

TAX AGREEMENT

This Tax Agreement ("Agreement") is made as of the ____ day of November, 2012, by and between the CITY OF PROVIDENCE, a Rhode Island municipal corporation ("City") and Gilbane Development Company, a Rhode Island corporation with an address of 7 Jackson Walkway, Providence, Rhode Island ("Developer").

WITNESSETH:

WHEREAS, the Developer has entered into a Statement of Intent with the City with respect to certain matters relating to the Property, as defined below; and

WHEREAS, the Providence City Council has the authority to exempt property in the City used for commercial, manufacturing, or residential purposes from the payment of property tax; and

WHEREAS, Developer is a party to an agreement to purchase real property in Providence identified as Assessor's Plat 13, Lots 42, 48, 104, 234, 235, 236, 237, 238 and 241, also known as 257 Thayer Street ("Property") and the Developer desires to construct the Project, as defined herein; and

WHEREAS, it is in the public interest to provide property tax incentives for owners of properties in order that there may be properties yielding new manufacturing, commercial, and residential uses. It is also in the public interest to offer these incentives for a limited duration; and

WHEREAS, the City and Developer desire to establish the level of taxes to be paid with respect to the Project; and

WHEREAS, the City and Developer have agreed that Developer or any other Project owner will make certain enhanced tax payments to the City with respect to the Project; and

WHEREAS, this Agreement is in the public interest as it requires the Developer, a commercial concern, to construct new structures in the City, significantly increasing the tax base of the City and providing significant tax revenues, creating substantial employment opportunities in the City and enhancing property values in the City, as well as the overall economic climate of the City; and

WHEREAS, the payments made pursuant to this Ordinance are fair and equitable and acceptable to the City and Developer.

NOW THEREFORE, in consideration of the mutual agreements, understandings and obligations set forth herein, upon acceptance hereof by Developer, the City and Developer agree as follows:

1. Confirmation of Findings. The findings set forth in the preceding WHEREAS clauses are hereby confirmed.
2. Definitions. The following terms shall have the meanings set herein:
 - a. "Commencement Date" shall mean the first day of the City's next fiscal year, i.e., July 1, 2013.
 - b. "Project Owner" means Developer or any successor owner of the Property.
 - c. "Project Site" means 257 Thayer (Assessor's Plat 13, Lots 42, 48, 104, 235, 236, 237, 238 and 241).
 - d. "Project Taxable Property" means, collectively, the Project Site and the Real Property Improvements made pursuant to the attached Exhibit A constituting the Project.
 - e. "Real Property Improvements" means all renovations and improvements currently proposed to be located at Project Site and any additional improvements completed within thirty six (36) months of the Commencement Date. Any material additional improvements after the Real Property Improvements, excluding customary repairs and renovations, shall require a modification of this agreement.
 - f. "Project" means the Project Site and the Real Property Improvements in connection with the renovations to the building for a mixed use (commercial and residential) development as proposed as Exhibit A.
 - g. "Tax Payment" means, with respect to the Project Taxable Properties, the amounts listed on the schedule attached as Exhibit B.
 - h. "Termination Date" means June 30, 2019.
3. Term. The term ("Term") of this Agreement shall be for a period beginning on the Commencement Date hereof and terminating on the Termination Date, per the attached Exhibit B.
4. Payment of Taxes.
 - a. Developer or any other Project Owner shall make Tax Payments to the City as prescribed in the attached Exhibit B in lieu of all other real property taxes with respect to the Project Taxable Property during the Term and the City agrees to accept the Tax Payments in lieu of all such other real property taxes on the Project Taxable Property.

- b. Tax Payments due to the City, pursuant to the terms of this Agreement, may be made at the option of Developer in either a lump sum during the first quarter of the applicable tax year or in equal quarterly installments. If quarterly payments are to be made, such payments shall be due on the same dates that quarterly tax payments are due for all other taxpayers in the City.
 - c. It is understood by the parties that Tax Payments made hereunder are deemed by the City to be real property tax payments, and the Project Owner shall be entitled to all the rights and privileges of a real property taxpayer in the City.
 - d. The liability for Tax Payments due and owing under this Agreement shall constitute an obligation of Developer or any other Project Owner, and the City shall be granted by the Project Owner a lien on the Project Taxable Properties, which lien shall be of the same priority and entitle the City to the same foreclosure remedy as the lien and foreclosure remedy provided under applicable laws and ordinances with respect to real property taxes.
5. Satisfaction of Obligations. The City agrees that so long as the Tax Payments are made by the Project Owner in accordance with the terms of this Agreement, the City shall, during the term of this Agreement, accept said payments in full satisfaction of the obligations of the Project Owner as to the payment of any and all property tax assessments to the City, which would otherwise be levied upon or with respect to the Project Taxable Properties during the Term of this Agreement.
6. Employment. (a) During the Term of this Agreement, it shall be the goal and Developer shall utilize its good faith efforts to:
- (i) award to Minority Business Enterprises, as defined in Rhode Island General Laws Sections 37-14.1 as enacted and in effect as of the Effective Date ("MBE Act"), no less than ten percent (10%) of the dollar value of all trade contractor construction costs incurred with respect to construction of the Real Property Improvements, excluding soft costs and consulting fees (collectively, the "Construction Cost") (all as determined in accordance with Ch. 21, Article II, Section 21-52 of the Code of Ordinances of the City of Providence as enacted and in effect as of the Effective Date, a copy of which ordinance is attached hereto as Exhibit C) (the "MBE/WBE Ordinance"); and
 - (ii) award to women business enterprises ("WBE") no less than ten percent (10%) of the dollar value of the Construction Cost of the Real Property Improvements (all as determined in accordance with the MBE/WBE Ordinance; and

- (iii) achieve a minimum level of employment at the Project during construction of the Real Property Improvements of ten percent (10%) minorities and ten percent (10%) females, it being understood and agreed that the requirements in this Section 6(a)(iii) apply only to individuals who are newly hired by their respective employers solely for the purpose of performing work relating to construction of the Real Property Improvements; and
- (iv) following completion of construction of the Real Property Improvements, achieve a minimum level of employment for newly hired employees at the Project of ten percent (10%) minorities and ten percent (10%) females. For the avoidance of doubt, this requirement shall not apply to employees of the Developer who, as of the Effective Date, are employees of the Developer (or employees of tenants of the Project) and who are relocated to the Project Site.
- b. In addition to the requirements of Section 6(a) above, in making employment decisions for new non-supervisory positions to be located at the Project during the Term of this Agreement, Developer shall use good faith efforts to comply with the First Source Program ("First Source") (as determined in accordance with Ch. 21, Article III½, Sections 21-91 through 21-96 of the Code of Ordinances of the City of Providence as enacted and in effect as of the Effective Date, a copy of which ordinance is attached hereto as Exhibit D) for so long as such program exists. For purposes of this Section 6(b), a "non-supervisory position" shall mean a non-exempt employee under the Fair Labor Standards Act.
- c. During the Term of this Agreement, Developer shall submit a quarterly report to the Department of Planning and Development of the City (or such other department as the City may specify from time to time) evidencing such party's good faith efforts to comply with the requirements of Section 6(a) and (b) above, each such report to contain the information set forth on Exhibit E attached hereto. The City shall notify Developer if and in what respect any such report is deficient, and Developer shall thereafter provide the information not previously provided or an explanation therefor as soon as practicable.
- d. Failure to demonstrate good faith compliance with First Source within one year of commencement of rehabilitation or renovation for the Project and the continuance of such failure for sixty (60) days after written notice to Developer shall render this Agreement null and void, unless such failure is waived by the Providence City Council. If this Agreement is rendered null and void under this paragraph, Developer must pay or cause to be paid all taxes and fees that would otherwise have been assessed and due and owing with respect to the Project if this Agreement had not been made.

e. The parties hereby acknowledge and agree that the requirements set forth in this Section 6 shall be subject to the applicable laws and ordinances in effect as of the Effective Date and attached hereto as Exhibits C and D, and only for so long as such applicable laws and ordinances remain in effect. If, after the Effective Date and during the Term, any such law or ordinance is modified, altered or amended, neither Developer, nor any future Project Owner shall be subject to any such modifications, alterations or amendments without agreeing to such an amendment to this Agreement in writing, which agreement may be withheld in their sole discretion. Absent agreement to such an amendment in writing, Developer will continue to obtain all of the benefits of this Agreement as long as Developer complies with the provisions of Section 6 as such provisions are in effect on the Effective Date. The parties further acknowledge and agree that the requirements set forth in this Section 6 do not require the Developer to require any third-party vendor providing services to the Project (e.g., security services) to comply with the requirements of this Section 6.

f. The Project Site Owner shall ensure that all trade construction subcontractors for the construction of the Project shall have or be affiliated with an apprenticeship program as defined in 29 C.F.R. § 29 et seq. for any and all crafts or trades that will or may be working on the Project. This shall not apply to any trade or profession which does not have an apprenticeship program for such trade or profession in the State of Rhode Island.

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

(B) The Project Site Owner shall as part of its contracts between its Construction Manager and General Contractor and their subcontractors require that the subcontractors submit to the City of Providence Department of Planning and Development quarterly verification reports to ensure compliance with this section.

(C) The Project Site Owner, its Construction Manager or General Contractor or other authorized person/entity may petition the City of Providence Department of Planning and Development to adjust the apprenticeship work hour requirements to a lower percentage upon a showing that: (i) compliance is not feasible because a trade or field does not have an apprenticeship program

or cannot produce members from its program capable of performing the scope of work within the contract; or (ii) compliance is not feasible because it would involve a risk or danger to human health and safety or the public at large; or (iii) compliance is not feasible because it would create a significant economic hardship; or (iv) compliance is not feasible for any other reason which is justifiable and demonstrates good cause.

67. Entire Agreement. This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof. This agreement may only be modified or amended in writing and with the consent of the parties hereto. No oral modification shall be enforceable or effective.

87. Notices. All notices, certificates, requests, demands, consents, approvals, and other communications which may or are required to be served or given hereunder (for the purposes of this section, collectively called "Notices") shall be in writing and shall be sent by registered or certified mail, postage prepaid, return receipt requested and received or overnight delivery by a recognized public or private carrier, or by facsimile, in either case as evidenced by a receipt or other evidence of delivery showing the date, time, and, for a facsimile, telephone number or receipt and addressed to the party to receive such Notice as set forth below:

If to the City of Providence:

City of Providence
City Hall
25 Dorrance Street
Providence, Rhode Island 02903
Attn: Mayor, City of Providence

Copies to:

President, City Council
25 Dorrance Street
Providence, Rhode Island 02903

City Solicitor
444 Westminister Street
Providence, Rhode Island 02903

If to Developer or Project Owner:

Gilbane Development Company
7 Jackson Walkway
Providence, Rhode Island 02903

Copies to:

Thomas V. Moses, Esquire
Moses Afonso Ryan Ltd.
160 Westminister Street, Ste. 400
Providence, Rhode Island 02903

89. Assignment. Notwithstanding anything in this Agreement to the contrary, the parties agree that at any time and without the consent of the City either the

Developer or Project Owner may assign this Agreement to any institutional lender to the Project.

| 910. Schedule. The schedules attached are based upon information provided to the Tax Assessor by Developer including, but not limited to, estimated construction costs. In the event any of this information is inaccurate or proves to be erroneous, this treaty shall be modified to reflect the accurate information.

| 101. Applicable Law. This Agreement shall be construed under the laws of the State of Rhode Island.

| 142. When Effective. This Agreement shall only be effective upon the Developer and the City if the Developer obtains a building permit for the Project.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first set forth above.

CITY OF PROVIDENCE

By: _____
David Quinn II
Tax Assessor

Approved as to form and correctness:

By: _____
Jeffrey M. Padwa
City Solicitor

Gilbane Development Company

By: _____
Robert V. Gilbane
Chairman and CEO

EXHIBIT A

PROJECT

Four-story, 102 unit residential development with small-scale supporting retail use, as shown on Exhibit A-1.

EXHIBIT A-1

Notice of Master Plan Approval and Notice of Appeal for Major Land Development

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City Plan Commission
Angel Taveras, Mayor

April 27, 2012

Anna M. Stetson, City Clerk
Office of the City Clerk
Providence City Hall
25 Dorrance Street
Providence, RI 02903

**Re: Notice of Master Plan Approval and Notice of Appeal for Major Land Development Project
12-011 MA at 257 Thayer Street (AP 13 Lot 42, 48, 104, 234, 235, 236, 237, 238, 241)
Applicant: Gilbane Development Company**

Dear Ms. Stetson:

In accordance with Rhode Island General Laws Section 45-23-67, the City Plan Commission (CPC) is required to post its decision on major and minor subdivisions and land development projects in the Office of the City Clerk to begin the 20-day appeal period. Therefore, this letter serves as notice that a decision has been rendered on the subject matter. **This letter must be posted in your office for a period of 20 days, beginning with the day you receive this letter.** Any appeals to this decision must be immediately transmitted to this Department. If no appeals are filed, this letter may be removed from your bulletin board 20 days after it has been posted.

Project Overview

The applicant proposes to demolish all buildings on site and construct an apartment building with 102 units. The building will primarily be oriented toward Thayer Street with frontage on Euclid Ave., Brook St. and Meeting St. The building will contain a small amount of retail on the ground floor, a landscaped courtyard, and underground parking. The subject property is located on lots 42, 48, 104, 234, 235, 236, 237, 238, 241 on AP 13. Lots 104, 48, 235 are zoned C-2 and lots 234, 241, 42, 236, 237, 238 are zoned R-3. Altogether, the lots measure approximately 33,592 SF.

Findings of Fact

The CPC approved the Master Plan for the development on April 24, 2012. The CPC made the following findings of fact:

1. *Consistency with Providence Tomorrow: The Interim Comprehensive Plan* - The future land use map of the comprehensive plan indicates two land use designations for this property: Neighborhood Commercial/Mixed Use to the west, and Medium-Density Residential to the east. Per the plan, the Neighborhood Commercial/Mixed Use designation is intended for traditional pedestrian oriented development that serves local neighborhood needs for convenience retail, services, professional offices and housing. Residential uses are encouraged. Development in the Medium-Density Residential areas are characterized by one- to three-family dwellings on separate lots that vary from 3,200 to 5,000 sq. ft. Some small-scale neighborhood uses like neighborhood corner stores may be considered appropriate.

While the proposed development is consistent with the Neighborhood Commercial/Mixed Use designation, it is inconsistent with the Medium-Density Residential designation. The applicant has petitioned the City Council to change the designation for the area bounded by Cushing, Hope, Angell, and Thayer Streets to Neighborhood Commercial/Mixed Use. Were the Council to make this change, the project would be consistent with the Plan.

The CPC found that the project conformed to a number of objectives expressed in the Comprehensive Plan. These include:

- Locating high-density housing in areas proximate to public transportation
- Providing lower parking ratios and bike storage to promote walking and biking
- Providing below-grade parking
- Locating student housing proximate to campuses to discourage driving and conflicts with neighbors
- Eliminating curb cuts to prevent vehicle-pedestrian conflicts and open up more on-street parking
- Installing new landscaping
- Reconstructing sidewalks
- Providing mixed use
- Reducing stormwater runoff over current conditions
- Promoting energy efficiency through LEED certification
- Increasing property tax revenue

The Commission also noted potential negative impacts from the development such as:

- More vehicular traffic than currently exists
 - Demolition of nine existing buildings
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- The large massing of the building that could set a precedent for other development in the area

Although the proposal is consistent with many aspects of the comprehensive plan, it is inconsistent with the land use designation for a part of the block. The proposed comprehensive plan change would accommodate the project.

2. Compliance with Zoning Ordinance

The Commission made the following findings:

Use

The subject property is zoned C-2 to the west and R-3 to the east. The proposed multifamily dwelling is permitted in the C-2 zone. However, the R-3 zone permits only one, two and three family homes. There is at least one commercial establishment in the R-3 zone on Meeting St., granted by variance.

Dimension

Density: The C-2 and R-3 zones requires 1,200 sq. ft. and 2,000 sq. ft. of land area per dwelling unit, respectively. Under the current zoning scheme, no more than 20 dwelling units could be built on site. The proposal is for 102 units, a density of 329 sq. ft. per dwelling unit.

Height: The C-3 and R-3 zone permit three stories of height, not to exceed 45 feet in C-2, and 40 feet in R-3. The building is proposed to be four stories and will not exceed 45 feet in height.

Parking: In the C-2 and R-3 zones, residences require 1.5 parking spaces per dwelling unit; approximately 154 spaces are required for 102 units. The applicant proposes 80 underground parking spaces for 102 units. The parking would be insufficient under current zoning.

Landscaping: Landscaping will primarily be provided within the interior courtyard and on sidewalks surrounding the development, with a focus on canopy coverage provided along Brook and Thayer Street. It would exceed what currently exists on site.

Proposed New Zone

The applicant has proposed an amendment to the Zoning Ordinance to create a new C-3 zone and apply it to all of the subject lots. This zone would permit the proposed use, density, building dimensions, and reduced parking ratio as of right. The CPC is required to make a recommendation to the City Council for zoning changes. The CPC will take public comment on the proposed zoning change during the public hearing on May 15.

Building and Site Design

Section 609 of the Development Review Regulations details physical design requirements for land development projects. The CPC analyzed the project for conformance to these regulations.

- The building façade occupies the street frontages on Thayer, Euclid, Meeting and Brook Streets. The main entrance orients itself to and is accessible from the corner of Thayer Street.
- Two curb cuts, on Euclid Ave. and Brook St. provide access to the property.
- The ground floor façade incorporates significant amounts of transparency and is composed of brick, glass, steel and other materials that are characteristic of development in the surrounding neighborhood.
- It is unclear where proposed retail will be located. It should be located fronting on Thayer St.
- The building presents areas of visible blank walls adjacent to neighboring buildings. This is a concern that should be addressed through building design.
- The proposed development is considerably larger, but not necessarily taller than other developments east of Thayer St. The massing of the building is more characteristic of institutional buildings to the west of Thayer St. and to the east of Brook St., within the Brown and Wheeler School campuses. The building's design should minimize the impact of this massing. The building should also be an example of outstanding architecture, and in no way seem generic.

3. Environmental Impact

- To mitigate stormwater runoff, the CPC required the applicant to provide a detailed stormwater plan at the preliminary plan stage.
- As the development will be a dense housing development, the CPC required that a traffic study should be prepared to determine its impact.
- The CPC required the applicant to conduct a survey of the existing structures on site to assess the impact to the built environment.

4. Buildable Lot

The CPC found no physical constraints that impact development of this property.

5. Street Access

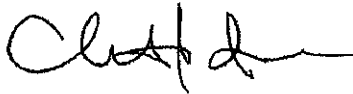
The CPC found that adequate vehicular and pedestrian access is provided from Thayer Street, Euclid Avenue and Meeting Street.

RECOMMENDATION

Based on their analysis and findings contained in this report, the CPC approved the Master Plan, subject to the following conditions:

1. The applicant shall present a utility and stormwater management plan at the preliminary plan stage.
2. The applicant shall conduct a study detailing the impacts of traffic generated by the project.
3. The applicant shall prepare an assessment of the impact to the built environment through a survey of the existing structures on site.
4. The design of the building shall be refined to respond architecturally to its surroundings and to address concerns of the impact of its large massing on the area.
5. The CPC will conduct a public hearing on the comprehensive plan change and make recommendations to the City Council on the proposed comprehensive plan and zoning changes. Should the plan and zoning changes fail to be approved as proposed, the plan shall be modified accordingly.

Sincerely,



Christopher J. Ise
Administrative Officer

Cc: Kelly Morris, Moses and Afonso
Russell Broderick, Gilbane Development Company
Councilman Samuel Zurier
William Bombard, Department of Public Works
Jeffrey Lykins, Department of Inspection and Standards
Douglas Still, Department of Public Parks

EXHIBIT B

<u>Tax Year</u>	<u>Amount of Tax</u>
1. December 31, 2013 (2014 calendar year)	Taxes as assessed December 31, 2011 Or \$190,000, whichever is more
2. December 31, 2014 (2015 calendar year)	Taxes as assessed December 31, 2011 Or \$190,000, whichever is more
3. December 31, 2015 (2016 calendar year)	\$300,000.00
4. December 31, 2016 (2017 calendar year)	\$350,000.00
5. December 31, 2017 (2018 calendar year)	\$350,000.00 + 5%
6. December 31, 2018 (2019 calendar year)	\$350,000.00 + 5% + 5%
7. December 31, 2019 (2020 calendar year)	\$350,000.00 + 5% + 5% + 5%