

Exhibit A

Timeline of Events

(A 2015 document from the Planning Department to the Plan Commission which outlined the major steps in the adoption of Ordinances 7-15-04 & 7-15-15)

January, 2015: the Department presented a work program to the City Plan Commission. As part of that work program, the staff identified as one of the work items for zoning the need to update the Schedule of Uses and the definitions associated with the uses.

June-July, 2015: Staff from the Department of Planning and Building Inspections drafted two ordinances one to amend the Schedule of Uses and one to amend the definition section of the Zoning Ordinance.

July, 2015: The two draft ordinances were submitted to the City Council to be accepted as new business at the July 27, 2015 Council meeting. Full text of both ordinances was published as part of the Council's docket.

August 4, 2015: The City Plan Commission discussed and voted a recommendation on the two ordinances. The matter was listed as an item on the Commission's posted August 4, 2015 Agenda. Prior to the August 4th meeting, the Plan Commission was forwarded a copy of the full text for ordinances, a Schedule of Uses with the proposed changes in uses highlighted in red and a staff report.

September 17, 2015: The ordinance committee of the City Council opened its public hearing on the two draft ordinances. Prior to hearing, notice of the hearing was given once per week for three successive weeks in a newspaper of general circulation as required by law. The public hearing was listed as an item on the Committee's posted September 17, 2015 Agenda. Prior to the hearing, the ordinance committee was given a copy of the Plan Commission's recommendation and a Schedule of Uses with the proposed changes in uses highlighted in red. The committee's hearing was continued to October 15, 2015 in order to give time for the committee to receive additional information that it had requested. The date, time and place of the continued hearing was announced at the meeting.

At the September 17, 2015 ordinance committee hearing, staff from the Department of Planning informed the committee that RES America had approached the Department about establishing a solar power facility the

Hope Farms site. The committee was informed that RES America had indicated that it would file an application for Development Plan Review and Major Land Development should the zoning be changed. [The announcement was made over a month and half before they applied.]

October 15, 2015: The ordinance committee took up the continued public hearing on the proposed changes to the zoning ordinances. The public hearing was listed as an item on the Committee's posted October 15, 2015 Agenda. The hearing was continued to November 12, 2015 in order to allow time for the ordinance committee time to ask the Plan Commission questions on the proposed ordinances and to allow time for the Plan Commission to respond to those questions. The date, time and place of the continued hearing was announced at the meeting.

November 3, 2015: The City Plan Commission discussed and voted its response to questions on the proposed zone changes as posed by Councilman Stycos. The matter was listed as an item on the Commission's posted November 3, 2015 Agenda. Prior to the November 3rd meeting, the Plan Commission was forwarded a copy of Councilman Stycos' questions and a copy of draft response prepared by staff for the Commission to consider. The Commission's response was forwarded to the ordinance committee.

November 9, 2015: Application was received for Development Plan Review to construct a solar power facility at the Hope Farms site. On November 10, 2015 notice was given via e-mail to the DPR Committee [including the Conservation Commission], the City Council and the Mayor's office. Notice was also given by mail to all property owners within 200' of the site's property line. Notice briefly described the project and give the date, time and place which the DPR would review the Application. On November 13, 2015 a link to a digital copy of the DPR application was posted on the Planning Department web page.

November 12, 2014: The ordinance committee took up the continued public hearing on the proposed changes to the zoning ordinances. The

public hearing was listed as an item on the Committee's posted November 12, 2015 Agenda. The hearing concluded with the ordinance committee voting not to recommend approval of the two ordinances. The ordinance committee also voted to schedule a special workshop for November 18, 2015. The purpose of the workshop was to meet with staff of the Department Planning to discuss the two zoning ordinances which they had voted on. The date, time and place of the workshop hearing was announced at the meeting.

November 16, 2015: Application was received for Major Land Development to construct a solar power facility at the Hope Farms site. On November 18, 2015 notice of a hearing on the application was published in a paper of general circulation. On November 20, 2015, notice was given by certified mail to all property owners within 100' of the site's property line. On November 19, 2015, the Conservation Commission was given notice of the application via mail and was informed of the availability of application materials. The notices included a brief description of the project and stated that a public hearing for the application would be held on December 1, 2015.

November 18, 2015: The DPR committee held a meeting to review RES America's application to construct a solar farm. The public meeting was listed as an item on the DPR Committee's posted November 18, 2015 Agenda. At the applicant's request the DPR meeting was continued to December 3, 2015 without taking testimony. The date, time and place of the continued meeting hearing was announced at the meeting.

November 18, 2015: The ordinance committee held a workshop with staff from the Department. The sole purpose of the workshop was to review the two zoning ordinances that had been proposed and to answer any question, in more detail, that the committee may have. The workshop hearing was listed as an item on the Committee's posted November 18, 2015 Agenda.

November 23, 2015: The City Council took up, as an agenda item at its November 23, 2015 meeting, the two proposed zoning ordinances. After due discussion, the City Council voted to pass the two ordinances as amended.

December 1, 2015: The City Plan Commission will open a public hearing on RES America's application for Major Land Development to construct a solar power facility. This hearing is listed as item on the Commission posted agenda.

In addition to all of the above, there has been numerous newspaper articles on either the zoning ordinance or the proposed project at the Hope Farms site.

The Providence Journal published articles on:

- October 12, 2015
- October 15, 2015
- October 29, 2015
- October 29, 2015 [editorial]
- November 4, 2015
- November 18, 2015
- November 24, 2015

The Cranston Herald published articles on:

- October 16, 2015
- November 25, 2015

The Rhode Island Eco News published an article on November 8, 2015

Exhibit B

City of Cranston Plan Commission Responses to Councilman Stycos

(Councilman Stycos posed a series of questions on proposed changes to the Use Table in Ordinances 7-15-04 & 7-15-15. This letter is the response)

Allan W. Fung
Mayor

Peter S. Lapolla
Director Planning



Michael Smith
President

James Moran
Vice Chairman

CITY PLAN COMMISSION
Cranston City Hall

Steven A Stycos,
Councilman Ward 1
Cranston, RI

RE: Plan Commission Response to October 27, 2015 Questions on Proposed Zoning Ordinance

Dear Councilman Stycos:

The City Plan Commission, at its November 3, 2015 meeting, discussed as an agenda item the your October 27, 2015 question regarding the proposed zoning ordinance currently before the Ordinance Committee. After due discussion, on a motion made by Commissioner Motte and seconded by Commissioner Nadeau, the City Plan Commission voted [8/1 Commissioner Harrington voting nay] to submit the following response to the questions,

1. *Why does the proposal endorse placing animal day care facilities in A-80 residential zone with a special permit when other businesses are prohibited? Did the commission consider the barking noise these facilities may generate? What types of signs will be allowed in residential areas if this proposal passes?*

The 2102 amendment to the Schedule of Uses authorized by special permit the following business uses in an A-80 zone:

- Animal Grooming Services
- Kennel
- Landscape Tree Service
- Nursery
- Veterinarian Hospital and Clinic.

The logic for authorizing these uses as a special permit is[was] that that A-80 zoning is largely restricted to western Cranston, has minimum lot size for A-80 is 80,000 SF and the uses could help support some of the farm activities provided they are properly sited. In that Animal Day Care Facility is a similar use to those above, it was treated in a similar fashion and also allowed by special permit. As for other business uses, given their more commercial nature, they would not be appropriate for a residential zone.

In zoning, use is universal and impacts from the use are site specific. Barking may or may not be a problem for a given site or a given building configuration. The ordinance proposes to make Animal Day Car a use by special permit in A-80 zone so that the Zoning Board of Review can consider the impacts generate by a specific project and on a specific site and approve oy deny as appropriate.

There is no change in signage under proposed zoning amendment. In an A-80 zone, a total of 8 SF of signage is authorized as governed by Table 17.72.010(1).

2. *Why does this proposal allow animal day care facilities and solar power facilities in S-1 open space zones? Would this allow the city to rent parks for animal day care and power plants?*

Not all S-1 zoned land is owned by the City. The zoning amendment would authorize Animal Day Care and Solar Power on this land.

As for City owned land, the zoning amendment would authorize Animal Day Care and in particular Solar Power as uses on said lands. Authorization does not mean that the City is required to use the land for said uses. Control of city land rests with the City Council. If in its wisdom, the City Council feels that the use of a City owned site for solar power or for animal day care was not appropriate, it does not have to allow it.

3. *Why require a special permit for animal day care facilities in a C-5 zone, the heaviest of commercial zone, but not require it for less intense commercial zones?*

One of the underlying principals in authorizing uses through the Schedule of Uses is to reserve the City's limited industrially zoned land to industrial uses. In that C-5 is a transition zone, "Heavy Business/Industrial" and in that Animal Day Care is a business/service activity, the use is authorized by special permit.

4. *The proposal would allow alternative energy facilities in A-80 zones with a special permit. Would this include a wood burning plant? A tire burning plant? A trash incinerator? A wind farm? What types of facilities would be allowed?*

What is allowed as an alternative energy facility is control by its definition? The zoning ordinance defines Alternative Energy Facility as "Any facility or installation such as a windmill, hydroelectric unit or solar collecting or concentrating array, which is designed and intended to produce energy from natural forces such as wind, water, sunlight, or geothermal heat, or from biomass, for offsite use." Based on the definition, a wind farm and wood burning plant could be allowed by special permit. A trash incinerator and tire burning plant would not be allowed. In addition, please note that for a wood burning plant, said plant would have to meet DEM and EPA emission standard independent of any city actions.

5. *Where are solid waste transfer stations currently allowed in Cranston? Would this blanket ban prevent the city from opening its own composting station?*

A Solid Waste Transfer Facility is currently not allowed within Cranston by omission. Any use not listed within the Schedule of Uses is deemed not allowed. That being said, there are a number of uses within the Schedule of Uses that the City has singled out to prohibit outright. It was decided include solid was transfer stations as one of these use. [Please note that Waste Management on Pontiac Avenue has license to operate a solid waste Transfer Facility but that use is currently inactive.] The zoning amendment proposes to define Solid Waste Transfer Facility as "a place or facility where nonhazardous solid waste materials are taken from a collection vehicle or dumpster, temporarily stored or stockpiled and placed in a transportation unit for movement to another facility." To the extent that composting is not a solid waste transfer station [and it is not], it would not be prohibited.

6. *Why is there no special permit required for metal plating facilities in M-1 and M-2 zones? Was this proposal introduced because the zoning board recently rejected a special permit request for a metal plating facility at the Cranston Print Works?*

As has been stated a number of times, metal plating facility was allowed by special permit simply because that was the way they have historically been treated in zoning ordinances. In 2012, the use was designated a special permit without considering changes to the regulatory regime and changes in technology with regards to metal plating. When the use table was amended in 2012, metal plating facility should have been designated as a use by right. The recent zoning action on the Cranston Print Works only helped highlight the error in the use table.

7. *Why are upholstering facilities only allowed in C-5 zones by right? Why not C-4? Why only by special permit in C-3? Why not in C-1 and C-2?*

The proposed changes to zoning envisioned two types of upholstering facilities: a small neighborhood type repair and resale shop that would be allowed in the City's C-3 zones and a larger more industrial upholstering use which would be more appropriate in an industrial zone. The use designations for C-2, C-5, M-1 and M-2 for were based on these assumptions.

8. *Does the Plan Commission think it is wise to allow solar power facilities in residential A-80 zones when there are no city regulations of such facilities, including decommissioning requirements?*

As has been noted at all the public meetings/ hearings on this matter, the decision to allow solar power as a use by right in A-80 zones was informed by the range of impacts that could be generated by such a project [virtually none]. A project proposing solar power use would be subject to a Development Plan Review where it would be reviewed at a public meeting and probably a Major Land Development where it would be reviewed at a public hearing. During their reviews, the Development Plan Review Committee and the City Plan Commission would identify impacts that may be created by a specific project on a specific site and would require mitigative measures to address those impacts. As part of the review process for a major land development, the Plan Commission informs all appropriate state agencies, such as the Department of Environmental Management, and seeks their comments/input. Please note that independent any City action, a project would be required to obtain all necessary state and federal permits which would add an additional layer of review. Given all of the above, it was felt that the creation of a separate set of performance standards within the zoning ordinance would not be required. Decommissioning can be treated as any other potential impact as a condition set for approval tailored to the site and project.

9. *What are the Plan Commission's thoughts about locating a solar power facility on agricultural land when industrial zone sites are available? Has the Plan Commission considered the implications of the loss of agricultural land to Cranston's economy, Cranston's agricultural heritage and Cranston's long term food supply?*

The proposed zone change authorizes solar power in A-80, S-1, GI, M-1 and M-2 zoning districts. This use designation is not mutually exclusive. If the City is going to help meet the future need/demand for renewable energy, it will require the use of land in all of these districts. It is in these zoning districts that there are parcels of land that can accommodate sizable solar farms.

For example, there is a current proposal to construct on 78 acres of land with 50 acres usable and that has proximity to the electric grid. The land is zone A-80 and is located in western Cranston. An alternative analyzing using the City's GIS indicates that there is no comparable vacant industrially zone land both in terms of size and location.

It is important to note that no protection is currently provided for Cranston's agricultural land. Except of S-1 land, other zoning districts allow more intense development than solar power. Unless the City is willing to buy agricultural land in western Cranston either outright or through easement or create protections through zoning, the question is not if agricultural land will be lost but under what circumstances.

10. *Did the Plan Commission consider adopting a solar energy facility siting policy, such as prohibiting their location on prime agricultural land, when approving changes that will allow solar power facilities by right in A-80 and S-1 zones?*

It is important to note that the zoning amendment proposes a use change to A-80 and S-1 zoning districts. While within these districts there may be agricultural uses, agricultural uses are not protected by zoning. In an A-80 zone, the principal use authorized is single family residence with a minimum lot size of 80,000 SF. To the extent that zoning is a predictor of future land use, the A-80 land in western Cranston will eventually be developed as house lots. Again it is not a question of protecting said land for solar power but a question as to how the land will be developed. The Plan Commission would suggest that the conversion of A-80 land to residential development will be more intensive, have a greater impact and be permanent.

11. *In allowing distribution facilities by right in industrial zones, did the commission consider the potential impact of increased truck traffic to nearby residential zones? Where are distribution facilities currently allowed?*

In assigning uses through the Table of Uses, use is universal. A use is either appropriate for a particular zone or it is not. The question of specific impacts that may be created by a use is parcel and project specific. With regards to truck traffic, for any given project, there may or may not be impacted residential street and there may or may not be a significant increase in truck traffic. Specific impacts on a specific site and for a specific project are addressed through the land use review process [Development Plan Review and Major Land Development] and the City has in place a policy to review and mitigate traffic through those review processes.

Distribution Facilities are currently not authorized through the Schedule of Uses.

12. *What is the reasoning behind the proposed changes in zoning for motor vehicle repair shops?*

Two changes have been proposed with regards to motor vehicle repair shops:

- The first change involves a change in name for a use that is already in the use table from "Motor Vehicle Repair and Service Establishment, Minor" to "Motor Vehicle Repair and Service Establishment, Light," and to allow it as a use by right in a C-4 zoning district [it is currently a special permit in C-4].
- The second change involves the creation of a new use "Motor Vehicle Repair and Service Establishment, Heavy." This use is currently authorized by reference in the Industrial Equipment Rental use. The proposed amendment would clearly authorize the use instead of by reference in that this use already exists in the industrial zones.

Exhibit C

*United States Investment & Development
Corporation v. Robert Strom, et al*

(Appeal of Council's adopted changes to the Use Table)

**STATE OF RHODE ISLAND
PROVIDENCE, SC.**

SUPERIOR COURT

**UNITED STATES INVESTMENT &
DEVELOPMENT CORPORATION,**
Plaintiff,

vs.

**ROBERT STROM, in his capacity as the
Finance Director for the City of Cranston,**

and

**MARIO ACETO, PAUL ARCHETTO,
DONALD BOTTS, JR., MICHAEL J.
FARINA, MICHAEL FAVICCHIO,
JOHN E. LANNI, JR., CHRISTOPHER
PAPLAUSKAS, RICHARD D.
SANTAMARIA, JR., and STEVEN
STYCOS, in their capacities as members of
the Cranston City Council,**
Defendants.

C.A. NO:

COMPLAINT

Introduction

Plaintiff files this instant action as an appeal, pursuant to R.I. Gen. Laws § 45-24-71, of the decision of the City of Cranston City Council (the "City Council") to enact certain amendments to the City of Cranston Zoning Ordinance (the "Zoning Ordinance"), passed November 23, 2015. Plaintiff maintains that the referenced amendments have been unlawfully enacted by the City Council because of their inconsistency with the City of Cranston's Comprehensive Plan (the "Comprehensive Plan"); therefore, they must be invalidated.

Parties

1. Plaintiff, United States Investment & Development Corporation ("Plaintiff"), is a Rhode Island domestic profit corporation with a mailing address of 33 Glen Hills Drive,

Cranston, Rhode Island 02920, and is the owner of Assessor's Plat 23, Lot 11, located off of Burlingame Road, Cranston, Rhode Island (the "Property").

2. Defendant, Robert Strom ("Strom") is the Finance Director for the City of Cranston and is being sued in that capacity.

3. Defendant, Mario Aceto ("Aceto") is a member of the Cranston City Council and is being sued in that capacity.

4. Defendant, Paul Archetto ("Archetto") is a member of the Cranston City Council and is being sued in that capacity.

5. Defendant, Donald Botts, Jr. ("Botts") is a member of the Cranston City Council and is being sued in that capacity.

6. Defendant, Michael J. Farina ("Farina") is a member of the Cranston City Council and is being sued in that capacity.

7. Defendant, Michael Favicchio ("Favicchio") is a member of the Cranston City Council and is being sued in that capacity.

8. Defendant, John E. Lanni, Jr. ("Lanni") is a member and President of the Cranston City Council and is being sued in that capacity.

9. Defendant, Christopher Paplauskas ("Paplauskas") is a member of the Cranston City Council and is being sued in that capacity.

10. Defendant, Richard D. Santamaria, Jr. ("Santamaria") is a member of the Cranston City Council and is being sued in that capacity.

11. Defendants Aceto, Archetto, Botts, Farina, Faviccio, Lanni, Paplauskas, Santamaria, and Stycos will hereinafter be referred to in their individual capacities or collectively referred to as the "City Council", where appropriate.

Jurisdiction

12. This Court has jurisdiction of this matter pursuant to the Uniform Declaratory Judgment Act located at R.I. Gen. Laws § 9-30-1 *et seq.*, and the Zoning Enabling Act located at R.I. Gen. Laws § 45-24-1 *et seq.*

General Allegations

13. Plaintiff is the record owner of the Property, which is an approximately sixty (60) acre parcel of real estate located in western Cranston, Rhode Island.

14. The Property's zoning designation, pursuant to the Zoning Ordinance, is "A-80", as is the case for several adjacent properties.

15. The Zoning Ordinance defines the A-80 zoning district as intended for the use of single-family dwellings on lots of minimum areas of eighty thousand (80,000) square feet.

16. The Future Land Use Map, incorporated in the Comprehensive Plan, designates the Property, along with several adjacent properties, as intended for "Single Family Residential Less Than 1 Unit Per Acre" in the future.

17. On November 23, 2015, the City Council passed an amendment to the Zoning Ordinance, which negatively impacted the Property (the "Amendment").

18. Prior to the Amendment, the Zoning Ordinance was in conformance with the Comprehensive Plan, as required by R.I. Gen. Laws § 45-24-50.

19. With the passage of the Amendment by the City Council, the City's Zoning Ordinance is no longer in conformance with the Comprehensive Plan.

20. A provision of the Amendment added "Solar Power", which is an industrial use, as a new land use item permissible by-right in the A-80 zoning district.

21. The Amendment permits the ability to use property with the A-80 zoning designation industrially, which is in contravention to provisions of the Zoning Ordinance and the Comprehensive Plan.

22. Prior to the Amendment's enactment, industrial uses were not permitted on properties with the A-80 zoning designation.

23. By permitting the ability to use adjacent parcels that share the A-80 zoning designation for an industrial use by-right, the Amendment negatively impacts the Property by rendering it valueless.

24. The City Council's decision to approve the Amendment is not in conformance with the Zoning Ordinance, Comprehensive Plan, the Rhode Island General Laws or the Rhode Island State Constitution.

25. R.I. Gen. Laws § 45-24-50 empowers the City Council to adopt zoning ordinance amendments that promote the health, safety, morals and general welfare of the public within the City of Cranston (the "City"), and are consistent with the Comprehensive Plan.

26. The City Council's decision to approve the Amendment does not protect the health, safety, morals and welfare of the general public of Cranston, and, in fact, harms the general public in a variety of ways.

27. The City Council's decision to approve the Amendment so devalues the Property that it constitutes a taking pursuant to the Rhode Island law.

28. The City Council's decision to approve the Amendment is not rationally related to any legitimate governmental purpose.

COUNT I

(Appeal of Amendment pursuant to R.I. Gen. Laws § 45-24-71)

29. Plaintiff re-alleges and incorporates by reference paragraphs 1-28 of this Complaint, as if fully set forth herein.

30. R.I. Gen. Laws § 45-24-50 empowers the City Council to adopt zoning ordinance amendments that promote the health, safety, morals and general welfare of the public within the City, and are consistent with the Comprehensive Plan.

31. On November 23, 2015, the City Council adopted the Amendment, which added “Solar Power”, an industrial use, as a land use item permissible by-right in the A-80 zoning district.

32. The Amendment permits the ability to use property with the A-80 zoning designation industrially, which is in contravention to provisions of the Zoning Ordinance and the Comprehensive Plan.

33. By permitting the ability to use adjacent parcels that share the A-80 zoning designation for an industrial use by-right, the Amendment negatively impacts the Property by rendering it valueless, thereby amounting to an inverse condemnation.

34. The City Council’s decision to approve the Amendment is not in conformance with the Zoning Ordinance, Comprehensive Plan, the Rhode Island General Laws or the Rhode Island State Constitution, and so devalues the Property that it constitutes a taking pursuant to the Rhode Island law.

WHEREFORE, Plaintiff respectfully requests that this Court:

- (1) Sustain this appeal and remand the matter to the City Council with an order directing the City to rescind the Amendment;

- (2) In the alternative, sustain this appeal and remand the matter to the City Council with an order finding that a taking has occurred and directing the City to provide Plaintiff just compensation;
- (3) Order a stay of the enforcement and application of the Amendment pending a result on the merits of this action; and,
- (4) Award Plaintiff reasonable attorneys' fees, interest and costs, as well as any other relief that this Court deems equitable and necessary.

COUNT II

(Declaratory Judgment that the Amendment violates the Zoning Enabling Act)

35. Plaintiff re-alleges and incorporates by reference paragraphs 1-34 of this Complaint, as if fully set forth herein.

36. R.I. Gen. Laws § 45-24-50 empowers the City Council to adopt zoning ordinance amendments that promote the health, safety, morals and general welfare of the public within the City, and are consistent with the Comprehensive Plan.

37. R.I. Gen. Laws § 45-24-29 provides the legislative findings and intent of the Zoning Enabling Act.

38. R.I. Gen. Laws § 45-24-30 provides for the general purposes of municipal zoning ordinances.

39. The Amendment is inconsistent with provisions of the Zoning Ordinance and the Comprehensive Plan.

40. The Amendment is contrary to the legislative findings and intent of the Zoning Enabling Act.

41. The Amendment is contrary to the general purposes of zoning ordinances as set forth by R.I. Gen. Laws § 45-24-30.

WHEREFORE, Plaintiff respectfully requests that:

- (1) This Court issue an order declaring that the Amendment is illegal, null and void because the Amendment violates R.I. Gen. Laws §§ 45-24-29, 45-24-30 and 45-24-50; and,
- (2) Award Plaintiff reasonable attorneys' fees, interest and costs, as well as any other relief that this Court deems equitable and necessary.

COUNT III

***(Declaratory Judgment that the Amendment
violates the Rhode Island State Constitution)***

42. Plaintiff re-alleges and incorporates by reference paragraphs 1-41 of this Complaint, as if fully set forth herein.

43. Pursuant to the Due Process Clause of Article I, Section 2 of the Rhode Island State Constitution, Plaintiff has a fundamental right to be free from arbitrary, capricious and irrational actions/exercises of power by the City.

44. Pursuant to the Due Process Clause of Article I, Section 2 of the Rhode Island State Constitution, in exercising any police power, such as enacting ordinances, the City is prohibited from taking such action if it bears no rational relationship to the health, safety, morals and welfare of the public of the City.

45. The Amendment constitutes an arbitrary, capricious and irrational action by the City that bears absolutely no rational relationship to the health, safety, morals and welfare of the public of the City.

46. In fact, for all the reasons set forth *supra* in this Complaint and others, the Amendment is clearly detrimental to the health, safety, morals and welfare of the public of the City.

WHEREFORE, the Plaintiff respectfully requests that:

- (1) This Court issue an order declaring that the Amendment is illegal, null and void because the Amendment violates the Substantive Due Process Clause of Article I, Section 2 of the Rhode Island State Constitution; and,
- (2) Award Plaintiff reasonable attorneys' fees, interest and costs, as well as any other relief that this Court deems equitable and necessary.

COUNT IV

(Injunctive Relief enjoining the City from the enforcement and application of the Amendment)

47. Plaintiff re-alleges and incorporates by reference paragraphs 1-46 of this Complaint, as if fully set forth herein.
48. Plaintiff has a likelihood of success on the merits of succeeding on Counts I-III of this Complaint.
49. Plaintiff will suffer irreparable harm in the form of damages, depreciation and loss of use of the Property if the Amendment is enforced and applied.
50. Plaintiff will suffer irreparable harm in the form of lost business expectations, opportunity and advantages in regards to the use of the Property if the Amendment is enforced and applied.
51. The balancing of the equities weighs heavily in favor of the award of injunctive relief requested herein.
52. The requested injunction(s) shall preserve the *status quo*.

WHEREFORE, Plaintiff respectfully requests that:

- (1) This Court enter a temporary, preliminary and permanent injunction restraining and enjoining the City from enforcing and applying the Amendment.

(2) Award Plaintiff reasonable attorneys' fees, interest and costs, as well as any other relief that this Court deems equitable and necessary.

Respectfully submitted:

**UNITED STATES INVESTMENT &
DEVELOPMENT CORPORATION**

By and through its attorneys,

/s/ Michael A. Kelly

Michael A. Kelly, Esq. (#2116)
Nicholas J. Goodier, Esq. (#7858)
Kelly & Mancini, PC
128 Dorrance Street, Suite 300
Providence, RI 02903
Tel.: (401) 490-7334
Fax: (401) 490-7874

Dated: December 17, 2015