

AMENDED AND RESTATED PRESERVATION RESTRICTION AGREEMENT

between

NEWBURYPORT MARITIME SOCIETY, INC.

and the

CITY OF NEWBURYPORT, MASSACHUSETTS

BY AND THROUGH THE NEWBURYPORT HISTORICAL COMMISSION

THIS AMENDED AND RESTATED PRESERVATION RESTRICTION AGREEMENT is made this ____ day of _____, 2020 by and between NEWBURYPORT MARITIME SOCIETY, INC., a Massachusetts not for profit corporation having its offices at 25 Water Street, Newburyport, MA 01950 ("**Grantor**"), and the CITY OF NEWBURYPORT ("**Grantee**"), a municipality duly organized under the laws of the Commonwealth of Massachusetts and located in Essex County, Massachusetts, to be administered, managed and enforced by its agent, the NEWBURYPORT HISTORICAL COMMISSION, located at 60 Pleasant Street, Newburyport, Massachusetts, 01950 ("**Commission**"),

WHEREAS, pursuant to that certain deed filed and registered on December 14, 2018, in the Southern Essex Registry District of the Land Court (the "**Registry**"), as Document No. 598271 (the "**Deed**"), the Grantor is the owner of certain real property with improvements thereon located at 25 Water Street, Newburyport, Massachusetts 01950 (the "**Premises**") comprising the building known as the United States Custom House (the "**Building**") and associated open space in which the Grantor operates a maritime history museum known as the Custom House Maritime Museum. The Premises are described in **Exhibit A** attached hereto and incorporated herein by reference and are shown in part as Lot B on Land Court Plan 4588-B and in part as Lot D and Lot E on Land Court Plan 4588-C, which plans are attached hereto and incorporated herein as Exhibits B and C, respectively;

WHEREAS, the Grantor and the Commission have previously entered into a Preservation Restriction Agreement dated September 13, 2002, filed and registered with the Registry on March 13, 2003 as Document Number 415394 (hereinafter the "Original Preservation Restriction Agreement"), a copy of which is attached hereto and incorporated herein by this reference as **Exhibit D**, and Grantor, Grantee and the Commission desire hereby to amend and entirely restate the Original Preservation Restriction Agreement;

WHEREAS, the Building consists of a two-story Greek revival style building designed by architect Robert Mills, and constructed in 1835. The two-story building has a fortress-like appearance with heavy proportions and minimal ornamental detail.

The primary façade faces south along Water Street and is dominated by a heavy Doric entablature supported on 2-story pilasters at the four building corners. It sits on a high base with a gable roof and pediment that is inspired by Greek temple forms. The walls are rough quarry-faced Rockport granite while the details are smooth dressed stone. The spandrel panels on the south façade between the first and second story windows are solid blocks of dressed granite.

The center of the three-bay south façade is vertically accentuated by a slight break in the wall and entablature and by a one-story portico with 11.5' high Greek Doric granite columns supporting an entablature. The columns are 28" in diameter at the base and taper approximately to 20.5" at the capital, making them proportionally five diameters high.

The doors are original with tall panels and stepped flat moldings, surrounded by decorative wood buttons. The stone architrave is recessed with a simple chamfered backband molding.

Window openings on the first and second floor contain 2/2 double hung windows with remnants of the original wrought iron shutter hardware in the surrounding granite. Windows in the high base contain in-swing wood hopper windows set behind wrought iron bars.

The east and west facades have a continuous dressed stone entablature with a simplified chamfer bed molding in contrast to the shaped cove bed molding found on the more formal south façade entablature.

The walls are quarry faced granite infill with a dressed stone watertable and window sills.

The north elevation facing the Merrimack River is simplified; less select darker stones were used with minimal dressed stonework between the corner pilasters. The continuous entablature is omitted and a simple flat stone course aligning with the corona is substituted. The pediment has a stone inscribed with "1835" in its center. A +7 ft. high x 9 ft. wide opening provides access to the cellar. It contains an inset aluminum storefront door pair with sidelights, dating to the 1972 restoration.

The roof structure is divided into five bays with timber trusses that were reinforced with new steel beams and connections during the 1972 building restoration.

The rooftop observatory is supported between four offset, granite chimneys that serve eight fireplaces within. The observatory has "fancy" wrought iron handrails spanning between the chimneys according to Mills specification and a flat seam copper roof with an aluminum/acrylic access hatch installed during 2013 restoration work.

The Newburyport Custom House has a cruciform plan with intersecting masonry barrel vaults surrounded by four masonry groin vault rooms. The rooms are not square so the groin vaults are elliptical shaped. The intersecting masonry arches were formed with wood forms called "arch centering". The arch height is ¼ of the span. The spring line of the arches is roughly 13' and the outward thrust of the arches is reinforced by masonry piers. The floor thickness is 12" at the apex. The voids above the vaults were leveled with sand to create the upper floors. The masonry groin vaults on the first floor are finished with 3-coat plaster. Masonry groin vaults were a novel method of fireproof construction in America at the time and masons were unfamiliar with the techniques needed to form a groin vault. In fact, Mills travelled to Newburyport in August 1834 to instruct the local carpenters and masons in this novel construction technique.

The first and second floor interiors have diamond pattern marble flooring in the center hallways and brick running bond pattern masonry flooring in the rooms, all dry set in a sand bed and supported on a system of fireproof brick groin vaults.

The cellar has four masonry groin vault storage rooms that functioned as a storehouse for safekeeping of goods held in bond or impounded until duties were paid. The cellar floors are brick running bond pattern masonry floors set directly on earth below grade. The original iron doors to the storerooms were removed and their wrought iron hinge pintles remain. The southeast storeroom was subdivided during the 1972 renovations into bathrooms and a mechanical equipment room. The floor was sloped down to provide clearance beneath the granite lintel supporting the cruciform barrel vault of the center hall.

A unique granite "hanging" stair connects the first and second floor. This type of winding stair form with an open well in the center was employed in part to increase interior daylight.

Hanging stairs are elegant and appear to defy gravity by their graceful movement between static floor levels. The stair treads were constructed in tandem with the surrounding masonry walls so that the treads were locked into each masonry course as work progressed. The Newburyport Custom House stair is constructed of un-rabbeted, solid granite treads with a slight overlap of ½".

The back edge of each tread supports the weight from above (vertical load) while the leading edge is supported by the tread below. The masonry wall carries the counterclockwise torsion from these two opposing vertical forces. The rectangular section of the tread is strong in torsion.

The largest load occurs at the second tread above the first floor because it carries the weight of the entire flight above while the curtail step beneath rests on the floor. The stair has a wood handrail supported on simple, round wrought iron balusters. The handrail is terminated by a wreath above the first floor curtail step.

The ceiling of the second floor and the roof are timber framed with the exception of an exposed brick groin vault above the Baker Gallery.

The Newburyport Custom House retains many architectural features from the original date of its construction in 1835 that distinguish this building from the other two surviving New England custom houses designed by Robert Mills. They are in New Bedford, Massachusetts and New London, Connecticut (the Middletown, Connecticut custom house was demolished in 1918 to make way for a new post office).

The building occupies a 44 ft. wide by +-410 ft. deep (approximate), 15,719 sq. ft. lot spanning between the Merrimack River and Water Street in Newburyport's historic Market Square district.

The north yard was originally a natural embayment on the river where vessels were docked for inspection. It was later filled in for the Newburyport City Railroad line in 1872. A public boardwalk was constructed in 1972 on the waterfront boundary and more recently a bike trail. A flat grass lawn extends from the building to the boardwalk/bike trail and is used by the Custom House Maritime Museum for tented events. "Custom House Way" is a brick paved, public way to the waterfront along the east side of the building. The west side of the building is abutted by a paved parking area owned by New England Development. The south side of the building facing Water Street has a wide brick public sidewalk. Two large navigational buoys, donated and maintained by the local Coast Guard station are set into the brick paving on either side of the building entrance portico.

WHEREAS, the Building is historically significant for its architecture, associations and/or archaeology, its role in Newburyport's maritime history, and its design by Robert Mills (1781-1855), a nationally known architect, who designed such notable buildings as the US Patent Office (1836-40), the US Treasury building (1836-42) (seen on the back of the US \$10 bill), and the Washington National Monument (1848-1852) among over 160 projects during his lifetime.

Mills' work included the design of (4) Custom Houses built in New England during his tenure as a draftsman at the General Land Office, a bureau of the Treasury Department from 1830-1836, under the administration of Andrew Jackson, then as Federal Architect serving until 1852.

The Building was listed in the State and National Registers of Historic Places on February 25, 1971, both individually and as a contributing resource to the Market Square Historic District, and on August 2, 1984, as a contributing resource to the Newburyport Historic District and therefore qualifies for a preservation restriction under M.G.L. Chapter 184, Sections 31, 32 and 33;

WHEREAS, Grantor and Grantee recognize the architectural, historic and cultural values (hereinafter "preservation values") and significance of the Building and the Premises and have the common purpose of preserving the aforesaid preservation values of the Building and the Premises;

WHEREAS, the preservation values of the Building and Premises are documented in a series of photographs and documents (hereinafter "Baseline Documentation") attached hereto as Exhibits A, B, C, E and F, incorporated herein by reference, which Baseline Documentation the parties agree provides an accurate representation of the Building and Premises as of the date of this grant;

WHEREAS, the Baseline Documentation, Exhibits A, B, C, E and F, consists of the following;

- (a) Legal Description of the Property (Exhibit A);
- (b) Land Court Plan 4588-C (Exhibit B);
- (c) Land Court Plan 4588-B (Exhibit C);
- (d) Assessors Parcel Map (Exhibit E);
- (e) Baseline Photographs (Exhibit F), a set of the following six (6) photographs of the exterior of the Building and three (3) photographs of key interior features;

- (i) 3/18/2009 View of south façade, Gregory Colling
- (ii) 11/14/2009 View of east façade, uavlook.com
- (iii) 7/27/2013 View of north façade, Gregory Colling
- (iv) 3/14/2009 View of west façade, Gregory Colling
- (v) 3/16/2019 Water Street Entry Door Detail, Bill Finch
- (vi) 7/24/2013 Observatory guardrail detail, Gregory Colling
- (vii) 6/2/2009 Interior Hanging Stair/Marble Floor, Carl Tremblay
- (viii) 6/2/2009 Interior Hanging Stair Detail, Carl Tremblay
- (ix) 6/2/2009 Second floor groin vault (Baker Gallery), Carl Tremblay

WHEREAS, the preservation of the Building is important to the public and citizens of Newburyport for the enjoyment and appreciation of its architectural and historical heritage and serves the public interest in a manner consistent with the purposes of Massachusetts General Laws, Chapter 184, Sections 31, 32 and 33 ("**Act**"); and

WHEREAS, The Grantor, the Grantee and the Commission acknowledge that there are various artifacts that deserve protection and the parties agree to work together in good faith to identify, document, and protect said artifacts as soon as is reasonably practicable;

WHEREAS, the Commission is authorized to accept preservation restrictions in the name of the City of Newburyport, and the Commission is a governmental body duly organized under the laws of the Commonwealth of Massachusetts, including the General Laws, Chapter 40C, authorized and directed by the Grantee to manage the properties and buildings burdened by such restrictions, consistent with the provisions of the Act, and to administer and enforce this preservation restriction over the Building to be administered, managed and enforced by the Commission (the "Restriction");

NOW THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, the Grantor does hereby irrevocably grant and convey to the Grantee in gross in perpetuity this preservation restriction (the "Restriction") over the Building and the Premises, which shall supersede and entirely replace the Original Preservation Restriction, said Restriction to be administered, managed and enforced by the Commission.

1. Purpose: It is the purpose of this Restriction (the "Purpose") to assure that the architectural, historic, and cultural features of the Building and Premises will be retained and maintained forever substantially in their current condition or in a restored condition approved by the Commission for preservation purposes, and to prevent any use or change of the Building or Premises that will significantly impair or interfere with the preservation values of the Building or Premises, or alter views of the exterior of the Building or alter interior features, including without limitation: the marble diamond –pattern flooring in the first and second floor hallways; the interior groin vaults in the basement, first and second floors; and the hanging stair system in its entirety, including granite treads, iron balustrade and wooden handrail.

2. Preservation Restriction: The Grantor grants to the Grantee the right to forbid or limit:

- a. any alteration to the appearance, materials, workmanship, condition or structural stability of the Building unless (i) clearly of minor nature and not affecting the characteristics which contribute to the architectural or historical integrity of the Building, or (ii) the Grantee, after reviewing plans and specifications submitted by the Grantor in accordance with the requirements of paragraph 7, has previously determined that such alteration will not impair such characteristics, which determination shall not be unreasonably withheld or delayed, or (iii) required by casualty

or other emergency promptly reported to Grantee in accordance with the requirements of paragraph 9. For the purposes of this Agreement, interpretation of what constitutes alterations “of a minor nature” and “ordinary maintenance and repair” is governed by the Restriction Guidelines, which are attached hereto as **Exhibit G** and incorporated herein by reference;

b. any other act or use that may be harmful to the historic preservation of the Building.

3. Restriction as to Expenditure of Funds: Subject to Paragraph 2 and the terms and conditions of this Restriction and such other terms and conditions as the Commission may reasonably impose to accomplish the Purpose of this Restriction, the Grantor shall expend any funds awarded pursuant to the Community Preservation Act for the purposes of such grant to maintain, rehabilitate or restore the Building.

4.a. Grantor's Covenants: Covenant to Maintain. Subject to Paragraph 2 and the terms and conditions of this Restriction, and such other terms and conditions as the Commission may reasonably impose to accomplish the Purpose of this Restriction, the Grantor covenants and agrees at all times to maintain the Building in the same structural condition and state of repair as that existing on the date of this Restriction. Grantor's obligation to maintain shall require replacement, repair, and reconstruction by Grantor whenever necessary to preserve the exterior of the Building and of those interior Building features identified in Exhibit F photographs (vii)-(ix) (hanging stair, marble floor and second floor groin vault) . Subject to the casualty provisions of paragraphs 9 and 10, this obligation to maintain shall require replacement, rebuilding, repair, and reconstruction of the Building whenever necessary in accordance with the policies and procedures of the Commission and in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings (36 CFR 67 and 68), as these may be amended from time to time (hereinafter the "Secretary's Standards").

Grantor's covenant to maintain herein shall be limited to funds reasonably available therefor. Should the parties disagree as to the need of maintenance or the availability of funds the matter may be submitted by either party for arbitration pursuant to the Massachusetts arbitration statute then in effect.

4.b. Grantor's Covenants: Prohibited Activities. The following acts or uses are expressly forbidden except as otherwise conditioned in this paragraph:

- (i) the Building shall not be demolished, removed, or razed except as provided in Paragraphs 9 and 10;
- (ii) the dumping of ashes, trash, rubbish, or any other unsightly or offensive materials is prohibited on the Premises near the Building;
- (iii) no above-ground utility transmission lines, except those reasonably necessary for the existing Building, may be created on the Premises, subject to utility easements already recorded;
- (iv) no additions and/or outbuildings may be attached to the Building without prior approval of the Grantee; and
- (v) moving the Building to another location is prohibited without prior approval of the Commission.

5. Conditional Rights Requiring Grantee Approval: Subject to Paragraph 4 and the terms and conditions of this Restriction and such other terms and conditions as the Commission may reasonably impose to accomplish the Purpose of this Restriction, the Grantor shall not alter the Building without prior express

written approval of the Commission. Without said approval, Grantor shall not make any changes to the Building, including the alteration, partial removal, construction, remodeling, or other physical or structural change, including permanent signs, and any change in material or color or any change to the footprint, size, mass, ridge-line, and rooflines of the Building. Grantor shall similarly not make any alterations to the surrounding Premises that would obscure the current view of the Building, such as the installation of permanent signage or trees or very large shrubs without approval of the Commission. Activities by Grantor to maintain the Building and the Premises which are intended to be performed in accordance with the provisions of paragraph 4.a, and which are of a minor nature, shall not require the prior approval of the Commission.

6. Grantor's Reserved Rights Not Requiring Further Approval by the Grantee: Subject to the provisions of paragraphs 2 and 4, the following rights, uses, and activities of or by Grantor on, over, or under the Property are permitted by this Restriction without further approval by the Commission:

- a. the right to engage in all those acts and uses that:
 - (i) are permitted by governmental statute or regulation;
 - (ii) do not substantially impair the preservation values of the Building and Property; and
 - (iii) are not inconsistent with the Purpose of this Restriction;

b. pursuant to the provisions of Paragraph 4., the right to maintain and repair the Building in strict accordance with the Secretary's Standards. As used in this sub-paragraph, the right to maintain and repair shall mean the use by the Grantor of in-kind materials and colors, applied with workmanship comparable to that which was used in the construction or application of those materials being repaired or maintained, for the purpose of retaining in good condition the appearance and construction of the Building. The right to maintain and repair as used in this sub-paragraph shall not include the right to make changes in appearance, materials, workmanship from that existing prior to the maintenance and repair without the prior approval of the Commission in accordance with the provisions of Paragraph 5.

7. Review of Grantor's Requests for Approval: Grantor shall submit to the Commission for the Commission's approval of those conditional rights set out at Paragraphs 2 and 5 two copies of information (including plans, specifications, and designs where appropriate) identifying the proposed activity with reasonable specificity. In connection therewith, Grantor shall also submit to the Commission a timetable for the proposed activity sufficient to permit the Commission to monitor such activity. Within forty-five (45) days of the Commission's receipt of any plan or written request for approval hereunder, the Commission shall certify in writing that (a) it approves the plan or request, or (b) it disapproves the plan or request as submitted, in which case the Commission shall provide Grantor with written suggestions for modification or a written explanation for the Commission's disapproval. Any failure by the Commission to act within forty-five (45) days of receipt of Grantor's submission or resubmission of plans or requests shall be deemed to constitute approval by the Commission of the plan or request as submitted and to permit Grantor to undertake the proposed activity in accordance with the plan or request submitted, so long as the request sets forth the provisions of this section relating to deemed approval after the passage of time, provided that nothing herein shall be construed to permit Grantor to undertake any activities specifically prohibited hereunder.

8. Standards for Review: In exercising any authority created by this Restriction to inspect the Building; to review any construction, alteration, repair, or maintenance; or to review casualty damage or to reconstruct or approve reconstruction of the Building following casualty damage, the Commission shall apply the Secretary's Standards.

9. Casualty Damage or Destruction: In the event that Building shall be damaged or destroyed by fire, flood, windstorm, hurricane, earth movement or other casualty, Grantor shall notify the Commission in writing within fourteen (14) days of the damage or destruction, such notification including what, if any, emergency work has already been completed. No repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the Building and to protect public safety, shall be undertaken by Grantor without the Commission's prior written approval of the work. Within sixty (60) days of the date of damage or destruction, if required by the Commission, Grantor at its expense shall submit to the Commission a written report prepared by a qualified restoration architect and an engineer who are acceptable to the Grantor and the Commission, which report shall include the following:

- a. an assessment of the nature and extent of the damage;
- b. a determination of the feasibility of the restoration of the Building and/or reconstruction of damaged or destroyed portions of the Building; and
- c. a report of such restoration/reconstruction work necessary to return the Building to the condition existing at the date hereof or the condition subsequently approved by the Commission.

10. Review After Casualty Damage or Destruction:

a. If, after reviewing the report provided in Paragraph 9 and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under paragraph 11, Grantor and the Commission agree that the Purpose of the Restriction will be served by such restoration / reconstruction, Grantor and the Commission shall establish a schedule under which Grantor shall complete the restoration/reconstruction of the Building in accordance with plans and specifications consented to by the parties up to at least the total of the casualty insurance proceeds available to Grantor.

b. If, after reviewing the report and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under paragraph 11, Grantor and the Commission agree that restoration/reconstruction of the Building is impractical or impossible, or agree that the Purpose of the Restriction would not be served by such restoration/reconstruction and Grantor may, with prior written consent of the Commission, alter, demolish, remove or raze the Building, and/or construct new improvements on the Property, Grantor and Grantee may agree to seek to extinguish this Restriction in accordance with the laws of the Commonwealth of Massachusetts and paragraph 23 hereof.

c. If, after reviewing the report and assessing the availability of insurance proceeds after satisfaction of any mortgagee's/lender's claims under paragraph 11, Grantor and the Commission are unable to agree that the Purpose of the Restriction will or will not be served by such restoration/reconstruction, the matter may be referred by either party to binding arbitration and settled in accordance with the Commonwealth of Massachusetts arbitration statute then in effect, and all other applicable laws, rules, regulations, and ordinances. Arbitrator shall have experience in historic preservation matters.

11. Insurance: Grantor shall keep the Building insured by an insurance company rated "A" or better by Best's for the full replacement value against loss from the perils commonly insured under standard fire and extended coverage policies and comprehensive general liability insurance against claims for personal injury, death and property damage. Property damage insurance shall include change in condition and building ordinance coverage, in form and amount sufficient to replace fully the damaged Building without cost or expense to Grantor or contribution or coinsurance from Grantor. Grantor shall deliver to the Commission, within ten (10) business days of the Commission's written request thereof, certificates of such insurance coverage. Provided, however, that whenever the Property is encumbered with a mortgage

or deed of trust nothing contained in this paragraph shall jeopardize the prior claim, if any, of the mortgagee/lender to the insurance proceeds.

12. Indemnification: Grantor hereby agrees to pay, protect, indemnify, hold harmless and defend, at its own cost and expense, Grantee, its boards, commissions, appointees, agents, directors, employees, or independent contractors from and against any and all claims, liabilities, expenses, costs, damages, losses and expenditures (including attorneys' fees and disbursements hereafter incurred) arising out of or in connection with injury to or death of any person as a result of the existence of this Restriction; physical damage to the Building; the presence or release in, on, or about the Premises, at any time, of any substance now or hereafter defined, listed, or otherwise classified pursuant to any law, ordinance or regulation as a hazardous, toxic, polluting or contaminating substance; or other injury or other damage occurring on or about the Building; unless such injury, death, or damage is caused by Grantee or its boards, commissions, appointees, agents, directors, employees, or independent contractors. In the event that Grantor is required to indemnify Grantee pursuant to the terms of this paragraph, the amount of such indemnity, until discharged, shall constitute a lien on the Property with the same effect and priority as a mechanic's lien.

13. Written Notice: Any notice which either Grantor or Grantee may desire or be required to give to the other party shall be in writing and addressed:

In the case of the Grantor to:
Newburyport Maritime Society, Inc.
ATTN: Executive Director
25 Water Street
Newburyport, MA 01950

In the case of the Grantee to:
City of Newburyport
c/o Newburyport Historical Commission
City Hall
60 Pleasant Street
Newburyport, MA 01950

Each party may change its address set forth herein by a notice to such effect to the other party.

14. Evidence of Compliance: Upon request by Grantor, Grantee shall promptly furnish Grantor with certification that, to the best of Grantee's knowledge, Grantor is in compliance with the obligations of Grantor contained herein, or that otherwise evidence the status of this Restriction to the extent of Grantee's knowledge thereof.

15. Inspection: With the consent of Grantor, Grantee or its representatives shall be permitted at reasonable times to inspect the Building and the Premises on an annual basis. Grantor covenants not to withhold unreasonably its consent in determining dates and times for such inspections.

16. Grantee's Remedies: The Grantor, for itself, its assigns and successors, expressly acknowledges that a violation of this Preservation Restriction Agreement, including a failure to expend such grant funds for their intended purposes, may result in the Commission exercising its right to enforce the terms and conditions of the Restriction by seeking appropriate legal and equitable relief, including, but not limited to, restoration of the Building, repayment of the funds, and such other legal and equitable remedies as

may be available to the Commission to effectuate the Purpose of this Restriction and to enforce the Grantor's obligations hereunder.

In the event Grantor is found to have violated any of its obligations, Grantor shall reimburse Grantee for any costs or expenses incurred in connection with Grantee's enforcement of the terms of this Restriction, including all court costs, and attorneys', architectural, engineering, and expert-witness fees. Grantor shall, at its own expense and with approval of Commission, reverse any actions or activities which violated this restriction and altered the Building.

Nothing in this Restriction shall impose upon the Commission any duty to maintain or require that the Building be maintained in any particular state or condition, notwithstanding the Commission's acceptance hereof. Enforcement of the terms of this Restriction shall be at the discretion of the Commission. Any election by the Commission as to the manner and timing of the exercising of its right to enforce this Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights. By its acceptance of this Restriction, the Commission does not assume any liability or obligation relating to the condition of the Building or the Premises, including compliance with hazardous materials or other environmental laws and regulations.

17. Notice from Government Authorities: Grantor shall deliver to Grantee copies of any notice of violation or lien relating to the Building or Premises received by Grantor from any government authority within five (5) days of receipt by Grantor. Upon request by Grantee, Grantor shall promptly furnish Grantee with evidence of Grantor's compliance with such notice or lien where compliance is required by law.

18. Notice of Proposed Sale: Grantor shall promptly notify Grantee in writing of any proposed sale of the Building or Premises and provide the opportunity for Grantee to explain the terms of the Restriction to potential new Grantors prior to sale closing.

19. Binding Effect: Except as provided in Paragraphs 9 and 10, the restrictions, obligations and duties set forth in this Restriction shall run with the Premises and shall inure to the benefit of the Commission and all parties claiming by, through or under the Commission and shall bind the Grantor and all parties claiming by, through or under the Grantor. The rights hereby granted to the Commission constitute the perpetual right of the Commission to enforce this Preservation Restriction Agreement. The Grantor hereby covenants for itself to stand seized and hold title to the Premises subject to the terms of this Restriction. This Restriction shall extend to and be binding upon Grantor and Grantee, their respective successors in interest and all persons hereafter claiming under or through Grantor and Grantee, and the words "Grantor" and "Grantee" when used herein shall include all such persons. Any right, title, or interest herein granted to Grantee also shall be deemed granted to each successor and assign of Grantee and each such following successor and assign thereof, and the word "Grantee" shall include all such successors and assigns.

Notwithstanding anything contained herein to the contrary, Grantor shall have no obligation pursuant to this instrument where such Grantor shall cease to have any ownership interest in the Premises by reason of a bona fide transfer. The restrictions, stipulations and covenants contained in this Restriction shall be inserted by Grantor, verbatim or by express reference, in any subsequent deed or other legal instrument by which Grantor divests itself of either the fee simple title to or any lesser estate in the Premises or any part thereof, including by way of example and not limitation, a lease of all or a portion of the Premises.

20. Assignment: Grantee may convey, assign, or transfer this Restriction to a unit of federal, state, or local government or to a local, state, or national charitable corporation or trust that qualifies under the Act, and whose purposes, inter alia, are the preservation of buildings or sites of historical significance, provided that any such conveyance, assignment or transfer requires that the Purpose for which the Restriction was granted will continue to be carried out. Grantor shall give prior written approval of such conveyance, assignment, or transfer by Grantee, such approval not to be unreasonably withheld.

21. Alternate Designee: Grantee may, at its discretion, remove and replace the Commission as its designee to administer, manage, and enforce this Restriction, provided that any new designee is qualified as such under the Act and other applicable law.

22. Recording and Effective Date: Grantee shall do and perform at its own cost all acts necessary to the prompt recording of this Restriction which shall become effective upon its being duly executed by the Grantor, the City of Newburyport, and the Newburyport Historical Commission, its being approved by the Massachusetts Historical Commission, and its being recorded with the Registry.

23. Extinguishment: Grantor and Grantee hereby recognize that an unexpected change in the conditions surrounding the Premises may make impossible the continued ownership or use of the Premises for the Purpose of this Restriction and necessitate extinguishment of the Restriction. Such a change in conditions may include, but is not limited to, partial or total destruction of the Building resulting from casualty. Such an extinguishment must meet all the requirements of the Act for extinguishment, including public hearings by the City of Newburyport and the Massachusetts Historical Commission to determine that such extinguishment is in the public interest. In the event of a sale of the Premises, net proceeds of sale shall be paid to Grantor.

24. Condemnation: If all or any part of the Premises is taken under the power of eminent domain by public, corporate, or other authority, or otherwise acquired by such authority through a purchase in lieu of a taking, Grantor and Grantee shall join in appropriate proceedings at the time of such taking to recover the full value of those interests in the Premises that are subject to the taking and all incidental and direct damages resulting from the taking. All expenses reasonably incurred by Grantor and Grantee in connection with such taking shall be paid out of the recovered proceeds. Such recovered proceeds shall be paid to Grantor.

25. Interpretation: The following provisions shall govern the effectiveness, interpretation, and duration of the Restriction:

a. Any rule of strict construction designed to limit the breadth of restrictions on alienation or use of the Premises shall not apply in the construction or interpretation of this Restriction and this instrument shall be interpreted broadly to affect its Purpose and the transfer of rights and the restrictions on use contained herein.

b. This instrument may be executed in multiple counterparts, one of which is to be retained by Grantor and another, to be retained by Grantee. In the event of any disparity between the counterparts produced, the recorded counterpart shall in all cases govern. Except as provided in the preceding sentence, each counterpart shall constitute the entire Restriction of the parties.

c. This instrument is made pursuant to the Act, but the invalidity of such Act or any part thereof shall not affect the validity and enforceability of this Restriction according to its terms, it being the intent of the parties to agree and to bind themselves, their successors and their assigns in perpetuity to each term of this instrument whether this instrument be enforceable by reason of any statute, common law or private Restriction either in existence now or at any time subsequent hereto.

d. Nothing contained herein shall be interpreted to authorize or permit Grantor to violate any ordinance or regulation relating to building materials, construction methods or use. In the event of any conflict between any such ordinance or regulation and the terms hereof Grantor promptly shall notify Grantee of such conflict and shall cooperate with Grantee and the applicable governmental entity to accommodate the purposes of both this Restriction and such ordinance or regulation.

If any court or other tribunal determines that any provision of this instrument is invalid or unenforceable, such provision shall be deemed to have been incorporated herein automatically to conform to the requirements for validity and enforceability as determined by such court or tribunal. In the event any provision invalidated is of such a nature that it cannot be modified, the provision shall be deemed deleted from this Preservation Restriction Agreement as though it had never been included herein. In either case, the remaining provisions of this instrument shall remain in full force and effect.

26. Amendment: If circumstances arise under which an amendment to or modification of this Restriction would be appropriate, Grantor and Grantee may by mutual written agreement jointly amend this Restriction, provided that no amendment shall be made that will adversely affect the qualification of this Restriction or the status of Grantee under any applicable law. Any such amendment shall be consistent with the protection of the preservation values of the Premises and the Purpose of this Restriction; shall not affect its perpetual duration; shall not permit any private increment to any person or entity; and shall not adversely impact the overall architectural and historic values protected by this Restriction. Any such amendment shall be effective when the requirements of the Act with respect to amendments have been met and the amendment is recorded in the Registry. Nothing in this paragraph shall require Grantor or Grantee to agree to any amendment or to consult or negotiate regarding any amendment.

27. Release: This Preservation Restriction is intended to be a restriction in gross in perpetuity and may only be released, in whole or in part, by the Grantee pursuant to the procedures for release established by the Act and otherwise by law, including approvals following public hearings by the City of Newburyport and the Massachusetts Historical Commission to determine that such a release is in the public interest.

28. Archaeological Activities: The conduct of archaeological activities on the Premises, including without limitation survey, excavation, and artifact retrieval, may occur only following the submission of an archaeological field investigation plan prepared by the Grantor and approved in writing by the Grantee and the State Archaeologist of the Massachusetts Historical Commission (M.G.L. C. 9, Sec. 27C, 950 C.M.R. 70.00).

29. Deed Restriction and Condition Superseded. Grantor, Grantee and the Commission agree that this Restriction shall replace and supersede in its entirety the Original Preservation Restriction as referenced in the second restriction and condition (numbered 2) of the Deed, provided, however, that to the extent that any provision of this Restriction is inconsistent with any other provision of the Deed, including without limitation, the other restrictions and conditions of the Deed numbered 1,3,4,5 and 6, the provisions of the Deed shall control.

30. Existing Preservation Restriction Agreement; Subordination. Grantor, Grantee and Commission acknowledge that Building and Premises are subject to an existing perpetual Preservation Restriction Agreement between Grantor, the Newburyport Redevelopment Authority, and the Commonwealth of Massachusetts by and through the Massachusetts Historical Commission and recorded in the Registry as Document Number 543682 on June 20, 2013 (the "MHC Agreement"), and that Grantor and Commission have subordinated the Original Preservation Restriction to the MHC Agreement in a Subordination Agreement recorded in the Registry as Document Number 543683 on June 20, 2013. Grantor agrees that

in addition to complying with this Restriction, Grantor will continue to comply with the restrictions contained in the MHC Agreement. Grantor, Grantee and Commission agree that this Restriction shall be subordinate to the MHC Agreement, and further agree that should any dispute arise between the Commission and the Massachusetts Historical Commission in the process of fulfilling the requirements of these restrictions, the Commission shall defer to the demands and requirements set out by the Massachusetts Historical Commission.

[Signatures appear on following pages]

IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed under seal by its officers, hereunto duly authorized, this _____ day of _____, 2020

Newburyport Maritime Society, Inc.

By: _____
Susan Bernhard
Its Chairman of the Board of
Directors and Chief Executive Officer

By: _____
Michael Laureno
Its Treasurer

COMMONWEALTH OF MASSACHUSETTS

Essex, ss _____, 2020

On this _____ day of _____, 2020, before me, the undersigned notary public, personally appear Susan Bernhard, proved to me through satisfactory evidence of identification, which was my personal knowledge of the identity of the principal a current driver's license, to be the person whose name is signed on the preceding document, and acknowledged to me that she signed it voluntarily for its stated purposes as Chief Executive Officer of the Newburyport Maritime Society, Inc., a corporation.

Notary Public
My Commission Expires

COMMONWEALTH OF MASSACHUSETTS

Essex, ss _____, 2020

On this _____ day of _____, 2020, before me, the undersigned notary public, personally appear Michael Laureno, proved to me through satisfactory evidence of identification, which was my personal knowledge of the identity of the principal a current driver's license, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purposes as Treasurer of Newburyport Maritime Society, Inc., a corporation.

Notary Public
My Commission Expires

ACCEPTANCE BY THE NEWBURYPORT HISTORICAL COMMISSION

The Newburyport Historical Commission hereby accepts the foregoing Preservation Restriction.

By: _____

Glenn Richards, its Chairman
Hereunto duly authorized

COMMONWEALTH OF MASSACHUSETTS

Essex, ss _____, 2020

On this _____ day of _____, 2020, before me, the undersigned notary public, personally appear Glenn Richards, proved to me through satisfactory evidence of identification, which was my personal knowledge of the identity of the principal a current driver's license, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purposes as Chairman of Newburyport Historical Commission.

Notary Public
My Commission Expires

ACCEPTANCE AND APPROVAL BY THE CITY OF NEWBURYPORT

I, the undersigned City Clerk of the City of Newburyport, Massachusetts hereby certify that at a meeting duly held on _____, 2020 the Newburyport City Council voted to approve and accept the foregoing Preservation Restriction Agreement for the protection of historic resources of said City and being in the public interest pursuant to Massachusetts General Laws Chapter 184, Section 32.

By: _____
Richard B. Jones, Clerk

The undersigned Mayor of the City of Newburyport hereby certifies that the foregoing Preservation Restriction Agreement has been approved and accepted by the City of Newburyport.

By: _____
Donna D. Holaday, Mayor

COMMONWEALTH OF MASSACHUSETTS

Essex, ss _____, 2020

On this _____ day of _____, 20 before me, the undersigned notary public, personally appeared Richard B. Jones, proved to me through satisfactory evidence of identification, which was my personal knowledge of the identity of the principal a current driver's license, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purposes as Clerk of the City of Newburyport.

Notary Public
My Commission Expires

COMMONWEALTH OF MASSACHUSETTS

Essex, ss _____, 2019

On this _____ day of _____, 2020, before me, the undersigned notary public, personally appeared Donna D. Holaday, proved to me through satisfactory evidence of identification, which was my personal knowledge of the identity of the principal a current driver's license, to be the person whose name is signed on the preceding document, and acknowledged to me that she signed it voluntarily for its stated purposes as Mayor of the City of Newburyport.

Notary Public
My Commission Expires

APPROVAL BY THE MASSACHUSETTS HISTORICAL COMMISSION
COMMONWEALTH OF MASSACHUSETTS

The undersigned Executive Director and Clerk of the Massachusetts Historical Commission hereby certifies that the foregoing Preservation Restriction Agreement has been approved pursuant to Massachusetts General Laws, Chapter 184, Section 32.

Brona Simon
Executive Director and Clerk

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss _____, 2020

On this _____ day of _____, 2020, before me, the undersigned notary public, personally appeared Brona Simon, proved to me through satisfactory evidence of identification, which was my personal knowledge of the identity of the principal a current driver's license, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purposes as Executive Director and Clerk of the Massachusetts Historical Commission.

Notary Public
My Commission Expires

LIST OF EXHIBITS

- A. Legal Description of the Premises
- B. Land Court Plan 4588-B
- C. Land Court Plan 4588-C
- D. Original Preservation Restriction Agreement
- E. Assessors Parcel Map
- F. Photographs of the Building and Certain Features
- G. Restriction Guidelines

EXHIBIT A

LEGAL DESCRIPTION OF PREMISES

All those certain parcels of land with the buildings thereon situated located in Newburyport, Essex County, Massachusetts, bounded and described as follows:

First Parcel:

SOUTHWESTERLY by Water Street forty four (44) feet;
NORTHWESTERLY by the Southeasterly line of a "Public Way", as shown on plan hereinafter mention one hundred forty five (145) feet;
NORTHEASTERLY by lot E as shown on said plan, forty eight and 42/100 (48.42) feet;
SOUTHEASTERLY by the Northwesterly line of another "Public Way" as shown on said plan, one hundred forty five (145) feet

All of said boundaries are determined by the Court to be located as shown upon plan numbered 4588-C, drawn by John T. Desmond, Civil Engineer, dated October 28, 1922, as modified and approved by the Court, filed in the Land Registration Office, a copy of a portion of which is filed with Certificate of Title 4249 in said Registry, and the above described land is shown as lot D, on last mentioned plan.

Second Parcel:

NORTHWESTERLY by the Southeasterly line of a Public Way, as shown on above mentioned plan, fifty nine and 03/10-0 (659.03) feet;
NORTHEASTERLY by lot B, as shown on said plan, fifty and 66/100 (50.66) feet;
SOUTHEASTERLY by the Northwesterly line of another Public Way, as shown on said plan, sixty four and 68/100 (64.68) feet; and
SOUTHWESTERLY by Lot D, as shown on said plan, forty eight and 42/100 (48.42) feet.

Being shown as Lot E, on said plan. Said Lot E together with the benefit of and is subject to rights of way and easements appurtenant thereto.

The above described land is subject to and with the benefit of Taking Document 126719, as recited in Order of Court Document No. 17181.

Third Parcel:

SOUTHWESTERLY by Lot A, as shown on plan hereinafter mentioned, fifty and 66/100 (50.66) feet;
NORTHWESTERLY by land now or formerly of the Newburyport City Railroad, thirty two and 43/100 (32.43) feet;
NORTHEASTERLY by Lot C, as shown on said plan, fifty two and 21/100 (52.21) feet; and
SOUTHEASTERLY by other land of the said Newburyport City Railroad, thirty five and 80/100 (35.80) feet.

All of said boundaries are determined by the Court to be located as shown upon plan numbered 4588-B, drawn by C. B. Humphrey, Surveyor for Court, dated June 16, 1914, as modified and approved by the Court, filed in the Land Registration Office, a copy of which is filed with Certificate of Title 1581 in said Registry, and the above described land is shown as lot B on last mentioned plan.

The above described land is subject to a right in favor of said lot C as described in deed from William E. Chase et al to Boston and Maine Railroad, dated August 6, 1914, ad filed as Document 3116 in said Registry.

Together with an easement for access and maintenance to the lawn area on Lot C on Land Court Plan No. 4588-C as shown on the sketch plan attached to and made a part of the Grantor's title deed.

Reserving for the benefit of the City Of Newburyport (hereinafter referred to as the "City") the right to maintain, repair and replace the existing encroachments on the northeast corner of Lot B as shown on the sketch plan attached to and made a part of the Grantor's title deed.

For the Grantor's title, see deed of the Newburyport Redevelopment Authority dated December 13, 2018, filed and registered in the South Essex Registry District of the Land Court as Document No. 598271.

EXHIBIT B

LAND COURT PLAN 4588-B

BASELINE DOCUMENTATION

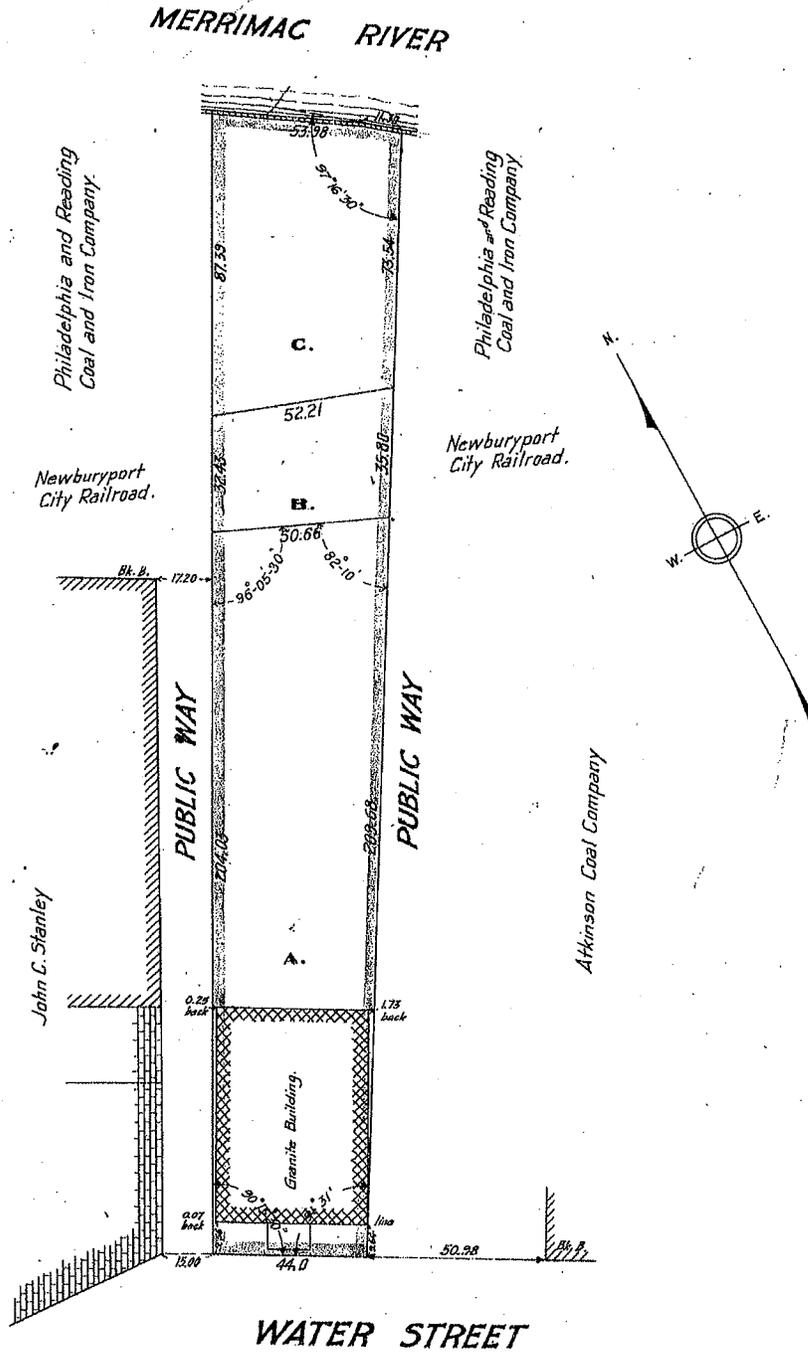
Exhibit B

4588 B

Subdivision of land shown on plan filed with
Cert. of Title No. 1420 South Registry District of Essex County
LAND IN NEWBURYPORT
Scale 40 feet to an inch
June 16, 1914.

C. B. Humphrey, Surveyor for Court

See pub. doc. plan of lot A, filed with Cert. #249



Separate certificates of title may be issued
for Lots A, B. & C. as shown hereon
By the Court
June 20, 1914.
James Smith
Recorder.

RECEIVED AND FILED
LAND REGISTRATION OFFICE
JUNE 15 1914.
WITH CERTIFICATE No. 1081.

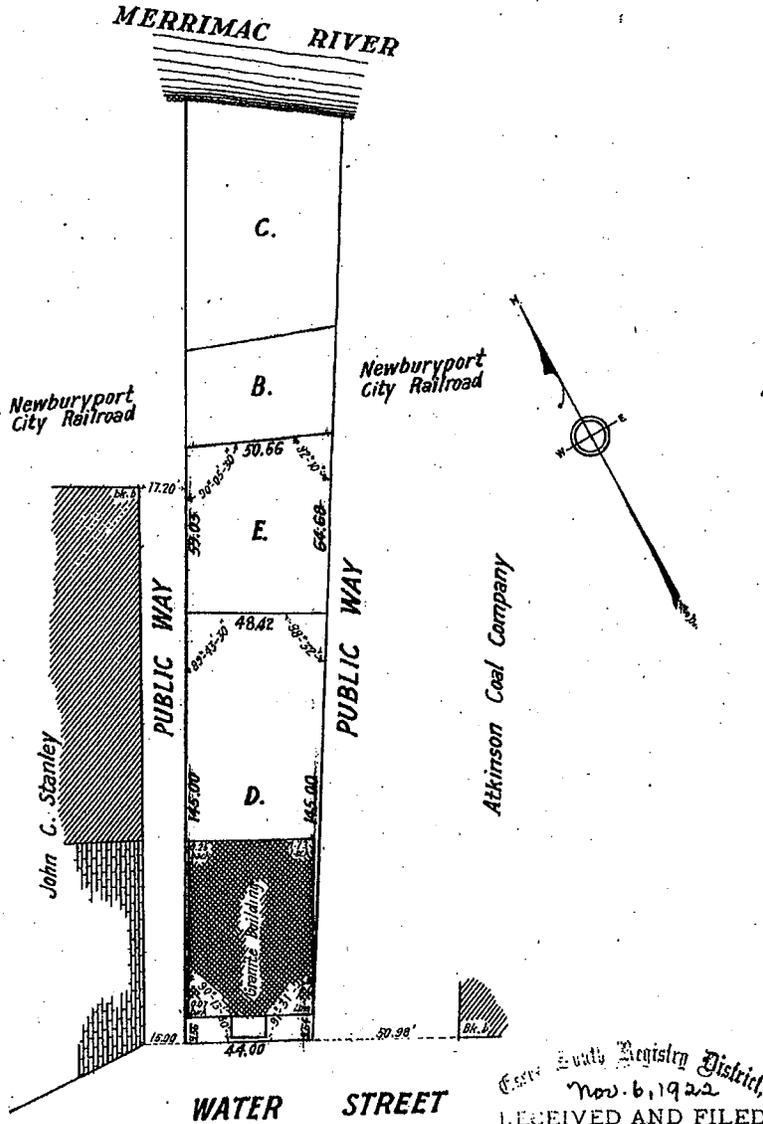
Compiled from data
filed in
Scale of this plan 40 feet to an inch.

EXHIBIT C
LAND COURT PLAN 4588-C

BASELINE DOCUMENTATION
Exhibit C

Subdivision of Lot A shown on plan filed with
Cert. of Title No. 1581 South Registry District of Essex County
LAND IN NEWBURYPORT
Scale 20 feet to an inch
OCT. 28, 1922
John T. Desmond, Civil Engineer

4588C



Separate certificates of title may be issued
for Lots D and E as shown hereon
By the Court *Danvers Church*
Recorder.
Nov. 21, 1922

Essex South Registry District,
Nov. 6, 1922
RECEIVED AND FILED
WITH CERTIFICATE No. 4249

Copy of part of plan
filed in
LAND REGISTRATION OFFICE
NOV. 4, 1922
Scale of this plan 40 feet to an inch
C. B. Humphrey, Surveyor for Court

EXHIBIT D
ORIGINAL PRESERVATION RESTRICTION

So
415394

PRESERVATION RESTRICTION AGREEMENT
between the NEWBURYPORT HISTORICAL COMMISSION and
the NEWBURYPORT MARITIME SOCIETY

The parties to this Agreement are the Newburyport Historical Commission with offices at City Hall, Newburyport, Massachusetts 01950, hereinafter referred to as the NHC, and the Newburyport Maritime Society, with offices at the Custom House, 25 Water Street, Newburyport, Massachusetts, hereinafter referred to as the Grantor.

WHEREAS, the Newburyport Redevelopment Authority, hereinafter referred to as the NRA, an authority duly established under MGL Chapter 121G, with a principal place of business at City Hall, Newburyport, Massachusetts 01950, has granted the Society a ninety-nine (99) year Lease of property known as the Custom House, located at 25 Water Street, Newburyport, Essex County, Massachusetts, hereinafter referred to as "The Premises", which property is described in certificate of Title No. 49161, Land Court, Essex South District Registry of Deeds;

WHEREAS, the Grantor is the holder of a ninety-nine (99) year leasehold interest in the Premises described in a Lease dated February 13, 2001 and Notice of Lease recorded in the Essex South District Registry of Deeds prior hereto;

WHEREAS, the NHC wishes to impose certain restrictions, obligations and duties upon the Lessee of the Premises and on the successors to its right, title and interest therein, with respect to maintenance, protection, and preservation of the Premises in order to protect the architectural, archaeological and historical integrity thereof; and

WHEREAS, the preservation of the Premises is important to the public for the enjoyment and appreciation of its architectural, archaeological and historical heritage and will serve the public interest in a manner consistent with the purposes of M.G.L. Chapter 184, section 32, hereinafter referred to as the Act; and

WHEREAS, the Premises is individually listed in the National Register of Historic Places, and;

WHEREAS, the NHC is a government body organized under the laws of the Commonwealth of Massachusetts and the City of Newburyport and is authorized to accept these preservation restrictions under the Act;

NOW, THEREFORE, for good and valuable consideration, the Grantor conveys to the NHC the following preservation restrictions, which shall apply in perpetuity to the Premises.

415394 (49161) Btch:130065
Southern Essex District Registry
3/13/2003 09:06 AM REST&C

These preservation restrictions are set forth so as to ensure the preservation of those characteristics which contribute to the architectural, archaeological and historical integrity of the Premises which have been listed on the National and/or State Registers of Historic Places, under applicable state and federal legislation.

Characteristics which contribute to the architectural, archaeological and historical integrity of the Premises include, but are not limited to, the artifacts, features, materials, appearance, and workmanship of the Premises, including those characteristics which originally qualified the Premises for listing in the National and/or State Registers of Historic Places.

The terms of the Preservation Restriction are as follows:

1. Maintenance of Premises: The Grantor agrees to assume the total cost of continued maintenance, repair and administration of the Premises so as to preserve the characteristics which contribute to the architectural, archaeological and historical integrity of the Premises in a manner satisfactory to the NHC according to the Secretary of the Interior's "Standards for the Treatment of Historic Properties." The Grantor may seek financial assistance from any source available to it. The NHC does not assume any obligation for maintaining, repairing or administering the Premises.
2. Inspection: The Grantor agrees that the NHC may inspect the Premises from time to time upon reasonable notice to determine whether the Grantor is in compliance with the terms of this Agreement.
3. Alterations: The Grantor agrees that no alterations shall be made to the Premises, by the Grantor, including the alteration of any interior, unless (a) clearly of minor nature and not affecting the characteristics which contribute to the architectural, archaeological or historical integrity of the Premises, or (b) the NHC has previously determined that it will not impair such characteristics after reviewing plans and specifications submitted by the Grantor or (c) required by casualty or other emergency promptly reported to the NHC, or (d) for compliance with the Americans with Disabilities Act, provided the Grantor's plans and specifications for this purpose are first approved by the NHC. Ordinary maintenance and repair of the Premises may be made without the written permission of the NHC. For purposes of this section, interpretation of what constitutes alterations of a minor nature and ordinary maintenance and repair is governed by the Restriction Guidelines which are attached to this Agreement and hereby incorporated by reference.

The parties hereto acknowledge and agree that any improvements to the Property and all work performed shall comply with all applicable Federal, state, country, municipal and other governmental statutes, laws, rules, orders, regulations and ordinances. In particular, the Newburyport Redevelopment Authority's design review standards set forth in the Urban Renewal Plan shall be satisfied prior to commencement of any work on the Premises.

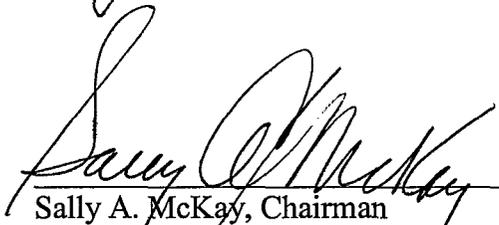
It being contemplated that the Society shall be contracting with funding sources to further its preservation purposes, the parties to this Agreement agree to execute and deliver all such other instruments and take all such other action as either party may reasonably request, from time to time, in order to effectuate the preservation purposes set forth herein. The parties shall fully cooperate with each other and with their respective counsel in connection with any actions required to be taken as part of their respective obligations under this Agreement

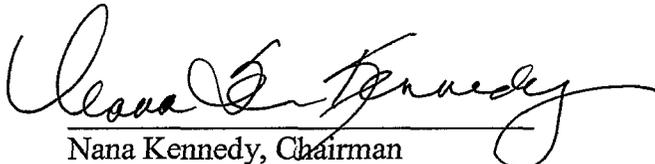
4. Notice and Approval. Whenever approval by the NHC is required under this restriction, Grantor shall request specific approval by the NHC not less than (30) days prior to the date Grantor intends to undertake the activity in question. A request for such approval by the grantor shall be reasonably sufficient as a basis for the NHC to approve or disapprove the request. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit the NHC to make an informed judgment as to its consistency with the purposes of this Preservation Restriction. Within (30) days of receipt of Grantor's reasonably sufficient request for said approval, the NHC shall, in writing, grant or withhold its approval, or request additional information relevant to the request and necessary to provide a basis for its decision. However, should the NHC determine that additional time is necessary in order to make its decision the NHC shall notify the Grantor. The NHC's approval shall not be unreasonably withheld, and shall be granted upon a reasonable showing that the proposed activity shall not materially impair the purpose of this Preservation Restriction. Failure of the NHC to make a decision within sixty (60) days from the date on which the request is accepted by the NHC or notice of a time extension is received by the Grantor shall be deemed to constitute approval of the request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after the passage of time.

5. Assignment: The NHC may assign this Agreement to another governmental body or to any charitable corporation or trust among the purposes of which is the maintenance and preservation of historic properties only in the event that the NHC should cease to function in its present capacity.

6. Validity and Severability: The invalidity of M.G.L. c. 184 or any part thereof shall not affect the validity and enforceability of this Agreement according to its terms. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.
7. Recording: The Grantor agrees to record this Agreement with the appropriate Registry of Deeds and file copies of such recorded instrument with the NHC and the NRA.
8. Burden: The burden of these restrictions enumerated in paragraphs 1 through 7 inclusive, shall run with the land and is binding upon future owners of an interest therein.
9. Precedence of Lease: Notwithstanding anything contained herein to the contrary, the Lease between the NRA and the Grantor, above-referenced, shall be controlling and in the event of a conflict between this Restriction and the Lease, the Lease shall supersede the Restriction.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 13th day
of September, 2002.


Sally A. McKay, Chairman
Newburyport Maritime Society


Nana Kennedy, Chairman
Newburyport Historical Commission

415394 (Page 4 of 8)
Southern Essex District Registry
3/13/2003 09:06 AM REST&C

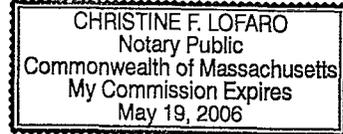
COMMONWEALTH OF MASSACHUSETTS

ESSEX SS.

DATE: 9/13/02

Then personally appeared the above named, Sally A. McKay, and acknowledged the foregoing instrument to be her free act and deed, before me,

Christine Lofaro
Notary Public
My Commission Expires:



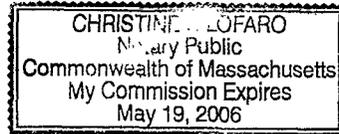
COMMONWEALTH OF MASSACHUSETTS

ESSEX, SS

DATE: 9/13/02

Then personally appeared the above named Nana Kennedy and acknowledged the foregoing instrument to be her free act and deed, before me,

Christine Lofaro
Notary Public
My Commission Expires:



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Southern Essex District Registry
3/13/2003 09:06 AM REST&C

RESTRICTION GUIDELINES

The purpose of the Restriction Guidelines is to clarify Paragraph 3 of the terms of the preservation restriction, which deals with alterations to the Premises. Under this section permission from the NHC is required for any major alteration. Alterations of a minor nature, which are part of ordinary maintenance and repair, do not require NHC review.

In an effort to explain what constitutes a minor alteration and what constitutes a major change, which must be reviewed by the NHC, the following list has been developed. By no means is this list comprehensive, it is only a sampling of some of the more common alterations, which may be contemplated by the Grantor.

PAINT:

Minor - Exterior or interior hand scraping and repainting of non-decorative and non-significant surfaces as part of periodic maintenance.

Major - Painting or fully stripping decorative surfaces or distinctive stylistic features including murals, stenciling, wallpaper, ornamental woodwork, stone, decorative or significant original plaster.

WINDOWS AND DOORS:

Minor - Regular maintenance including caulking, painting and necessary re-glazing. Repair or in-kind replacement of existing individual decayed window parts.

Major - Wholesale replacement of units; change in fenestration or materials; alteration of profile or setback of windows. The addition of storm windows is also considered a major change; however, with notification it is commonly acceptable.

EXTERIOR:

Minor - Spot repair of existing cladding and roofing including in-kind replacement of clapboards, shingles, slates, etc.

Major - Large-scale repair or replacement of cladding or roofing. Change involving inappropriate removal or addition of materials or building elements (i.e. removal of chimneys or cornice detailing; installation of architectural detail which does not have a historical basis); altering or demolishing building additions; spot re-pointing of masonry. Structural stabilization of the property is also considered a major alteration.

LANDSCAPE/OUTBUILDINGS:

Minor - Routine maintenance of outbuildings and landscape including lawn mowing, pruning, planting, painting, and repair.

Major - Moving or subdividing Premises; altering or removing significant landscape features such as gardens, vistas, walks, plantings; ground disturbance affecting archaeological resources.

WALLS/PARTITIONS:

Minor - Making fully reversible changes (i.e. sealing off doors in situ, leaving doors and door openings fully exposed) to the spatial arrangement of a non-significant portion of the Premises.

Major - Creating new openings in walls or permanently sealing off existing openings; adding permanent partitions which obscure significant original room arrangement; demolishing existing walls; removing or altering stylistic features; altering primary staircases.

HEATING/AIR CONDITIONING/ELECTRICAL/PLUMBING SYSTEMS:

Minor - Repair of existing systems.

Major - Installing or upgrading systems which will result in major appearance changes (i.e. dropped ceilings, disfigured walls or floors, exposed wiring, ducts, and piping); the removal of substantial quantities of original plaster or other materials in the course of construction.

Changes classified as major alterations are not necessarily unacceptable. Under the preservation restriction such changes must be reviewed by the NHC and their impact on the historic integrity of the Premises assessed.

It is the responsibility of the Grantor to notify the NHC in writing when any major alterations are contemplated. Substantial alterations may necessitate review of plans and specifications.

The intent of this Preservation Easement is to enable the NHC to review proposed alterations and assess their impact on the integrity of the Premises, not to preclude future change. NHC staff will attempt to work with Grantors to develop mutually satisfactory solutions, which are in the best interests of the Premises.

DOCUMENT NO. 415394

ESSEX SOUTH REGISTRY DISTRICT
MAR 13 2003
RECEIVED 9 O'CLOCK ^{PM}
REGISTRATION BK 165 PG 1916

415394 (Page 8 of 8)
Southern Essex District Registry
3/13/2003 09:06 AM REST&C

EXHIBIT E
ASSESSORS PARCEL MAP

EXHIBIT E Baseline Documentation

Assessors Parcel Map



Assessor's Parcel Map

EXHIBIT F
BASELINE PHOTOGRAPHS

EXHIBIT F Exterior and Interior Photographs



(i) 3/18/2019 View of south façade, Gregory Colling



(ii) 11/14/2019 View of east façade, uavlook.com

EXHIBIT F Exterior and Interior Photographs



(iii) 7/27/2013 View of north façade, Gregory Colling

EXHIBIT F Exterior and Interior Photographs



(iv) 3/14/2019 View of west façade, Gregory Colling

EXHIBIT F Exterior and Interior Photographs



(v) 3/16/2019 Water Street Entry Door Detail, Bill Finch

EXHIBIT F Exterior and Interior Photographs



(vi) 7/24/2013 Observatory guardrail detail, Gregory Colling

EXHIBIT F Exterior and Interior Photographs



(vii) 6/2/2009 Interior Hanging Stair/Marble Floor, Carl Tremblay

EXHIBIT F Exterior and Interior Photographs



(viii) 6/2/2009 Interior Hanging Stair Detail, Carl Tremblay

EXHIBIT F Exterior and Interior Photographs



(ix) 6/2/2009 Second floor groin vault (Baker Gallery), Carl Tremblay

EXHIBIT G

RESTRICTION GUIDELINES

The purpose of the Restriction Guidelines is to clarify or interpret Paragraph 2 of the Preservation Restriction Agreement, which addresses alterations to the building. Under this Paragraph permission from the Newburyport Historical Commission is required for any major alteration. Alterations of a minor nature, which are part of ordinary maintenance and repair, do not require Commission review.

In an effort to explain what constitutes a minor alteration and what constitutes a major change, which must be reviewed by the Commission, the following list has been developed. By no means is this list comprehensive: it is only a sampling of some of the more common alterations, which may be contemplated by the property owner.

PAINT

Minor - Hand scraping and repainting of non-decorative and non-significant surfaces as part of periodic maintenance.

Major - Painting or fully stripping decorative surfaces or distinctive stylistic features including ornamental woodwork, stone, or masonry.

WINDOWS AND DOORS

Minor - Regular maintenance including caulking, painting and necessary re-glazing and repair or in-kind replacement of existing individual decayed window parts.

Major - Wholesale replacement of units; change in fenestration or materials; alteration of profile or setback of windows. The addition of storm windows is also considered a major change; however, with notification it is commonly acceptable.

EXTERIOR

Minor - Spot repair of existing cladding and roofing including in-kind replacement of clapboards, shingles, slates, etc.

Major - Large-scale repair or replacement of cladding or roofing. Change involving inappropriate removal or addition of materials or building elements (i.e. removal of chimneys or cornice detailing; installation of architectural detail which does not have a historical basis); altering or demolishing building additions; masonry repointing. Structural stabilization of the property is also considered a major alteration.

INTERIOR

Minor: Painting interior plaster finish walls and ceilings dating from the 1972 restoration.

Major – Stabilizing deteriorated or damaged interior plaster walls and ceiling finishes. Replacing interior plaster finishes in order to preserve the interior appearance, and structural integrity of the interior masonry walls and control air and moisture movement and thermal transfer. Changing interior spaces and spatial characteristics including the size, configuration, proportion and relationship of rooms and corridors. Altering special finishes including brick and marble pattern floors, the hanging stair and the exposed masonry groin vault room (Baker Gallery) on the second floor.

LANDSCAPE/OUTBUILDINGS

Minor - Routine maintenance of outbuildings and landscape including lawn mowing, pruning, planting, painting, and repair.

Major - Moving or subdividing Building or Premises; altering of property; altering or removing significant landscape features such as gardens, vistas, walks, plantings, walls, fences; ground disturbance affecting archaeological resources.

HEATING/AIR CONDITIONING/ELECTRICAL/PLUMBING SYSTEMS

Minor - Repair of existing systems.

Major - Installing or upgrading systems which will result in major appearance changes (i.e. ducts, piping, ventilators, HVAC units); the removal of substantial quantities of original materials in the course of construction.

Changes classified as major alterations are not necessarily unacceptable Under the preservation restriction such changes must be reviewed by the Commission and their impact on the historic integrity of the premise assessed.

It is the responsibility of the property owner to notify the Commission in writing when any major alterations are contemplated. Substantial alterations may necessitate review of plans and specifications.

The intent of the preservation restriction is to enable the Commission to review proposed alterations and assess their impact on the integrity of the structure, not to preclude future change. Commission will attempt to work with property owner to develop mutually satisfactory solutions, which are in the best interests of the Property.