman Jo-Ann Ryan and Councilman James E. Taylor for moving to pass the ordinance, and to all Finance Committee members for their unanimous support.

The Sustainability Commission met on Monday November 21 2022 to review and discuss the ProvPort items referred to Finance Committee and on the agenda for the public hearing on November 28, 2022: Draft Resolution 38908 (Resolution Authorizing a lease extension and bond indenture for ProvPort, Inc.) and Draft Ordinance 38906 (Tax Exemption Agreement for ProvPort, Inc.). Director Keith Stokes, Business and Development Director of the Office of Economic Opportunity, joined the Commission for a presentation and robust discussion with questions and comments from both Commissioners and members of the public including community environmental justice leaders. At the conclusion of the discussion and comments, the Sustainability Commission voted unanimously to submit this letter to you as the Commission's comments for the public hearing. Members of the Commission plan on attending the public hearing on November 28th and appreciate the opportunity to speak as individuals and elaborate on the points summarized here.

At this time, and as the draft ordinance and resolution are currently written, the Sustainability Commission requests that the Finance Committee does not approve the lease extension or tax exemption agreement for ProvPort, Inc. This recommendation is based on the following reasons:

1: There is no justification for urgency in rushing this important decision right now

The current tax agreement with ProvPort does not expire until 2024. The current ProvPort lease is in place until 2036 (this was clarified after the conclusion of our meeting). The primary

justification that was given for needing a long-term 30 year lease extension and new agreement is to authorize the City to issue a bond for port improvements and to show bond holders and port developers that there are corresponding 30-year commitments. However, the current market conditions do not have favorable interest rates for bonds, and this would not occur until some point in the future when interest rates go back down. Because of this there is no need for urgency to rush on making a major decision with long-term consequences. There will be a new City Council and new Mayor in just over a month, and they should be able to engage on such an important and long-term consequential decision.

2: Promoting expansion of offshore wind should be written into the terms of the agreement

The Sustainability Commission supports the expansion of the offshore wind industry in ProvPort. We are aligned with the stated goals of creating a long-term supportive environment and infrastructure for offshore wind development. However, while offshore wind is being used as the primary justification to promote the draft tax agreement and lease extension, it is not written into the agreement or lease extension itself. ProvPort has many tenants and the Ørsted / Eversource investment in the new offshore wind construction hub in ProvPort is just one out of the many tenants at ProvPort. The other tenants include fossil fuels (Sea-3 Providence LPG terminal, New England Petroleum Terminals), cement (Lehigh Cement, McInnis Cement), chemicals (Univar USA chemical manufacturing and distribution, Washington Mills aluminum oxide distribution), scrap metal (Schnitzer Steel Industries), used automobiles (Grimaldi Lines) and bulk materials (Morton Salt, Mid-American Salt).

If the goal is truly to expand infrastructure for offshore wind this needs to be written in as conditions to ensure that the limited space in ProvPort's footprint will prioritize offshore wind and phase out other tenants and industries as needed. Offshore wind components do not want to have multi-million dollar components and sensitive equipment stored near waste, scrap, and bulk commodities that can produce dust and potentially cause damage to turbine components.

Current market opportunities are favorable for offshore wind and ProvPort / Waterson Terminal Services have been actively working on expanding in this area. A prior state bond was used to acquire the former Sims site with 7.5 acres converted from scrap to offshore wind, and an adjacent JWU parcel has been negotiated in a long-term lease supportive of offshore wind. These are positive developments, but if market conditions change there there is currently nothing in writing about the long term plan for other parcels and tenants in ProvPort. There is currently no written guarantee about continuing to prioritize offshore wind or to phase out fossil fuels and other harmful industries in the ProvPort footprint. Agreeing to a 30 year lease extension and tax exemption are major decisions with long-term implications, and the City needs to ensure that there are conditions to ensure that future developments and changes in the port are in alignment with the City's goals and community priorities.

3. Long-term decisions about ProvPort need to be integrated and aligned with the City's Climate Justice Plan and other planning processes

The nationally recognized Providence Climate Justice Plan was co-developed by the City of Providence's Department of Sustainability and the Racial and Environmental Justice Committee of Providence, following a multi-year intensive process with extensive community engagement. The Climate Justice Plan includes seven key objectives, 20+ targets, and over 50 strategies to create a truly equitable, low-carbon, climate resilient city. Ordinance ORD-2021-18 officially adopted these climate targets and objectives including the citywide goal of "Healthy air and community spaces free from pollution, **with a focus on port-area neighborhoods** and other communities exposed to the highest rates of pollution" (emphasis added).

The Port of Providence and ProvPort are identified as major priorities in multiple sections of the Climate Justice Plan that are directly relevant to the draft ProvPort lease extension and tax agreement. The Climate Justice Plan calls for Collaborative Governance with long-term climate resilience and adaptation plans in the port area and the Hurricane Barrier, and calls for community involvement to create Community Benefit Agreements for large projects. Under Community Health, the Climate Justice Plan calls for the development of a Green Port Initiative, work towards a zero emissions, pollution-free port, and a clean port economy that restricts the import and storage of hazardous and polluting materials in the port to be phased out by 2040. In the Local and Regenerative Economy section, the Climate Justice Plan calls for employment pipelines for local residents to work at the port and to create workforce development programs to support a just transition away from fossil fuels. The Transportation section of the Climate Justice Plan calls for reducing emissions from transportation and particularly trucks in freight corridors and frontline communities.

As it is currently written, the lease extension and tax exemption agreement do not include any mention of the Climate Justice Plan, and while it does create new funds for Sustainability and Community Benefits, there is no guarantee that the overall developments in ProvPort over 30 years will be in alignment with the Climate Justice Plan goals and priorities. The Port of Providence is a critically important area for climate justice, and the City needs dramatic changes there to reduce and phase out fossil fuels, address harmful impacts on frontline communities, and develop resiliency for the risks for extreme climate impacts on port infrastructure.

Collectively, we do not have 30 years to wait on climate action, and cannot afford to miss this important opportunity for the City to have leverage on long-term port development plans. The current draft agreements fall far short of what is needed, and what the City has the power to require within the City-owned properties managed by ProvPort.

There are also several other current initiatives underway in the City that are related to these decisions. There is a vendor working with the City on a zoning study to integrate the Climate Justice Plan into the zoning code. Many of the port-related priorities in the Climate Justice Plan are also related to the Comprehensive Plan, which is currently in the process of being updated.

As the updated comprehensive plan is being developed and the Climate Justice Plan gets integrated into zoning, it will need to be aligned with the master planning process for the port.

4. Policy decisions of this importance require much more extensive community engagement. The Master Planning process needs to happen first before a tax agreement or lease extension.

Director Stokes informed the Sustainability Commission that there would be extensive community engagement during the Master Planning process for the port, and that it is not in line with best practices that there is not an existing Master Plan in place. The Commission was also informed that the resources needed to develop this Master Plan are already available and are not contingent on the tax agreement or lease extension.

The Sustainability Commission unanimously agreed that the Master Planning process should be initiated as soon as possible and be completed and adopted **before** the City agrees to a new tax agreement and lease extension. The Master Plan, once approved by the city, should be used to inform what gets included as contractual requirements for ProvPort to guarantee that long term developments in the port are aligned with what the City needs. If the agreements are signed and in place before the master planning process is even started they will supersede and constrain what is possible to achieve within the Master Plan.

The City is currently beholden to a Cianci-era agreement and structure that cedes authority for city-owned assets to a private entity. We do not have an existing Master Plan, we do not have a Port Authority, and there are very limited opportunities for public oversight and governance of the port, which is not aligned with best practices in other urban industrial waterfront ports. The City currently has an opportunity, through this master planning process, to consider alternative structures or to develop more robust governance and public oversight of these critical assets.

There are also a number of existing efforts and stakeholders already engaged around the port, including a variety of community-led efforts and a multi-agency Port-Community working group that includes city, state, and federal agencies along with community members and port businesses. None of these stakeholders had been engaged or informed of the draft tax agreement and lease extension until very recently. The Sustainability Commission meeting on November 21st had robust engagement with many questions raised, and made it clear that much more engagement is needed for a decision with such far reaching implications. We are grateful that the Finance Committee is holding the public hearing on November 28th, but there was not sufficient time for impacted community members to be notified and prepare comments before the holiday break. There are still significant outstanding questions and policy issues to be worked through to ensure that the City and impacted communities are getting what they need. Since there is no justification for urgency with the current bond markets, and there is more than a year until the current tax agreement expires, the Sustainability Commission urges City Council to require completion of the Master Plan before moving forward on any tax agreement or lease extension for ProvPort.

5. As it's currently written, the tax agreement does not appear to be a good deal for the City

The Sustainability Commission appreciates the creation of the Sustainability and Community Benefits funds, and acknowledges that the proposed agreement increases the overall share of the revenue from 5% to 9%. However, we believe that these amounts are insignificant compared to what is needed and much less than what the City could otherwise achieve.

The properties under consideration are owned by the City, yet the decision-making authority has been ceded to a private entity and the City is only receiving a single digit share of the revenues generated. We understand that the City is not currently positioned to directly manage port operations, but hiring a contractor to provide port management services is very different than ceding power and authority to a private entity and receiving a small financial return. The existing structure is in place through the end of the current lease (2036) but the pending 2024 expiration of the tax agreement and the interest in creating a new port bond for infrastructure development puts the City in a good position to negotiate more favorable terms, especially with the consideration of extending the lease for 30 years.

The designation of 1% revenue share of minimum of \$120,000 per year for the Sustainability and Community Benefit fund is small compared to what is required for climate adaptation and resilience in the frontline environmental justice communities that are most impacted by port operations and climate impacts. With inflation over a 30 year agreement, the amount of these funds will get relatively smaller unless it is tied to some index for inflation and costs of living. Furthermore, the cost and benefit analysis for the port is not purely economic - the social and environmental costs and past harms should be taken into account, along with the externalized costs of carbon pollution and health impacts from port operations.

The Sustainability Commission urges the City Council, Mayors office, and City departments to use this opportunity to maximize the benefits to frontline communities, engage impacted communities in the Master Planning process before approving any tax agreement or lease extension, and build in strong and legally enforceable requirements around the Climate Justice Plan priorities.

Sincerely,

The Providence Sustainability Commission

Julian Drix, Chair (City Council appointment)

Vatic Kuumba, Vice-Chair (Mayoral appointment)

Priscilla de la Cruz (Environment Council of RI appointment)

Chandelle Wilson (Racial and Environmental Justice Committee appointment)

Jesus Holguin (Mayoral appointment)

Catherine Van Amburgh (City Council appointment)

Mastroianni, Tina

From: Joseph Tudino <jptudino@gmail.com>
Sent: Sunday, November 27, 2022 6:27 PM
To: Iglizzi, John; Clerk, City; info
Subject: [EXTERNAL] ProvPort

Good evening,

I would like to voice my opinion on the upcoming ProvPort tax exemption. I do not believe ProvPort is entitled to nor it is in the public interest for them to receive tax exempt status. Furthermore, as the threat of disaster from Climate Change grows, the port needs to clean up. Fossil fuel usage, imports, and exports must begin to be reduced. Polluting industries need to be cleaned up or phased out

Thank you,
~Joseph Tudino
Fox point resident



Washington Park Association

11/24/22

Providence City Council Finance Committee

City of Providence

25 Dorrance St.

Providence, RI 02903

Dear Chairperson Ryan and members of the Finance Committee

Thank you for this opportunity to comment on the proposed Tax Exemption Agreement between the City of Providence and ProvPort.

I am in favor of the TEA financial agreement, WITH SEVERAL CHANGES ONLY.

I have been a resident of the 'front line community' directly abutting the Port of Providence for over 40 years. We, the community of Washington Park and South Providence, have lived with all the 'effects' of the Port, the Good and the Bad.

At this moment in time we have the unique opportunity to make positive economic and environmental additions to the existing footprint of the Port as we adhere to the Master Plan and our long and short term Sustainability goals, with particular efforts focused towards the Providence Climate Justice Plan.

Only then should we move forward with special attention to:

1/

One main concern is the 'transparency' of both the Sustainability and Community Benefit Project Funds, the management of the funds and the communication between the Department of Planning and Development, and ward 10&11 councilpersons.

For many years this 'fund' was a urban myth, never openly discussed.

I feel the frontline communitys will be better served with a neighborhood forum dedicated to the disbursement of the funds, and not the two council persons from ward 10 and 11. These elected council persons will change over time. The relationship between the funding and the community should remain truly 'community based'. Already there is a 'preferred project' list that no one has had an opportunity to contribute to from the 'community'. Why is that?

2/

It is in the best interest of all involved to support new 'green growth' within the Port. However, as we know the residents of the frontline communitys need/ insist, that our voices and health effects are calculated into the best practices going forward. The ENVIOREMENTAL JUSTICE IMPACTS here in our neighborhoods we have experienced must be respected, rooted in factual data, and addressed as we create new businesses here, and phase out some of the worst offenders.

3/

Future direct discussions with Prov Port and the front line communitys be held on a ongoing basis, perhaps within the Sustainability office, and Prov Port.

4/

An additional 'community' seat to be created, on the Prov Port Board, be in the Master Plan going forward.

Linda Perri

Washington Park Association

bettylinda@aol.com



CLEAN WATER ACTION

November 23, 2022

Providence City Council Finance Committee
City of Providence
25 Dorrance St.
Providence, RI 02903

Dear Chairperson Ryan and Members of the Finance Committee,

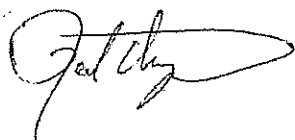
Thank you for the opportunity to comment on the proposed Tax Exemption Agreement between the City of Providence and ProvPort. While this agreement has the *potential* for some benefits for the communities immediately surrounding the Port of Providence and the city as a whole, we urge the Committee to oppose the agreement as currently written for the following reasons:

1. **Any long-term deal regarding the Port of Providence should only be made after a thoughtful and deliberative process that includes robust community engagement and input.** Development and activity within the Port of Providence impacts the surrounding communities and the natural environment in a number of ways and, as such, there is a great deal of public interest in what happens within the Port – both today and in the future. We appreciate that the proposed agreement contains provisions that would direct revenues to a Community Benefit Fund and Sustainability Project Fund, as dictated by an as-yet-to-be-written Master Plan. However, *there are no requirements or guarantees in the agreement that the public will have any say in the development of the Master Plan*, nor in deciding how the Community Benefit funds or Sustainability Project funds will be spent. The Council cannot make an informed decision as to whether the proposed agreement is truly in the public's best interest before knowing what that Master Plan will look like.
2. **Any long-term tax agreement for the Port of Providence should be consistent with and advance the goals and objectives of the Providence Climate Justice Plan.** Operations within the Port have the potential to significantly impact the goals of the Climate Justice Plan. Within ProvPort's area are several fossil fuel related businesses, and other businesses that impact air quality in the immediate area. To not align this proposed agreement and Master Plan with the Climate Justice Plan would be a huge missed opportunity.
3. **There is no need to rush this.** This agreement will impact operations within the Port of Providence and the surrounding community for years to come. While we recognize that potential bonding for future improvements in the Port are aided by having a long-term tax agreement and plan in place, current interest rates make this a less-than-ideal time to seek bonding. We have time to be thoughtful and deliberate, and make sure we craft an agreement that is truly in the long-term best interest of the City and its residents.

134 Thurbers Ave, Providence, RI 02905
Phone 401.331.6972 | jthorp@cleanwater.org
www.CleanWaterAction.org/RI

Thank you again for the opportunity to comment. We look forward to remaining engaged in this process moving forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Jed Thorp". The signature is fluid and cursive, with a large loop at the end.

Jed Thorp
Rhode Island State Director, Clean Water Action