

## AGREEMENT FOR HISTORIC PRESERVATION TAX CREDITS 2013

THIS AGREEMENT (the "Agreement"), is made as of the 3rd day of January, 2014 (the "Effective Date"), by and between Brady Sullivan Eagle Street, LLC (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 1<sup>st</sup> 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:

Christopher J. Starr  
Starr Development Partners, LLC  
5 Brighton Street  
Belmont, MA 02478 (Cell: 617-650-4500)

If to the Tax Division:

Tax Administrator  
RI Division of Taxation  
One Capitol Hill, 1<sup>st</sup> 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.

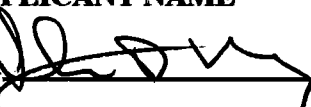
IN WITNESS WHEREOF, the parties have caused this contract to be duly executed intending to be bound thereby:

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

By: 

Date: 1/3/2014

**APPLICANT NAME**

By: 

Brady Sullivan Eagle Street, LLC

**PRINT NAME**

By Shane D. Brady

Title: Manager

Date: 1-3-14

**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](http://www.preservation.ri.gov)

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

RI Project Number 13-06

Property Name U.S. Rubber Company Complex: 1,2,3,4,5,7,8,9,10,12

Property Address 25 Eagle St, Providence, Rhode Island

This Part 1 evaluation of significance has been reviewed by Rick Greenwood 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 Historic District
- Property has been designated as a historic property by Ordinance in the City/Town of PROVIDENCE , 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.

12/4/2013  
Date

  
Executive Director

Historical Preservation and Heritage Commission

**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]**



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**HISTORIC PRESERVATION INVESTMENT TAX CREDIT  
Certification -- Part 2**

RI Project Number 13-06

Part 2 Fee Paid

Part 3 Fee Paid

Property Name U.S. Rubber Company Complex: 1,2,3,4,5,7,8,9,10,12

Property Address 25 Eagle St, Providence, Rhode Island

Certified Historic Structure?  yes  pending

Type of Request  Part 2

Amended Part 2

CERTIFICATION

This application was reviewed by Roberta Randall 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.

12/4/2013

Date



Executive Director  
Historic Preservation and Heritage Commission

onto an alley. The first floor of this building, which is currently an open space with a concrete floor, will be partially used for parking.

#### BUILDING 1

Building 1 is a narrow two story brick building abutted by building 2 on the south and building 3 on the east. The building has very few openings. The windows on the north elevation (facing Valley St.) will be restored. The window on the first floor of the west elevation will also be restored. There is a large wood paneled loading door at the second floor, which is proposed to be replaced with a fixed multi-paned glass door with transom. A new window will also be added to the west elevation of Building 1. The new windows are necessary in order to provide light to the spaces beyond.

#### BUILDING 2

Building 2 is a small three story brick building abutted by Building 1 on the north and 3 on the east. The west elevation has two pairs of wood double hung windows at the first floor. The Owner is proposing to add windows at the second and third floor floors to match the first where windows previously did not exist. The new windows will be aluminum. This is not a major elevation, but is the only elevation with windows in building 2. The space would be unusable without the addition of these windows. 4 new windows are proposed to be added to the Valley St. elevation of Building 2. These windows will align with the existing and match the size of the existing windows along this elevation. The new window is necessary in order to provide light to the spaces beyond.

#### BUILDING 3

Building 3 is a four story brick structure holding the street edge along Valley Street (north elev.) abutting Building 1 and 2 to the west and Building 4 to the east. The north elevation has 12/8 wood double hung sash at the first floor which will be restored. All of the windows at the second floor were bricked in except one original 8/8 double hung wood sash window which remains. All other second story windows will be reopened and existing wood sash with correct configuration from elsewhere on the building will be restored and installed in these openings. The third and fourth floors have horizontal, four light, curved top eyebrow windows which will be restored or rebuilt. The south elevation, which faces building 5 with a narrow alley between, also has the same horizontal, four light, curved top eyebrow windows, which the Owner would like to enlarge. This elevation is not visible at all.

#### BUILDING 4

Building 4 is a brick, one story, flat roofed structure that fronts Valley Street. Only the north elevation is visible as Building 3 abuts it to the west, 5 and 7 to the south and 6 to the east. The Owner proposes to leave the north wall along Valley Street with windows intact and remove



the roof to allow for light to enter the windows of the lower floors of the adjacent Building 5. The removal of the roof will not be visible.

#### BUILDING 5

Building 5 is the largest of the buildings in this complex and all four elevations of the building are visible. It is a four story brick building. The north elevation retains most of its original wood, 12/8, double hung windows with 8 light transoms above, which will be restored and reglazed. The south and west elevation window openings have been infilled with smaller vinyl replacement windows, which will be removed and aluminum replacement windows to match the wood windows on the north elevation (as originally existed on these elevations) will be installed in the original openings. The east elevation windows will also be new aluminum to match. The five story tower at the south elevation of the building has window openings which appear to have been altered. The owner is proposing the same aluminum 12/8 double hung sash be installed in the existing openings. A glass and wood double patio door unit is being proposed for the first floor entrance into the tower.

#### BUILDING 8

Building 8 is a four-story pier and spandrel brick building, abutted by Building 9 on the east and 7 on the north. Most of the original exterior windows remain on the west elevation. All of the windows, which are for the most part metal 60 light sash with two nine light hoppers each will be restored and reglazed. Two ground floor windows, which were converted to loading doors, will be changed back to windows, using aluminum sash in the same pattern to match existing. The south elevation windows, which had been closed up, will also have new aluminum windows installed.

#### BUILDING 9

Building 9 is a two-story brick building located between buildings 8 and 10, both four story buildings. The only visible elevation (south) faces onto an alley. The original openings are clearly visible, although some have been blocked up and new openings have been added. Because of the lack of exterior walls, the owner proposes to use this building's first floor for parking which will require cutting a new central garage door in between the original segmental arched door openings to either side. One of the original openings has already been bricked in. The Owner proposes to brick up the other opening, recessing the brick so the original opening will be clearly seen. Windows at the second floor which were originally steel, will be replaced with aluminum matching their original configuration. The second story center freight door, which does not have its original door, will be restored with aluminum panel doors with glass. This elevation is not very visible and has had several previous alterations.

#### BUILDING 10

Building 10 is a four story, brick building attached to the east side of building 9 and running

into building 5 to the north. All of the original windows, with a couple of exceptions, have been replaced and some of the openings have been altered. All of the windows will be new aluminum windows to match original as closely as possible restoring all of the openings to the original size. A metal clad bridge that connects building 10 to building 18 and a concrete bridge that spans Eagle Street will remain.

#### BUILDING 12

Building 12 is a freestanding, two story brick building with the north, south and east elevations being visible. The more visible south elevation is asymmetrical with a variety of openings existing including three loading doors, a person door and two steel windows at the first floor. The second floor has several steel windows of different configurations and a fire escape door. The Owner proposes to demolish most of Building 12, which was a later Boiler House because of its poor condition. All but five feet of the west, north, and east walls including the entire south wall will be removed as will the roof. The space remaining will be used for parking. This building has lost integrity over time and no longer has its chimney. It is a secondary, late building of modest architecture and is not visually prominent. A letter provided by the structural engineer states that the building is severely compromised due to water infiltration and reuse of the structure would require considerable rebuilding. Although we regret the loss of this building, it appears that it would have to be almost entirely rebuilt. The loss of this building will open up windows in adjacent buildings, allow for more much needed parking and allow for a pedestrian entrance into the adjacent buildings that is now blocked by the boiler house.

#### BUILDINGS 5A, 7 AND 33

The Part 2 for this project includes demolition of Buildings 5A and 7. Buildings 5A and 7, which were both built later to enclose spaces between buildings, will be removed completely to open up the space between and allow for light into the lower windows of adjacent buildings. Building 33, which is a sheet metal shed which connects Buildings 5 and 8 and is not original will also be demolished. None of this demolition will visually alter the appearance of the historic mill.

Bridges will be constructed between Buildings 3 and 5. Bridges previously existed and these locations but were removed when the roof (Building 5A) was added to enclose the space between the buildings. These bridges will not be visible except from inside the courtyard.

#### CONDITIONS THAT MUST BE MET FOR APPROVAL

1. Large wood panelled door at Building 1 shall be replaced with infill that more closely resembles the existing panelled door. The upper panels and transom could be replaced with glass.
2. Replacement windows on the west elevation of Building 2 should be punched windows differentiated from the historic window configuration of the first floor windows.
3. The new windows being added to Buildings 1 and 2 must be reviewed and approved by the

RIHPHC prior their installation. These windows must conform to the conditions of the Part 2 regarding new windows

4. South Elevation Windows of Building 3. The original eyebrow window fenestration should be maintained as transoms leaving the sill in place and the new window should be installed below. Details for new windows on this elevation must be submitted to this office for review.

5. South Elevation Tower entrance doors of Building 5 should be more in keeping with the industrial building. Patio door units are inappropriate in this setting. The Owner should look at other existing original doors on the building for precedent.

6. The new aluminum replacement windows at Building 8 must match the remaining original steel framed windows.

7. The new garage door opening at Building 9 should read as new opening and not appear as original to the building.

8. Designs for the infill of the loading doors on the south elevation of Building 12 must be presented for review and approval.

#### GENERAL CONDITIONS

Design of the new bridges must be reviewed and approved by the RIHPHC prior to construction.

A mock-up of each major window type must be provided. The mock-up of the new window must be installed in an opening next to an existing window for comparison. New windows must be reviewed and approved by the RIHPHC prior to installation.

Masonry cleaning, repointing and brick replacement samples FOR THE EXTERIOR must be provided and approved by RIHPHC prior to the start of work. Approved samples must be maintained throughout construction. Cleaning of exterior masonry must be accomplished using the gentlest means possible without damaging the surface of the masonry. This work must be accomplished in accordance with the guidance provided in Preservation Brief 1, Assessing Cleaning and Water-Repellent Treatments for Historic Masonry Buildings. Specifications and test cleaning samples should be reviewed and approved by the State Historic Preservation Office before proceeding with this work. Good quality overall and close-up color photographs of the masonry before and after cleaning must be submitted with the Request for Certification of Completed Work. No sandblasting will be allowed for any reason to clean the exterior of any building including to remove paint. Repointing mortar must match historic mortar in color, texture, composition, and profile. Care must be taken in removing existing mortar. Surrounding brick must not be damaged (gouged or ground down) by methods of mechanical joint cleaning. No penetrations may be made in the brick walls for door or window openings, grilles, vents, piping or for other reasons without review and approval from the RIHPHC.

Roofing materials that will be visible should be an appropriate material and color. A sample of the material for these roofs must be reviewed and approved by the RIHPHC. Other roofing materials that will not be visible should be held back from the roof edge. A detail of the roofing installation at the roof edge must be reviewed and approved by the RIHPHC. Roof top equipment, including the cooling tower, should be held back from the roof edge and should not be visible. If the cooling tower or any other equipment is not able to be located so that it is not visible, sight line studies must be provided. The design and color must also be presented to the RIHPHC for review and approval. All other roof penetrations should also occur toward the center of the roof away from the roof edge.

Original loading doors must be repaired and maintained. If doors are deteriorated beyond repair that condition must be adequately documented. Garage/loading door openings must be in filled with materials that closely resemble the original doors. These doors may have glass, but should not be in filled with a large glass panel. Drawings for the infill at openings must be reviewed and approved by the RIHPHC Architect prior to construction.

The Owner must attempt to use existing openings wherever possible for the new openings into the units. Unless there is no other feasible alternative, new openings must not be cut into original solid brick walls. If an opening is necessary, its location and design must be reviewed and approved by the RIHPHC architect prior to installation.

Throughout the building, interior surfaces that are exposed brick, painted brick or plastered should remain, as they originally existed. Paint removal inside a mill, for projects that are intended to qualify for rehabilitation tax credits, must be done in a manner that does not erode the brick surface and edges, mortar joints, or wood framing. Leaving the brick unpainted after removing lead paint is not historically appropriate, and may not meet the Standards for Rehabilitation. Historically painted interiors should be painted again. The effectiveness of various abrasive paint removal methods differs from building to building. Coarse materials such as slag or the brand name of "Black Beauty" have never been effective at removing the paint without heavy erosion of the surface, and will not be permitted. Walnut shells, baking soda, and some types of glass beads have been effective. Samples must be provided for review and approval by the RIHPHC to identify the gentlest effective method for your building. If every speck of paint is removed from masonry walls through sandblasting, the blasting method has probably been too harsh, and will be unlikely to pass inspection. It is important to keep in mind that it is not necessary (by code or health regulations) to remove all evidence of lead paint, but only the loose and flaking paint. A number of our mill projects have passed inspection with firmly adhered paint remaining on the walls. Under no circumstances will unpainted walls be allowed to remain in public spaces such as lobbies, common spaces and corridors. Historically painted walls and framing members must be maintained painted in these areas. In tenant spaces, loose paint may be gently removed from masonry walls and left unpainted. Walls that were originally exposed brick must not be furred out and infilled with insulation and drywalled. Brick replacement samples for the interior must be provided and approved by RIHPHC prior to the start of work. Abrasive cleaning of any kind is not permitted on any wood surface including columns, beams and ceilings. Aggressive sandblasting will not be allowed on any surface.

The clear breathable sealant must not alter the surface appearance or vapor permeability of the masonry. Evidence justifying the need for the coating, data on the performance characteristics of the selected coating, and sample applications must be reviewed and approved by the State Historic Preservation Office before beginning work. Good quality overall and close-up color photographs of the masonry before and after coating must be submitted with the Request for Certification of Completed Work.

Structural repairs must be done in such a manner that they are not intrusive. If structural repairs are needed in areas where they will be visible, details must be reviewed and approved by RIHPHC.

Wood flooring must be maintained and left exposed in all public areas including stairwells, lobbies and corridors. If it is desirable to have other flooring material inside tenant spaces, the tongue and groove flooring must be maintained and covered in a reversible manner. Pouring a concrete compound over an intact historic wood floor is a damaging treatment to historic fabric and does not meet the Standards for Rehabilitation. There are other, less damaging methods of achieving sound proofing or encapsulation. In the tenant spaces apply the sound proofing to the underside of the ceiling decking. With a pad and carpet, installed in a reversible manner over the original wood floor above, an approved method for sound proofing can be achieved

Soffits or ductwork must not obstruct the full opening of windows. Soffits and ductwork, if below the head of a window, must be held back from the window a minimum of 4'.

New partitions must intersect exterior walls between window openings, or at mullions with a minimum width of 4". Ceilings, if dropped, must be held back from exterior walls a minimum of 3' so that the full height of the window is exposed, and the ceiling drop must be sloped away from the window at an angle of 45 degrees or less.

All lighting being installed in the public areas including lobbies, stairhalls and corridors must be industrial in nature and compatible with the building. Interior paint colors must be historically appropriate for mill interiors.

New railings added to and around mill buildings and mill complex sites must be compatible with the historic character of the mill. Examples of historic railings can often be found on site, and they are almost always painted. New railings added at stair cases, ramps, entrances and as safety barriers at retaining walls, etc... must be painted. Bare galvanized metal is not compatible with the historic character of the mill, and unnecessarily calls attention to a new feature.

Site Design at historic mill complexes should maintain the industrial character of the complex. Foundation planting should be limited to low growing ground cover, and trees and planting beds should be kept a distance from the facades. If historic renderings exist of the mill complex, those should be consulted for the appropriate extent of landscaping around the site. The site circulation must be accommodated in such a way as to avoid potential damage or

threats to historic buildings, and building components. A detailed site plan as well as details for fencing and signage must also be reviewed and approved.

**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  
 Brady Sullivan Eagle Street, LLC  
 Address  
 670 N. Commercial Street  
 Address 2

Federal employer identification number

City, town or post office  
 Manchester

State ZIP code  
 NH 03101

E-mail address

**Part A - Project Information**

1 Project name: Eagle Street Lofts

2 Project location: ~~25 Eagle Street, Providence, Rhode Island~~ - 355, 376, 384 VALLEY STREET

3 Project number: 13-06

**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	20,000,000
2	Credit Percentage Elected - 20% or 25% from 2013 application - Form HTC-13.....	2	20 %
3	Estimated Historic Preservation Tax Credits 2013 from 2013 application - Form HTC-13.....	3	4,000,000
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	600,000

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 Shane D. Brady	Date 1/3/14	Telephone number
Applicant address 670 N. Commercial Street	City, town or post office Manchester	State NH	ZIP Code 03101