

AGREEMENT FOR HISTORIC PRESERVATION TAX CREDITS 2013

THIS AGREEMENT (the "Agreement"), is made as of the ____ day of July, 2016 (the "Effective Date"), by and between WaterFire Providence (the "Applicant"), and the Rhode Island Department of Revenue, through its Division of Taxation (the "Tax Division") (collectively the "Parties").

WITNESSETH:

WHEREAS, pursuant to RIGL §44-33.6-4(e), the Tax Division is authorized to enter into contracts of guaranty, on behalf of the State of Rhode Island, with persons, firms, partnerships, trusts, estates, limited liability companies, corporations (whether for profit or non-profit) or other business entities who have incurred, or intend to incur, Qualified Rehabilitation Expenditures for the Substantial Rehabilitation of a Certified Historic Structure, or some identifiable portion thereof, to be Placed in Service after July 3, 2013.

WHEREAS, in accordance with Chapter 33.6 of Title 44 of the Rhode Island General Laws, as amended, and the Regulations adopted by the Rhode Island Historical Preservation and Heritage Commission (the "Commission") and the Tax Division, the Applicant desires to conduct Substantial Rehabilitation of a Certified Historic Structure or, an identifiable portion thereof, located in Rhode Island, and described in Exhibit A attached hereto (the "Project") and, as a consequence thereof, to receive Historic Preservation Tax Credits ("Tax Credits").

WHEREAS, a Determination of Historic Significance (a/k/a Part 1 Certification) and a Certification of a Rehabilitation Plan (a/k/a Part 2 Certification) have been issued by the Commission to the Applicant.

NOW, THEREFORE, the Applicant and the Tax Division agree as follows:

SECTION 1. Definitions. Unless otherwise defined in this Agreement, capitalized terms used herein shall have the meaning ascribed to them pursuant to Chapter 33.6 of Title 44 of the Rhode Island General Laws and the Regulations implementing same.

SECTION 2. Adequate Consideration. The Processing Fee payable by the Applicant, under Section 4(b) hereof and the Regulations, constitutes adequate consideration for the contractual obligation of the Tax Division to provide the Tax Credits described in Section 5(a) hereof in accordance with the terms hereof.

SECTION 3. Effective Date of Rhode Island Law. Unless otherwise indicated herein, all references herein to the Rhode Island General Laws and the Regulations shall refer to such statutes as in effect as of the date of enactment of Public Law 2013, Ch 144, Art. 22 by the Rhode Island General Assembly and to such regulations as promulgated by the Commission and/or the Tax Division to implement Public Law 2013, Ch 144, Art. 22.

SECTION 4. Duties of the Applicant.

(a) The Applicant shall fulfill the requirements for the Substantial Rehabilitation of the Project approved by the Commission and, in addition thereto, the Applicant specifically covenants that:

(1) *Full, Fair and Honest Disclosures Required.* The Applicant has made, and will make, full, fair and honest disclosure of all material facts to both the Commission and the Tax Division during the entire Application process set forth in the Regulations.

(2) *Rehabilitation Will be Consistent with Plan and Standards.* The Applicant shall insure that the Project, when finished, will be consistent with the proposed rehabilitation plan certified by the Commission and that all completed work will meet the criteria set forth in the Regulations and the *Standards of Rehabilitation* incorporated therein.

(3) *Documentation Required to Verify Costs Incurred.* The Applicant will furnish, on demand and in a complete and timely fashion, any additional and detailed documentation to verify that any final costs attributable to the Substantial Rehabilitation of a Certified Historic Structure were actually incurred and furthermore, meet the criteria of Qualified Rehabilitation Expenditures. Said documentation shall include, at the minimum, the items set forth in Tax Division Regulation CR 13-16.

(b) *Processing Fee.* The Applicant agrees to pay, in full, a Processing Fee equal to three percent (3%) of estimated Qualified Rehabilitation Expenditures to the Tax Division before or upon execution of the within Agreement. If full payment is not tendered to the Tax Division along with a proposed Agreement, the Agreement will not be signed and any partial payment remitted shall be returned to the Applicant. The failure to pay the Processing Fee, in full and within thirty (30) days from the Commission's Part 2 certification date, will result in the denial of Tax Credits and the Applicant's loss of place in the Queue for Tax Credits.

SECTION 5. Duties of the Tax Division.

(a) *Tax Credit.* The Tax Division shall allow a Tax Credit, as set forth in Exhibit B, calculated in accordance with RIGL §44-33.6-3(a), and equal to the lesser of: (i) the estimated Qualified Rehabilitation Expenditures as submitted with this Agreement multiplied by either twenty percent (20%) or twenty-five percent (25%), as elected by the Applicant, or (ii) the actual Qualified Rehabilitation Expenditures, incurred by the Applicant and verified by the Tax Division, for the Substantial Rehabilitation multiplied by either twenty percent (20%) or twenty-five percent (25%), as elected by the Applicant. Provided further that:

(1) *25% Tax Credit Requires Trade or Business Use.* If the Applicant elects twenty five percent (25%) of the Qualified Rehabilitation Expenditures as the Tax Credit, the Applicant acknowledges and agrees that: (i) at least twenty five (25%) percent of the total rentable area of the Certified Historic Structure will be made available for a Trade or Business, as defined in RIGL §44-33.6-2(17), or (ii) the entire rentable area located on the first floor of a Certified Historic Structure will be made available for a Trade or Business, as defined in RIGL §44-33.6-2(17).

(2) *Qualified Rehabilitation Expenses Incurred on or after July 3, 2013.* The Applicant acknowledges that the Qualified Rehabilitation Expenses upon which the Tax Credit is claimed must be incurred on or after July 3, 2013. Qualified Rehabilitation Expenses incurred prior to July 3, 2013 cannot be used for calculating Tax Credits under this program.

(3) *Maximum Tax Credit Allowed.* The Applicant acknowledges and agrees that the maximum amount of the Tax Credit allowed for any certified rehabilitation project, under Chapter 33.6 of Title 44 of the General Laws, is Five Million Dollars (\$5,000,000) and that this limitation applies regardless if the structure is to be completed in phases or in multiple projects.

(4) *Qualified Rehabilitation Expenditures Allowed by Certification after Audit.* The Applicant acknowledges that the Qualified Rehabilitation Expenditures are allowed only if certified by the Tax Division after audit and further acknowledges that the Tax Division is authorized to conduct said audits and issue such certifications. The within acknowledgement does not abrogate or hinder the Applicant's right to contest the denial, in whole or in part, of a request to certify Qualified Rehabilitation Expenditures.

(b) *Processing Fee is Non-Refundable.* The Applicant acknowledges and agrees that the Processing Fee paid pursuant to Section 4(b) of this Agreement is, pursuant to RIGL §44-33.6-4(d), non-refundable. Processing Fees will not be returned if the Applicant subsequently abandons the Project and no longer desires the Tax Credit nor will Processing Fees be returned, in part, if the Processing Fees paid with this Agreement exceed three percent (3%) of the actual Qualified Rehabilitation Expenditures incurred by the Project as certified by the Tax Division.

SECTION 6. Termination of Agreement

(a) *Grounds for Termination and Sanctions.* If information comes to the attention of either the Commission or the Tax Division, at any time up to and including the last day of the Holding Period, that is materially inconsistent with representations made by the Applicant herein or in an application or supporting documentation filed with the Commission or the Tax Division, the Tax Division may terminate this Agreement and the Commission or the Tax Division may deny requested certifications or rescind certifications previously issued. In either instance, any Processing Fees paid by the Applicant will be forfeited. Upon termination, any Tax Credits issued under this Agreement hereunder shall be null and void and subject to recapture. In addition, any proceeds received from the sale, transfer or assignment of Tax Credits will be subject to taxation. This Section of the Agreement shall be applied in a manner consistent with RIGL §44-33.6-4(h) and RIGL §44-33.6-3(f).

(b) *Holding Period Defined.* The term "Holding Period" as used within this Agreement shall mean twenty-four (24) months after the Commission issues a Certificate of Completed Work. In the case of a rehabilitation which may reasonably be expected to be completed in phases, as described in RIGL §44-33.6-2(16), "Holding Period" shall be extended to include a period of time beginning on the date of issuance of a Certificate of Completed Work for the first phase or phases for which a Certificate of Completed Work is issued and continuing until the expiration of twenty-four (24) months after the Certificate of Completed Work issued for the last phase.

SECTION 7. Assignment of Agreement.

(a) *Assignments Allowed and Consents Required.* The Applicant's right to assign this Agreement is limited and shall be governed by RIGL §44-33.6-4(g) with that section allowing such assignment only to:

(1) An Affiliate of the Applicant without the consent of the Tax Division, or

(2) A banking institution, as defined by RIGL §44-14-2(1), or a credit union, as defined by RIGL §44-15-1.1(1), without the consent of the Tax Division, or

(3) A person, firm, partnership, trust, estate, limited liability company, corporation (whether for profit or non-profit) or other business entity that incurs Qualified Rehabilitation Expenditures for the Substantial Rehabilitation of Certified Historic Structures or some identifiable portion thereof to be Placed in Service on or after July 3, 2013, with such assignment to be approved by the Tax Division and which approval shall not be unreasonably withheld, or

(4) A person, firm, partnership, trust, estate, limited liability company, corporation (whether for profit or non-profit) or other business entity that is approved by the Tax Division, and such assignment shall require the consent Tax Division.

(b) *Affiliate Defined.* The term "Affiliate" is defined in RIGL §44-33.6-4(g) as any entity controlling, controlled by or under common control with such person, firm, partnership, estate, trust, limited liability company, corporation (whether for profit or non-profit) or other business entity.

(c) *Notice of Assignments.* Prior written notice of any assignments of the Agreement, including those for which no consent is required, shall be given to the Tax Division pursuant to Section 13. Such notice shall include the name, tax identification number, the address, phone number, and contact person for both the assignor and the assignee and shall indicate the date of assignment.

SECTION 8. Timely Progress of Project Required.

(a) *Project Schedule Must Have Been Filed.* The Applicant covenants that it has submitted to the Commission, along with its Part 2 Application, a reasonably detailed project timeline setting forth a schedule whereby various identifiable aspects of the Project (e.g., rough plumbing & electrical, exterior siding, interior finish work on 1st floor) will be completed and the estimated amount of Qualified Rehabilitation Expenditures that will be expended on each such aspect of the Project (the "Project Schedule"). In the event that the Project is to be completed in phases, the Project Schedule should also reflect when it is anticipated that each phase will be completed and an estimate as to the amount of Qualified Rehabilitation Expenditures that will be incurred in each phase.

(b) *"Substantial Construction" Requirement.* The Applicant acknowledges and agrees that Substantial Construction on the Project must commence within twelve (12) months from the date on which the Applicant's Part 2 Application is approved by the Commission. Furthermore, upon commencing Substantial Construction, the Applicant shall file an affidavit with the Commission

attesting to the commencement of Substantial Construction together with evidence that the requirements of Substantial Construction have been satisfied.

(c) *Substantial Construction Defined.* The term "Substantial Construction" is defined to mean that (i) the owner of a Certified Historic Structure has entered into a contract with the Tax Division and paid the Processing Fee; (ii) the Commission has certified that the Certified Historic Structure's rehabilitation will be consistent with standards set forth in Chapter 33.6 of Title 44; and (iii) the owner has, within five (5) years from the date this Agreement is executed, expended ten percent (10%) of the Qualified Rehabilitation Expenditures estimated in the contract entered into with the Tax Division for the Project or, if a phased project, for the first phase the Project. Substantial Construction does not occur until all three of the above requirements are fulfilled.

(d) *Project Shall Not "Remain Idle".* The Applicant further covenants that within twelve (12) months from the date of Part 2 Certification, construction will commence and the Project shall not Remain Idle for any period of time exceeding six (6) months prior to the completion of the Project.

(e) *Remain Idle Defined.* The term "Remain Idle" is defined to mean that:

(1) Substantial work has ceased at the Project; or

(2) Work crews have been reduced by more than twenty-five percent (25%) for reasons unrelated to (i) scheduled completion of work in accordance with the Project's schedule, (ii) reasonably unanticipated physical conditions, or (iii) an event of force majeure; or

(3) The Project Schedule that was originally submitted to the Applicant to the Commission has been extended for more than twelve (12) months for reasons unrelated to (i) reasonably unanticipated physical conditions or (ii) an event of force majeure.

The Project is deemed to Remain Idle if any one of the above three criteria are met.

(f) *Force Majeure Defined.* To be deemed an event of force majeure, the cause of the event must be (i) reasonably unforeseen, (ii) outside the control of the Applicant and (iii) could not be avoided by the Applicant's exercise of due care. By way of example, and not in limitation, any delays, work stoppages, or work force reductions caused by financial difficulties, labor disputes or violation of the law shall be deemed to cause the Project to Remain Idle.

(g) *Penalties for Non-Compliance.* In the event that Substantial Construction is not commenced within twelve (12) months from the date on which the Applicant's Part 2 Application is approved by the Commission or if the Project Remains Idle for a period of time exceeding six (6) months, the Applicant shall forfeit all Processing Fees paid prior to that date and this Agreement for Tax Credits shall be terminated and deemed null and void without further action or documentation.

(h) *Periodic Reports Required.* In order to demonstrate that the Project does not Remain Idle, the Applicant, or its successor in interest, is to submit quarterly reports, with supporting documentation, to the Tax Division on or before the fifth day of April, the fifth day of July, the fifth day of October and the

fifth day of January. Said reports shall briefly set forth the work or tasks accomplished and the number of individuals employed on the Project during the preceding quarter.

(i) *Reapplication after Forfeiture and Termination.* Upon forfeiture and termination, the Applicant, pursuant to RIGL §44-33.6-7, may re-apply for Tax Credits for the Project but the Applicant acknowledges that it will be placed at the end of queue of prior applicants then awaiting the availability of Tax Credits. To reapply and be placed at the bottom of the Queue, the Applicant must submit a new application for Rhode Island Historic Preservation Tax Credits 2013 (Form HTC-13) to the Tax Division. If and when Tax Credits become available, the Applicant acknowledges that reapplication is expressly conditioned and subject to the following:

(1) The Applicant shall submit to the Commission a new application for Part 2 Certification, an amended Project Schedule as described in Section 8(a), setting the new reasonably detailed project timeline;

(2) The Applicant shall submit evidence, along with its request for reapplication, establishing the reason for the delay in the commencing Substantial Construction of the Project or for the Project Remaining Idle, and shall further provide evidence, reasonably satisfactory to the Commission, that the condition or event, causing the delay in commencing the Project or causing the Project to Remain Idle, has been resolved and will not recur; and

(3) The Applicant will be required to remit a three percent (3%) non-refundable Processing Fee as described in Section 4(b). This Processing Fee shall be calculated in accordance with the re-application submitted to the Commission and the Tax Division.

SECTION 9. Restrictive Covenants Required.

(a) *Material Alterations.* The Applicant acknowledges and agrees that no Tax Credits shall be issued until the owner of the Certified Historic Structure grants to the Commission a restrictive covenant agreeing that, during the Holding Period as defined in Section 6(b), no material alterations will be made to the Certified Historic Structure (i) without the Commission's prior approval, and, if approved, (ii) such material alterations shall be consistent with the standards established by the Secretary of the United States Department of the Interior for the rehabilitation of historic structures.

(b) *Trade or Business Use.* In the event that application has been made for the twenty five percent (25%) Tax Credit under this Agreement, the owner of the Certified Historic Structure shall also grant to the Commission a restrictive covenant agreeing that, for a period of sixty (60) months commencing when the Certified Historic Structure, or an identifiable portion thereof, was Placed into Service, either (i) twenty five percent (25%) of the total rentable area of the Certified Historic Structure or (ii) the entire rentable area located on the first floor of the Certified Historic Structure will be made available for a Trade or Business, as defined below.

(1) *Trade or Business Defined.* Pursuant to RIGL §44-33.6-2(17), a Trade or Business means an activity carried on for the production of income from the sale or manufacture of goods or performance of services, *excluding residential rental activity.*

(2) *Made Available Defined.* For purposes of this Agreement, the rentable area of a Certified Historic Structure is “made available for a Trade or Business” if, during the sixty (60) months after the Certified Historic Structure, or an identifiable portion thereof, was Placed into Service, the owner of the Certified Historic Structure has:

(i) Consistently and repeatedly advertised and marketed the rentable area for immediate occupancy or use by means of electronic media, print media, commercial listings or directories and other channels of communication reasonably designed to reach businesses located throughout the State of Rhode Island and in communities in adjoining states; or

(ii) Has consistently and repeatedly rented or leased the rentable area to a Trade or Business as defined in Section 9(b)(1) above.

(3) *Documentation Required to Demonstrate Compliance.* The Tax Division may require rental agreements and/or sample advertising materials and invoices to document compliance with the provisions of RIGL §44-33.6-4 and RIGL §44-33.6-2(17).

(c) *Participation in Registered Apprenticeship Program.* The Applicant acknowledges and agrees that, under RIGL §44-33.6-8, if the Hard Construction Costs of the Project equal or exceed ten million dollars (\$10,000,000), Tax Credits will be allowed only if any contractor and subcontractor working on the Project has an apprenticeship program for all apprenticeable crafts that will be employed on the Project at the time of bid. Said apprenticeship programs must be registered and approved by the United States Dept. of Labor in conformity with federal regulations.

(1) *Hard Construction Costs Defined.* Hard Construction Costs shall mean direct contractor costs for labor, material, equipment, and services associated with the Project, contractors’ overhead and profit, and other direct construction costs. By way of example and not in limitation, Hard Construction Costs do not include architectural and engineering fees, the cost of surveying, legal and accounting expenses, insurance premiums or development costs. Hard Construction Costs are not necessarily costs that are allowable as QREs.

(2) *Minimum Employees Required.* The requirement to have a registered and approved apprenticeship program applies to any contractor and subcontractor working on the Project that has five (5) or more employees.

(3) *Review to Ascertain Non-Compliance.* The Applicant acknowledges that there are statutory sanctions for non-compliance with RIGL §44-33.6-8 and that the Department of Labor & Training, in conjunction with the Tax Division and other agencies, may review claims that a contractor or subcontractor was exempt from the apprenticeship program requirement due to insufficient employees.

SECTION 10. Jurisdiction and Venue. This Agreement shall be governed by the laws of the State of Rhode Island. Venue for all legal proceedings arising out of this Agreement, or the breach thereof, shall be located only in a court with competent jurisdiction in the State of Rhode Island.

SECTION 11. Entire Agreement. This Agreement contains the entire understanding between the Parties. For purposes of this Section, the Exhibits attached hereto are integral to the Agreement and made a part of the Agreement. The Agreement may not be changed orally but only by agreement in writing signed by the Parties.

SECTION 12. Severability. If one or more of the provisions of this Agreement should become legally invalid, the validity of the remaining provisions shall not be affected thereby. However, in such case, the Parties shall immediately agree on some other contractual arrangement which secures, as far as possible, the intended economic effect of the invalid provision(s).

SECTION 13. Notices. All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given, if mailed by registered or certified mail, return receipt requested, or, if transmitted by other means, when received by the other Party at the address set forth herein, or such other address as may hereafter be furnished to the other Party by like notice.

(a) It is the responsibility of the Applicant or its successor and assignees to timely notify the Tax Division of any changes in contact information, and in particular, to notify the Tax Division of any change in address to which written notices should be sent.

(b) Notice or communication hereunder shall be deemed to have been received on the date delivered to or received at the premises of the addressee. In the case of receipt by registered or certified mail, notice or communication hereunder shall be deemed to have been received by the date noted on the return receipt. Any notice required or permitted to be given under this Agreement shall be sufficient if in writing, and if sent by registered or certified mail or delivered, postage prepaid, to the addresses below:

If to the Applicant:

WaterFire Providence

101 Regent Avenue, Suite 12

Providence, RI 02908

Attn: Managing Director

If to the Tax Division:

Tax Administrator

RI Division of Taxation

One Capitol Hill, 1st floor

Providence, RI 02908-5800

SECTION 14. Guarantee, Binding Effect and Enforceability.

(a) *Guarantee of Delivery of Tax Credits*. If this Agreement is not terminated pursuant to Section 6 or Section 8(f) and the Applicant has secured a Certification of Completed Rehabilitation from the Commission, the Tax Division guarantees delivery of one hundred percent (100%) of the amount of the Tax Credit, subject to audit and confirmation, to (i) the Applicant pursuant to RIGL §44-33.6-3(b)(1) as the party that incurred Qualified Rehabilitation Expenditures for the Substantial Rehabilitation

of a Certified Historic Structure or an identifiable portion thereof, as specified in the Agreement, and Placed in Service on or after July 3, 2013, or (ii) to the Assignee(s) of the Applicant pursuant to RIGL §44-33.6-3(f) and the Regulations.

(b) If this Agreement is not terminated pursuant to Section 6 or Section 8(f) and the Applicant has secured a Certification of Completed Rehabilitation from the Commission, the Tax Division guarantees that the Tax Credit, subject to audit and certification, shall be allowed pursuant to RIGL §44-33.6-3(b) and §44-33.6-3(e) for the taxable year in which a Certified Historic Structure or an identifiable portion thereof, as specified in the Agreement, is Placed in Service; Provided that the Substantial Rehabilitation test is met for such taxable year and provided further that the Certified Historic Structure, or an identifiable portion thereof, is Placed into Service on or after August 1, 2013.

(c) "Substantial Rehabilitation" means that the Qualified Rehabilitation Expenditures incurred with respect to the Certified Historic Structure during the twenty-four (24) month period selected by the Applicant ending with or within the taxable year, in which the Certified Historic Structure is Placed in Service, exceed the Adjusted Basis in such building and its structural components as of the beginning of such period. In the case of any Rehabilitation which may reasonably be expected to be completed in phases, the above definition shall be applied by substituting "sixty (60) month period" for "twenty-four (24) month period".

(d) This Agreement constitutes a binding and enforceable agreement between the Applicant and the Tax Division. This Agreement and the rights granted hereunder shall be enforceable by the Parties through all remedies available at law and in equity.

SECTION 15. Limitations.

(a) *Applicability of Agreement.* This Agreement applies only to a Rehabilitation of a Certified Historic Structure or some identifiable portion thereof, that: (i) is Placed in Service on or after August 1, 2013; (ii) for which an Application for Certification of a Rehabilitation Plan (a/k/a Part 2 Certification) and an Application for Determination as a Historic Structure (a/k/a Part 1 Certification) have been issued by the Commission after August 1, 2013; and (iii) for which Qualified Rehabilitation Expenses have been incurred on or after July 3, 2013.

(b) *Election of Tax Credit Program.* The Applicant and/or its Assignees who elect and qualify for Tax Credits for the Substantial Rehabilitation of a Certified Historic Structure under Chapter 33.6 of Title 44 are ineligible to claim Tax Credits for Rehabilitation of that particular Certified Historic Structure under Chapter 33.1 of Title 44, Chapter 64.7 of Title 42 or Chapter 31 of Title 44. Applicants and/or their assignees must waive, in writing, any claims to tax credits under the aforementioned chapters prior to entering into this Agreement.

SECTION 16. Further Assurances. Each of the Parties hereto shall promptly execute and deliver all such documents, instruments and assurances and do or cause to be done all such acts and things as are necessary or advisable fully to perform and carry out the provisions and intent of this Agreement.

SECTION 17. Captions. Titles or captions of Sections contained in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or the intent of any provision hereof.

SECTION 18. No Waiver. The failure of any Party to insist upon strict performance of a covenant hereunder or of any obligation hereunder, irrespective of the length of time for which such failure continues, shall not be a waiver of such Party's right to demand strict compliance in the future. No consent or waiver, express or implied, to or of any breach or default in the performance of any obligation hereunder, shall constitute a consent or waiver to or of any other breach or default in the performance of the same or any other obligation hereunder. No term or provision of the Agreement may be waived unless such waiver is in writing and signed by the Parties.

SECTION 19. Executed in Counterparts. For the purpose of facilitating proving this Agreement, and for other purposes, this Agreement may be executed simultaneously in any number of counterparts. Each counterpart shall be deemed to be an original, and all such counterparts shall constitute one and the same instrument.

SECTION 20. Warranties.

(a) *Warranty of Legal Existence.* The Applicant warrants that it is duly organized, chartered or formed under the laws of its State of domicile and that it has the lawful power to engage in the business it is presently conducting or will conduct in the future. The Applicant is duly licensed or qualified and in good standing in each jurisdiction, including Rhode Island, wherein the nature of the business it transacts makes such licensing or qualification necessary.

(b) *Warranty of Authority to Execute.* The Applicant and the signatory of this Agreement for the Applicant both warrant that they have the power and authority to negotiate and execute this Agreement and to perform the obligations thereunder and all such acts have been duly authorized by the necessary proceedings.

(c) *Warranty of No Outstanding Delinquencies or Deficiencies.* The Applicant further warrants that it does not have any outstanding delinquencies or deficiencies for taxes or regulatory fees owed to the State of Rhode Island.

SECTION 21. Disclosure and Dissemination of Reported Information. The Applicant acknowledges and agrees that RIGL § 44-33.6-9 imposes certain reporting requirements for the Applicant's participation in this tax credit program and that the information reported shall be specific, definite, and attributable to an identifiable person. In addition, such specific information, including this Agreement and its terms and exhibits, pursuant to RIGL § 44-33.6-9, shall be:

(a) Shared with or disseminated among other instrumentalities of the State, including but not limited to, the Commission, the Economic Development Corporation, designated members of both houses of the General Assembly, the governor, and the Department of Labor and Training; and

(b) A public document made available to the public for inspection by any person and published by the Tax Administrator on the Tax Division website.

This section shall also apply to any contract voided under the provisions of this Program.

IN WITNESS WHEREOF, the parties have caused this contract to be duly executed intending to be bound thereby:

**STATE OF RHODE ISLAND
DEPARTMENT OF REVENUE, by
its DIVISION OF TAXATION**

By: *Manage*

Date: *July 8, 2016*

APPLICANT NAME

By: *Peter Mello*

Peter Mello

PRINT NAME

Title: **Managing Director**

Date: *7/5/16*

Exhibit A: Determination of Historic Significance

[Attach a copy of the Determination of Historic Significance (Part 1 Certification) issued by the RI Historical Preservation & Heritage Commission]



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
HISTORICAL PRESERVATION & HERITAGE COMMISSION
Old State House • 150 Benefit Street • Providence, R.I. 02903-1209
TEL (401) 222-2678 FAX (401) 222-2968
TTY / Relay 711 Website www.preservation.ri.gov

HISTORIC PRESERVATION INVESTMENT TAX CREDIT
Part 1 -- Certification of Historical Significance

RI Project Number 13-82

Property Name US Rubber Company, Building 85

Property Address 475-485 Valley St, Providence, Rhode Island

This Part 1 evaluation of significance has been reviewed by J Doherty who meets Historic Preservation Professional Qualification Standards.

REASON FOR CERTIFICATION OF HISTORICAL SIGNIFICANCE
(See page 2 for a brief description of the property and its significance.)

- Property is individually listed in the National Register of Historic Places (Or determined to be eligible by the US Department of Interior).
- Property contributes to the significance of t Us Rubber Co Mill Complex Bldg 85
- Property has been designated as a historic property by Ordinance in the City/Town of _____, in accordance with RIGL 45-24.1 and
 - it is more than fifty (50) years old, and
 - it is related to a broad theme of the community's history or is a good example of a type, style, or method of construction, and
 - it possesses sufficient integrity of location, design, setting, materials, workmanship, feeling and association to convey its historical significance.
- THIS IS ONLY A PRELIMINARY DETERMINATION. The property appears to meet the criteria indicated, but it has not been formally listed or designated. In order to claim a RI Historic Preservation Investment Tax Credit the property must receive FINAL Certification of Significance before the rehabilitation work is completed and before the building is placed in service.

6/6/2016 Edward Anderson

Date

Executive Director
Historical Preservation and Heritage Commission

HISTORIC PRESERVATION INVESTMENT TAX CREDIT

Part 1 -- Certification of Historical Significance

Page 2

AREAS OF SIGNIFICANCE

Property is a good example of a type, style, method of construction (specify):

Property is associated with one of the broad themes of the community's history (specify):

Exhibit B: Certified Rehabilitation Plan

[Attach a copy of the Certification of a Rehabilitation Plan (Part 2 Certification) issued by the RI Historical Preservation & Heritage Commission and a complete copy of the detailed project timeline (including costs and dates of rehabilitation) submitted to the Commission as part of the Applicant's Part 2 Application]



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
HISTORICAL PRESERVATION & HERITAGE COMMISSION

Old State House • 150 Benefit Street • Providence, R.I. 02903-1209

TEL (401) 222-2678 FAX (401) 222-2968

TTY / Relay 711 Website www.preservation.ri.gov

HISTORIC PRESERVATION INVESTMENT TAX CREDIT
Certification -- Part 2

RI Project Number 13-82

Property Name US Rubber Company, Building 85

Property Address 475-485 Valley St, Providence, Rhode Island

Certified Historic Structure? yes pending

Type of Request Part 2

Amended Part 2


CERTIFICATION

This application was reviewed by Virginia Hesse who meets Historic Preservation Professional Qualification Standards.

The project:

- meets the Standards for Historic Preservation Projects and is approved.
- meets the Standards only if the conditions stated on page 2 are met.
Approval is
- does not meet Standard number(s) for the reasons stated on page 2.
The project is not approved.
- does not provide sufficient information. The project is not approved.

Date

6/6/2016 
Executive Director
Historic Preservation and Heritage Commission

HISTORIC PRESERVATION INVESTMENT TAX CREDIT

Certification -- Part 2

Page 2

ISSUES

- Additions, including rooftop additions.
- Alteration of significant exterior features or surfaces.
- Alteration, removal, or covering of significant interior finishes or features.
- Adjacent new construction, extensive site work, or demolition of related structures.
- Changes to significant interior spaces or plan.
- Window replacements on any major elevation that do not match historic.
- Damaging or inadequately specified masonry treatments.
- Other (explain)

EVALUATION OF PROJECT AND CONCERNS

(Basis for decision to approve or deny the project.)

Please see attached summary.

CONDITIONS THAT MUST BE MET FOR APPROVAL

Please see attached conditions form.



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
HISTORICAL PRESERVATION & HERITAGE COMMISSION

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US Rubber Company Building 85 Summary & Evaluation
475-485 Valley St, Providence, RI

June 6, 2016

Building 85 in the US Rubber Complex was built c.1930 as a covered loading dock, with a rail spur inside the building. The brick pier and spandrel building is amply lit by steel industrial sash and clerestory windows. Evidence of rail tracks remain embedded in the concrete floor on the interior. The building is currently used as a warehouse facility and is proposed as a mixed use warehouse and business use.

Building 85 is comprised of three large, parallel interior volumes which run in a roughly east-west direction (as seen in a north-south cross section). Though it is a one story structure, the interior is two stories in height. The center bay is the tallest, with a large overhead door on the east end. The southernmost bay is a tall one story. The northern most bay is slightly shorter than the center bay, and its long north elevation holds the most prominent location fronting on Valley Street. The street façade is characterized by a repetitive (10) bay configuration consisting of a brick pier and spandrel, a tall lower industrial sash topped by a shorter upper level window. This pattern is repeated on all other elevations, though some bays are altered with man or loading doors inserted, and blocked windows. The center bay has a very slight gable roof, while the two flanking bays have flat roofs with parapets. Masonry window openings on the top level have a brick corbel at the window heads. No original man-doors survive.

The exterior of the building will be largely restored. All steel windows will be replaced with aluminum windows with matching profiles and light patterns. The two overhead doors will be replaced with similar doors. A non-original, small overhead door in a man door opening will be replaced with a pair of man-doors under an existing transom window on the east elevation. A small simple canopy will be installed above the door and below the transom. A new egress door will be cut down from an existing masonry opening on the north end of the east elevation. On the south (rear) elevation, a small existing masonry structure, of unknown date and function, will be used to provide a second means of egress from a roof top deck located on the one-story wing. The new stair will partially cross the roof from the roof deck (which is set back 6' from the face of the parapet), and bridge over to the roof of the brick structure with a glass enclosure. The stair will descend through the roof and exit through a new door cut into the south façade. The brick structure will be connected back to the main building to the west with a glass wall. This structure with the small glass roof-top addition is only viewed from a large parking lot located behind the building to the south. The west elevation will become the primary entrance to the building. A non-original loading dock on this side will be removed and the loading bay will be infilled with a new entrance with paired doors and side-light windows. Whether they will be fitted with divided light side-

lights or a storefront infill is under discussion. A simple canopy will cover the doors. A window adjacent to the new entrance will have its sill lowered to match other windows on this elevation.

Other details of the exterior envelope rehabilitation include replacing many of the cast concrete sills which are deteriorated and will be replaced with new cast sills. The coping at the high roof is mostly missing. A new coping will be fabricated which is slightly higher than the original coping, to conceal new exterior roof insulation. The color is to be selected. The two lower roofs with parapets have extremely deteriorated concrete caps. These caps are proposed to be replaced with metal caps. The new caps must replicate the thickness and profile of the concrete. The color should match the concrete color as well. Details of this replacement feature must be submitted for review. The rear roof deck will be set well enough back behind the parapet that it, and the new railing, will be minimally visible.

The interior of the building is characterized by concrete floors, and exposed steel framing. There is a large crane in the center high bay which will be retained and re-used if possible. A smaller crane in the north bay will be removed, but the steel tracks will be re-purposed to support an inserted floor structure in this bay. The rehab of the interior will retain the center bay as a warehouse function, while the two flanking bays will be rehabbed for business use and common areas. A new vertical circulation core will be located in the southwest corner of the center bay, near the new entrance vestibule. This new stair case and elevator will connect to a bridge that will be built along the west wall, at the new second floor level. The open bridge, like a cat walk, will run the width of the center bay. The north bay will be fully separated from the center bay with a full height sheetrock wall. At the second floor, 3' above the new floor structure, the new interior wall will be glass to allow views and light. The first floor of the north bay will have workshop space, and the new second floor will provide office space for the owner and a tenant. The south bay will provide multi-function space and meeting rooms.

Mechanical equipment will be located on the roof of the north bay, held back from the roof edge behind the parapet. It should be relatively low, and not visible. Ductwork will be held back a minimum of three feet from the face of an outside wall, if it is hung below the head of the windows.

Interior finishes will be exposed concrete flooring in the center bay. The existing floor level is within the flood plain and requires a concrete topping of 4 to 6 inches to raise it. The location of the railroad tracks will be recalled with grooves or scoring in the new topping. Masonry walls will be scraped and painted if required.

The rehabilitation of this large industrial building will be in the character of the building, and with minimal changes to its appearance. This project will meet the Standards if the attached conditions are met.

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

CONDITIONS SHEET
Historic Preservation Certification Application

Property Name: US Rubber Company Building 85

Project Number: _____

Property Address: 475-485 Valley St., Providence, RI

The rehabilitation of this property as described in the Historic Certification Application will meet the Secretary of the Interior's Standards for Rehabilitation provided that the following condition(s) is/are met:

Parapet Caps:

The concrete caps are severely deteriorated and must be replaced. The architectural consultant believes that concrete is not a suitable, long-lasting material for this use and recommends a metal cap. Because the concrete cap has a profile and color that are original to the building, any replacement of these caps with a substitute material must match the color and profile of the concrete. Details of the proposed replacement must be submitted to RIHPHC for review prior to construction.

Replacement Windows:

Replacement windows must match original windows in profile, dimensions, and light pattern. Operable sash within the larger window must be replicated in original locations, unless specifically noted. Insect screening must be interior to the window. Shop drawings showing details, profiles and dimensions of both the existing and proposed window must be submitted to RIHPHC for review and approval.

Masonry Pointing and Repair:

Repointing mortar must match original or predominant mortar in color, texture, strength and joint profile. Samples must be approved by RIHPHC prior to construction. Replacement brick, if required, must match original in range of color, and size.

Building Signage:

A signage plan for the building, when available, must be submitted to RIHPHC for approval prior to construction.

6/6/2016 Edward Anderson

Date State Signature

401-222-4135

State Contact Telephone Number

The National Park Service has determined that this project will meet the Secretary of the Interior Standards for Rehabilitation if the condition(s) listed in the box above are met.

Date National Park Service Signature

ESTIMATED PROJECT TIME-LINE

Project Name WaterFire Providence Project Tax Credit Number _____

Project Address 485 Valley Street, Providence, RI

| ITEM NO. | DESCRIPTION OF WORK | ESTIMATED COST | ESTIMATED COMPLETION DATE |
|----------|---|--|---------------------------|
| 1 | Hazardous materials abatement plan completed | \$25,000 | 5/15/15 |
| 2 | Abatement contractor authorized to proceed | | 10/1/15 |
| 3 | Abatement work completed | \$175,000 | 12/1/15 |
| 4 | Full Architectural & Engineering completed | \$348,000 | 8/31/15 |
| 5 | Full Construction contract awarded | | 9/30/15 |
| 6 | General Contractor Authorized to proceed | | 3/1/16 |
| 7 | Building Permit Application filed | | 10/15/15 |
| 8 | Other permitting (CRMC, Zoning, etc.) | | n/a |
| 9 | Exterior Envelope Rehabilitation Completed Demolition Masonry/carpentry repairs Windows and doors Roof Painting | \$325,000 \$1,075,000 \$225,000 \$100,000 | 12/31/16 |
| 10 | Interior Rehabilitation Completed Demolition Rough framing Plumbing, mechanical, electrical, sprinklers Interior finishes | \$275,000 \$300,000 \$1,200,000 \$500,000 | 12/31/16 |
| 11 | Site work and landscaping completed | \$925,000 | 5/31/17 |

Exhibit C: Tax Credit Methodology Election and Fee Payment

[Attach Original of Form HTC-V -2013: "Rhode Island Historic Structures-Tax Credit-Processing Fee Form"]

State of Rhode Island and Providence Plantations
Form HTC-V-2013
 Historic Structures Tax Credit Processing Fee Form



13130399990101

| | | | |
|---|-------------|--|----------------|
| Name WaterFire Providence | | Federal employer identification number | |
| Address 101 Regent Avenue, Suite 12 | | | |
| Address 2 | | | |
| City, town or post office Providence | State RI | ZIP code 02908 | E-mail address |

Part A - Project Information

- 1 Project name: US Rubber Company, Building 85
- 2 Project location: 475-485 Valley Street, Providence, RI
- 3 Project number: 13-82

Part B - Processing Fee Calculation Complete lines 1, 2, 3 and 7. If you wish to revise the amounts from your Form HTC-13, complete lines 1 through 7. NOTE: You cannot receive more Historic Preservation Tax Credits 2013 than what you initially applied for. If line 6 is more than line 3, you must change line 4 or 5, or both.

| | | | |
|---|--|---|---|
| 1 | Estimated Qualified Rehabilitation Expenditures from 2013 application - Form HTC-13..... | 1 | 9,000,000 |
| 2 | Credit Percentage Elected - 20% or 25% from 2013 application - Form HTC-13..... | 2 | 25 % |
| 3 | Estimated Historic Preservation Tax Credits 2013 from 2013 application - Form HTC-13..... | 3 | 2,250,000 |
| 4 | Revised Estimated Qualified Rehabilitation Expenditures..... | 4 | |
| 5 | Revised Credit Percentage Elected - 20% or 25%..... | 5 | % |
| 6 | Revised Estimated Historic Preservation Tax Credits 2013 amount.. | 6 | CANNOT BE MORE THAN LINE 3 CREDIT AMOUNT |
| 7 | Total processing fee due. Multiply line 1 or line 4, whichever is applicable, by 3% (0.0300).. | 7 | 270,000 |

Make cashier's check or money order payable to the RI Division of Taxation. This fee is non-refundable.

Pursuant to R.I.G.L. 44-33.6, Historic Preservation Tax Credits 2013, applicants are required to pay a non-refundable processing fee equal to 3% of Qualified Rehabilitation Expenditures as estimated on their Application for Rhode Island Historic Preservation Tax Credits 2013.

If you are revising the amount of Estimated Qualified Rehabilitation Expenditures for which you initially applied on your Application for Rhode Island Historic Preservation Tax Credits 2013, you acknowledge and agree that you waive all rights, claims and entitlements to Historic Preservation Tax Credits associated with the difference between the amount initially applied for (line 3) and the revised amount noted on line 6 above.

This 3% non-refundable processing fee must be paid prior to entering into a contract with the RI Division of Taxation under this program. Qualified applicants have 30 days from the date of Part 2 certification from the RI Historical Preservation & Heritage Commission to pay this non-refundable fee, and enter into a contract with the RI Division of Taxation.

Under penalties of perjury, I declare that I have examined this form and to the best of my knowledge and belief, it is true, accurate and complete.

| | | | |
|---|---|----------------|-------------------|
| Applicant signature | Print name Peter Mello | Date 7/5/16 | Telephone number |
| Applicant address 101 Regent Ave. Suite 12 | City, town or post office Providence | State RI | ZIP Code 02908 |