

PRESERVATION RESTRICTION AGREEMENT

Between

**Newburyport Landing LLC
and the**

CITY OF NEWBURYPORT, MASSACHUSETTS

BY AND THROUGH THE NEWBURYPORT HISTORICAL COMMISSION

THIS PRESERVATION RESTRICTION is made this ____ day of _____ 2018 (this “Restriction”) by and between FRCA of Newburyport, LLC, located at 40 East 69th Street, New York, New York, 10021 (“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 managed and enforced by its agent, the NEWBURYPORT HISTORICAL COMMISSION (the “Commission”), located at 60 Pleasant Street, Newburyport, Massachusetts, 01950.

WHEREAS, the Grantor is the owner in fee simple of certain real property located at 260 Merrimac Street, Newburyport, Massachusetts (hereinafter referred to as “the Property”), being a portion of that same Property conveyed by First Republic Corporation of America in a deed recorded with the Essex South Registry of Deeds on June, 15, 2006 in Book 25802 and Page 266, and being described in Exhibit A, attached hereto and incorporated herein by reference, and as shown as Lot 3 on a plan of land titled “Plan of Land at 260-276 Merrimac Street, Newburyport, MA” by Port Engineering Associates, Inc., dated February 23, 2009 and recorded in the Essex South Registry of Deeds in Plan Book 420 Plan 50 and then adjusted on “Plan of Land in Newburyport, MA Showing Lot Line Adjustment at 260 & 266 Merrimac Street” by Millennium Engineering, Inc., dated March 15, 2016 and shown as Lot 3A and recorded at the Essex County Registry of Deeds at Plan Book 452, Plan 68. . Said Property is improved by two (2) principal buildings thereon. This Restriction shall not apply to the maintenance building on the Property constructed in 2008. This Restriction shall apply to the exterior only of the building referred to as the “Towle Silver Manufacturing Building” and grounds which are adjacent to Merrimac Street, referred to hereinafter as “the Building”, described as follows:

A four story Italianate style industrial building originally constructed in 1866. The predominantly red brick building features multiple additions constructed overtime in 1926, 1947 and 2000. The building was originally two buildings built in 1866 and circa 1894 later connected and added onto through a series of additions in the 20th century. The building includes historic brick detailing including decorative panels, segmental arched window openings, dentil detail and corbelling. Additionally the building includes a prominent five-story tower with mansard roof along its façade. The key architectural features of the building are described and shown in further detail in Exhibit C and Exhibit D.

WHEREAS, the Building and the Property are a contributing resource to the Newburyport Historic District listed in the State and National Registers of Historic Places on August 2, 1984, are historically significant for their architecture, associations, and/or archeology, and qualify for the protections of perpetual preservation restrictions under Massachusetts General Laws, Chapter 184, sections 31, 32 and 33; and

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

WHEREAS, the preservation values of the Building values are documented in a series of photographs and documents (hereinafter, “Baseline Documentation”) incorporated herein and attached hereto as Exhibits A (Legal Property Description), B-1 (Recorded Plan of Property “Existing Conditions at 260 Merrimac Street” by Millennium Engineering, Inc), B-2 (Detail of Plan of Property “Existing Conditions at 260 Merrimac Street” by Millennium Engineering, Inc), C (Massachusetts Historical Commission Inventory Form B prepared by Brielly Allen dated March 2018), D (Baseline Photographic Documentation), and E (Key Architectural Features) which Baseline Documentation the parties agree provides an accurate representation of the Building as of the date hereof.

WHEREAS, the Baseline Photographic Documentation (Exhibit D) of the Building and Property shall consist of the following Thirteen (13) exterior photographs taken in December 2017. Digital and archival photographic print copies of the Baseline Photographs shall be maintained by the Grantee with an address of:

City of Newburyport
c/o Newburyport Historical Commission
Newburyport City Hall,
60 Pleasant Street
Newburyport, MA 01950

WHEREAS, the Grantor agrees to impose certain restrictions, obligations and duties upon itself, its successors and assigns, so as to maintain, protect and preserve the architectural and historical integrity of the Building; and

WHEREAS, the preservation of the Building is important to the public 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 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 40, Section 8D, authorized and directed by the Grantee to manage the Property and Building burdened by such restrictions and to administer and enforce this 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 this Restriction over the Property and the exterior of the Building to be administered, managed and enforced by the Commission during the Term of this Restriction.

1. Purpose: It is the purpose of this Restriction to assure that the architectural, historic, and cultural features of the exterior of the Building, as described and documented in the Baseline Documentation and Exhibit F (Restriction Guidelines) and, will be retained and maintained forever substantially in their historically-appropriate condition for preservation purposes and to prevent any use or change to the exterior of the Building or the Property that will significantly impair or interfere with the

Building's Preservation Values (the "Purpose of this Restriction"). Characteristics that contribute to the architectural and historical integrity of the Property including include, but are not limited to, the setting and location of the Building on the Property; and architectural features, materials, appearance, and workmanship of the Building. All Exhibits shall be attached to and recorded with this Restriction.

2. Preservation Restriction: The Grantor grants 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 and the Property, or (ii) the Grantee has previously determined that it will not impair such characteristics after reviewing plans and specifications submitted by Grantor in accordance with the requirements of paragraph 7, which determination shall not be unreasonably withheld, or (iii) required by casualty or other emergency promptly reported to Grantee in accordance with requirements in 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 F.
 - b. Any alteration to the appearance, materials, workmanship, condition or structural stability of the Building as governed by the "Key Architectural Features of the Towle Building", attached hereto and incorporated herein as Exhibit E.
 - c. Any other act or use that may be harmful to the historic preservation of the Building or the Property.
 - d. Notwithstanding anything to the contrary in this section 2, in the event the Grantor is required by law to make improvements to the Building or Property or is required in writing by its insurance carrier to make improvements to the Building or Property in order to avoid revocation of insurance and the Grantor has exhausted all methods of variance or appeal process related to either applicable law or insurance qualifications, the Grantee and the Grantor agree that the Grantee may not forbid or limit the Grantor's ability to make the improvements. Said changes or improvements shall comply with the Secretary of Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (36CFR 67 and 68) (hereinafter the "Secretary's Standards"), and shall be designed in consultation with and subject to reasonable review by Grantee.
 - e. Grantor agrees at all times to maintain the exterior of the Building and the Property, the form, and massing of the original 1866, 1926, and 1947 Italianate four-story façade along Merrimac Street including windows and window openings; the form, and massing of other original 1866, 1926, and 1947 elevations; the, form, and massing of the prominent front five-story stair tower with entrance off Merrimac Street with mansard roof; the four-story side elevations of front stair tower; the form, massing of the two additional towers and smoke stack; historic exterior materials including red brick with decorative segmental arched lintels, corbelling and dentil detail as well as steel tie backs; historic wood features on front stair tower including cornice and trim, as well as copper elements and roof shingles; the roof line, and form of the building as shown in the baseline documentation and in accordance with this Restriction and in compliance with all Federal, state and local laws, codes and ordinances applicable to the Property and/or the Building. Grantor's obligation to maintain shall require repair, reconstruction and, where necessary, replacement in kind whenever necessary to preserve the Building in a good, sound condition and state of repair. It is desirable, although not a requirement of this Agreement, that when the current modern replacement windows on the north and south elevations of the Building are replaced at a future date, Grantor consult with the Commission to determine replacements of a configuration and appearance that conforms with the documented historic appearance of the original historic sash in these

locations. The foregoing sentence shall in no way be used against the Grantor to require a change and any replacement shall be at the sole discretion of the Grantor.

3. 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 purposes of this Restriction, the Grantor covenants and agrees at all times to maintain the Building in the same structural condition and state of repair existing as of the date of this Restriction, and thereafter. Grantor's obligation to maintain shall require replacement, repair, and reconstruction by Grantor whenever necessary to preserve the exterior of the Building and Property. 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's Standards.
4. Grantor's Covenants: Prohibited Activities: The following acts or uses are expressly forbidden except as otherwise conditioned in this paragraph:
 - a. The Building shall not be demolished, removed, or razed except as provided in Paragraphs 9 and 10;
 - b. The dumping of ashes, trash, rubbish, or any other unsightly or offensive materials is prohibited on the Property;
 - c. No above-ground utility transmission lines, except those reasonably necessary for the existing Building, may be created on the Property, subject to utility easements already recorded;
 - d. No additions and/or outbuildings may be attached to the Building without prior approval of the Commission; and
 - e. Moving the Building to another location shall be forbidden without prior approval of the Commission.
5. Conditional Rights Requiring Grantee Approval: Subject to Paragraphs 3 and 4, and the terms and conditions of this Restriction and such other terms and conditions as the Commission may reasonably impose to accomplish the purposes 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 Property that would obscure the current view of the Building, such as the installation of permanent signage without approval of the Commission.

Activities by Grantor to maintain the Building and the Property, which are intended to be performed in accordance with the provisions of paragraph 3, and which are of a minor nature, shall not require the prior approval of the Commission. For the purposes of this section, interpretation of what constitutes ordinary maintenance of a minor nature is governed by Restriction Guidelines (Exhibit F), which are attached to this Agreement and hereby incorporated by reference.

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 and by the Commission 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;
 - iv. Without further approval, are in conformance with the Restriction Guidelines attached as Exhibit F.
 - b. Pursuant to the provisions of paragraph 3, the right to maintain and repair the Building strictly according to 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 exterior 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 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, so long as the request sets forth the provisions of this section relating to deemed approval after the passage of time, provided nothing herein shall be construed to permit Grantor to undertake any of the activities 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 the Building or Property 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 damage or destruction, such notification including what, if any, temporary 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 Property and to protect public safety, shall be undertaken by Grantor without the Commission's prior written approval of the work. Within ninety (90) 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 Commission approval shall not be unreasonably withheld, which report shall include the following:

- a. An assessment of the nature and extent of 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: 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.

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.

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 Property, 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, commission, 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 delivered by a nationally recognized overnight courier;

Grantor: Newburyport Landing LLC
c/o The First Republic Corporation of America
40 East 69th Street
New York, New York, 10021

Grantee: City of Newburyport
c/o Newburyport Historical Commission
Newburyport 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 reasonable request by Grantor, Grantee shall promptly furnish Grantor with certification that, to 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 exterior of the Buildings and the Property 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 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 and such other legal and equitable remedies as may be available to the Commission to effectuate the purposes 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 reasonable attorneys', reasonable architectural, reasonable engineering, and reasonable 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 Preservation Restriction shall be at the discretion of the Commission. Any election by the Commission as to the manner and timing of exercising of its right to enforce this Preservation 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 Preservation Restriction, the Commission does not assume any liability or obligation relating to the condition of the Building or the Property, 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 Buildings or Property received by Grantor from any government authority within five (5) business 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 Property and provide the opportunity for Grantee to explain the terms of the Restriction to potential new Grantors prior to sale closing.
19. Runs with the Land: Except as provided in paragraphs 9 and 10, the restrictions, obligations and duties set forth in this Restriction shall run with the Property 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 Property subject to the terms of respective successors in interest and all persons hereafter claiming under or through Grantor and Grantee, and the words "Grantor", "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. Anything contained herein to the contrary notwithstanding, Grantor of the Property shall have no obligation pursuant to this instrument where such Grantor shall cease to have any Grantorship interest in the Premises by reason of bona fide transfer whether voluntary or otherwise. The restrictions, stipulations and covenants contained in this Restriction shall be inserted by Grantor, verbatim or by express reference, in any deed or other legal instrument by which Grantor divests itself of either the fee simple title to or any lesser estate in the Property or any part thereof, including by way of example and not limitation, a lease of all or a portion of the Property.
20. Assignment: Grantee may convey, assign, or transfer this Restriction to a unit of federal, state, or local government, to a local, state, or national charitable corporation or trust that qualifies under the Act, and whose purposes, inter alia, are to promote preservation of historical, cultural, or architectural resources. Conveyance, assignation, or transfer of this Restriction requires that the Purpose for which the Restriction was granted will continue to be carried out. Grantee shall seek Grantor's approval of said conveyance, assignment or transfer and 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. In the event Grantee does so remove, the Grantee shall provide notice of same to the Grantor and shall forthwith provide the Grantor with the name, address and further contact information of the designee.

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, its being accepted and approved by the Massachusetts Historical Commission, and its being recorded with the Southern Essex District Registry of Deeds.
23. Extinguishment: Grantor and Grantee hereby recognize that an unexpected change in conditions surrounding the Property may make impossible the continued Grantorship or use of the Property 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 approvals by the City of Newburyport and the Massachusetts Historical Commission following public hearings to determine that such extinguishment is in the public interest. In the event of a sale of the Property, net proceeds of sale shall be paid to Grantor.
24. Condemnation: If all or any part of the Property 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 interest in the Property that are subject to the taking and all incidental and direct damages resulting from 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 Property 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 two counterparts, one of which is to be retained by Grantor and the other, after recording, to be retained by Grantee. In the event of any disparity between the counterparts produced, the recorded 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 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 Property and the Purpose of this Restriction; shall not affect its perpetual duration; shall not permit any private inurement 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 Southern Essex District Registry of Deeds. 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. Archeological Activities: The conduct of archaeological activities on the Property, including without limitation survey, excavation, and artifact retrieval, may occur only following the submission of an archaeological field investigation plan prepared by the Grantor 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).

IN WITNESS WHEREOF, the Grantor sets its hand and seal this _____ day of _____, 2018.
By:

GRANTOR:

FRCA OF NEWBURYPORT LLC

By: The First Republic Corporation of America, its sole member

By: _____
David J. Koepfel, its President

New York

_____, ss.

On this _____ day of _____, 2018, before me, the undersigned notary public, personally appeared David J. Koepfel, as aforesaid, proved to me through satisfactory evidence of identification, which was (a current driver's license) (current U.S. passport) (my personal knowledge of the identity of the principal), to be the person whose name is signed above, and acknowledged the foregoing to be signed by him voluntarily for its stated purpose.

Notary Public
My Commission Expires: _____

ACCEPTANCE BY THE NEWBURYPORT HISTORICAL COMMISSION

Sarah White, duly authorized
Chair, Newburyport Historical Commission

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this ____ day of _____, 2018, before me, the undersigned notary public, personally appeared Sarah White, as aforesaid, proved to me through satisfactory evidence of identification, which was (a current driver's license) (a current U.S. passport) (my personal knowledge of the identity of the principal), to be the person whose name is signed above, and acknowledged the foregoing to be signed by her voluntarily for its stated purpose.

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 _____, 2018, the City Council voted to approve and accept the foregoing Preservation Restriction Agreement for the preservation of the historic resources of said City and being the public interest pursuant to Massachusetts General Laws Chapter 184, Section 32.

CITY OF NEWBURYPORT

By its Clerk

Richard B. Jones

The undersigned hereby certifies that the foregoing preservation restrictions have been approved and accepted by the City of Newburyport

CITY OF NEWBURYPORT

Donna D. Holaday, Mayor

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this ____ day of _____, 2018, before me, the undersigned notary public, personally appeared Richard B. Jones, as aforesaid, proved to me through satisfactory evidence of identification, which was (a current driver’s license) (a current U.S. passport) (my personal knowledge of the identity of the principal), to be the person whose name is signed above, and acknowledged the foregoing to be signed by him voluntarily for its stated purpose.

Notary Public
My Commission Expires: _____

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this ____ day of _____, 2018, before me, the undersigned notary public, personally appeared Donna D. Holaday, as aforesaid, proved to me through satisfactory evidence of identification, which was (a current driver’s license) (a current U.S. passport) (my personal knowledge of the identity of the principal), to be the person whose name is signed above, and acknowledged the foregoing to be signed by her voluntarily for its stated purpose.

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 foregoing preservation restriction has been approved pursuant to Massachusetts General Law, chapter 184, section 32.

MASSACHUSETTS HISTORICAL
COMMISSION

By: _____
Brona Simon
Executive Director and Clerk

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

On this ____ day of _____, 2018, before me, the undersigned notary public, personally appeared Brona Simon, as aforesaid, proved to me through satisfactory evidence of identification, which was (a current driver's license) (a current U.S. passport) (my personal knowledge of the identity of the principal), to be the person whose name is signed above, and acknowledged the foregoing to be signed by her voluntarily for its stated purpose.

Notary Public
My Commission Expires: _____

List of Exhibits/Attachments

Exhibit A: Legal Property Description

Exhibit B-1: Recorded Plan of Property

Exhibit B-2: Detail of Plan of Property

Exhibit C: Massachusetts Historical Commission Inventory Form B

Exhibit D: Baseline Photographic Documentation

Exhibit E: Key Architectural Features

Exhibit F: Restriction Guidelines

Exhibit A
Legal Property Description
Lot 3A

A certain lot or parcel of land on the easterly side of Merrimac Street, Newburyport, Massachusetts as shown on a plan entitled as shown as Lot 3 on a plan of land titled "Plan of Land at 260-276 Merrimac Street, Newburyport, MA" by Port Engineering Associates, Inc., dated February 23, 2009 and recorded in the Essex South Registry of Deeds in Plan Book 420 Plan 50 and then adjusted on "Plan of Land in Newburyport, MA Showing Lot Line Adjustment at 260 & 266 Merrimac Street" by Millennium Engineering, Inc., dated March 15, 2016 and shown as Lot 3A and recorded at the Essex County Registry of Deeds at Plan Book 452, Plan 68.

Beginning at a point at the intersection of the easterly sideline of Merrimac Street and the northerly sideline of Sally Snyder Way, said point being the most southwesterly corner of the parcel, thence,
N19°11' 03" W 246.45' by the easterly sideline of Merrimac Street to a point, thence,
N18° 51' 00" W 92.21' by the easterly sideline of Merrimac Street to a point at other land of FRCA of Newburyport, LLC, thence,
N71°05' 04" E 175.48' by other land of FRCA of Newburyport, LLC to a point, thence,
N19°10' 11" W 115.50' by other land of FRCA of Newburyport, LLC to a point, thence,
S61°53' 54" W 47.78' by other land of FRCA of Newburyport, LLC to a point, thence,
S64° 26' 33" W 79.12' by other land of FRCA of Newburyport, LLC to a point, thence,
S61° 28' 33" W 49.81' by other land of FRCA of Newburyport, LLC to a point on the easterly sideline of Merrimac Street, thence,
N16° 38' 48" W 35.67' by the easterly sideline of Merrimac Street to a point at other land of FRCA of Newburyport, LLC, thence,
N67°12' 40" E 109.14' by other land of FRCA of Newburyport, LLC to a point, thence,
N27° 00' 51" W 78.83' by other land of FRCA of Newburyport, LLC to a point at land of Maines and Mundry, thence,
N61° 43' 10" E 57.84' by land of Maines and Mundry to a point at land of North End Boat Club, thence,
N61°53' 54" E 500' by land of North End Boat Club to a point at the mean high water mark at the Merrimack River, thence,
Southeasterly by the mean high water mark at the Merrimack River to a point at land of the City of Newburyport, thence,
S58°54' 35" W by land of the City of Newburyport to a point at Lot 4A, thence,
N20°23' 38" W 291.29' by Lot 4A to a point, thence,
S60° 55' 11" W 198.36' by Lot 4A to a point, thence
S27° 00' 06" E 44.15' by Lot 4A to a point, thence
S21° 02' 59" E 139.19' by Lot 4A to a point, thence on a curve to the right of
R=48.00' L=24.54' by Lot 4A to a point, thence,
S25°49'49" W 20.88' by Lot 4A to a point, thence,
S19° 10' 11" E 95.84' by Lot 4A to a point, thence,
S31° 05' 24" E 23.16' by Lot 4A to a point at land of the City of Newburyport, thence,
S58° 54' 35" W 144.87' by land of the City of Newburyport, thence,
S33° 03' 05" E 10.01' by land of the City of Newburyport to a point, thence,
S58°57' 42" W 16.70' by land of the City of Newburyport to a point, thence,
S67° 17' 56" W 22.24' by land of the City of Newburyport to a point, thence,
S30°36' 04" E 33.44' by land of the City of Newburyport to a point on the northerly sideline of Sally Snyder Way, thence,
S59° 58' 00" W 121.33' by the northerly sideline of Sally Snyder Way to a point, thence,

S59° 33' 33" W 91.00' by the northerly sideline of Sally Snyder Way to the point of beginning.

Said lot contains 245,353 +/- square feet or 5.632 +/- acres of land area (to mean high water) and is shown as Lot 3A on said plan as recorded.

Said lot is subject to and with the benefits of an access easement, a drainage easement, and a Tyng Street view corridor all as shown on said plan as recorded.

Exhibit B-1 Recorded Plan of Property

PLAN BOOK 152, PLAN 66L
INDEXED AND RECORDED AT THE REGISTRY
RECORDED MARCH 11, 2016

Notary
John J. O'Neil
Notary Public
MASSACHUSETTS

FOR REGISTRY USE
DATE: APR 23, 2016

SCALE: 1" = 10'

LOT 4A EASEMENT DETAIL
SCALE: 1" = 10'

DATE
5 - 16 - 2016

DATE
5 - 16 - 2016

DATE
5 - 16 - 2016

BASIS OF BEARINGS
PLAN BOOK AND PLAN NO
OWNER OF RECORD
FRCA OF NEWBURYPORT, LLC

PLAN REFERENCE
PLAN BOOK AND PLAN NO
FRCA OF NEWBURYPORT, LLC

DEED REFERENCE
PLAN BOOK AND PLAN NO
FRCA OF NEWBURYPORT, LLC

ASSESSORS REFERENCE
MAP 55 - LOT 19 (LOT 5A)
MAP 56 - LOT 19-A (LOT 4A)
MAP 58 - LOT 19-B (LOT 4A)

PLANNING BOARD APPROVAL
UNDER SUBDIVISION CONTROL LAW
NOT REQUIRED BY PLANNING BOARD

NEWBURYPORT PLANNING BOARD

NOTES:
1- THIS PLAN HAS BEEN PREPARED IN ACCORDANCE WITH THE REQUIREMENTS OF THE PLANNING BOARD OF THE CITY OF NEWBURYPORT. THE PLAN IS NOT A GUARANTEE OF THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. THE CITY OF NEWBURYPORT DOES NOT GUARANTEE THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.
2- THE CITY OF NEWBURYPORT DOES NOT GUARANTEE THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.
3- THE CITY OF NEWBURYPORT DOES NOT GUARANTEE THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.

I CERTIFY:
THAT THIS PLAN CONFORMS TO THE
REQUIREMENTS OF THE
REGISTERED DEEDS
AND THE
CITY OF NEWBURYPORT
PLANNING BOARD.

PROFESSOR JOHN J. O'NEIL
DATE

ZONING DIMENSIONAL & DENSITY REQUIREMENTS - MULTI-FAMILY USE (100)
ZONING DISTRICT: T200

REQUIREMENT	REQUIRED	PROPOSED
STREET FRONTAGE (FT)	80	102.2M
LOT AREA (SQ FT)	20	4,200
DEVELOPMENT (SQ FT)	20	2,000
MAX. BUILDING HEIGHT (FT)	20	20
MAX. LOT COVERAGE (%)	25	25
MAX. SETBACK (FT)	25	25
MAX. FAR (FOOTING AREA RATIO)	25	25

ZONING DIMENSIONAL & DENSITY REQUIREMENTS - MEDICAL OFFICE BLDG. USE (715)
ZONING DISTRICT: T200

REQUIREMENT	REQUIRED	PROPOSED
STREET FRONTAGE (FT)	80	102.2M
LOT AREA (SQ FT)	20	4,200
DEVELOPMENT (SQ FT)	20	2,000
MAX. BUILDING HEIGHT (FT)	20	20
MAX. LOT COVERAGE (%)	25	25
MAX. SETBACK (FT)	25	25
MAX. FAR (FOOTING AREA RATIO)	25	25

ZONING DIMENSIONAL & DENSITY REQUIREMENTS - ACCESSORY BLDG. USE (715)
ZONING DISTRICT: T200

REQUIREMENT	REQUIRED	PROPOSED
STREET FRONTAGE (FT)	80	102.2M
LOT AREA (SQ FT)	20	4,200
DEVELOPMENT (SQ FT)	20	2,000
MAX. BUILDING HEIGHT (FT)	20	20
MAX. LOT COVERAGE (%)	25	25
MAX. SETBACK (FT)	25	25
MAX. FAR (FOOTING AREA RATIO)	25	25

GRAPHIC SCALE
1" = 40'
(1" IN FEET)

NOT TO SCALE

PREPARED FOR
FRCA OF NEWBURYPORT, LLC

PROJECT: M42593
13 HAMPTON RD. EXETER, NH 03833 (603) 778-0288

DATE: MAR 15, 2016
CALC. BY: S.J.R.
CHKD. BY: J.S.N.

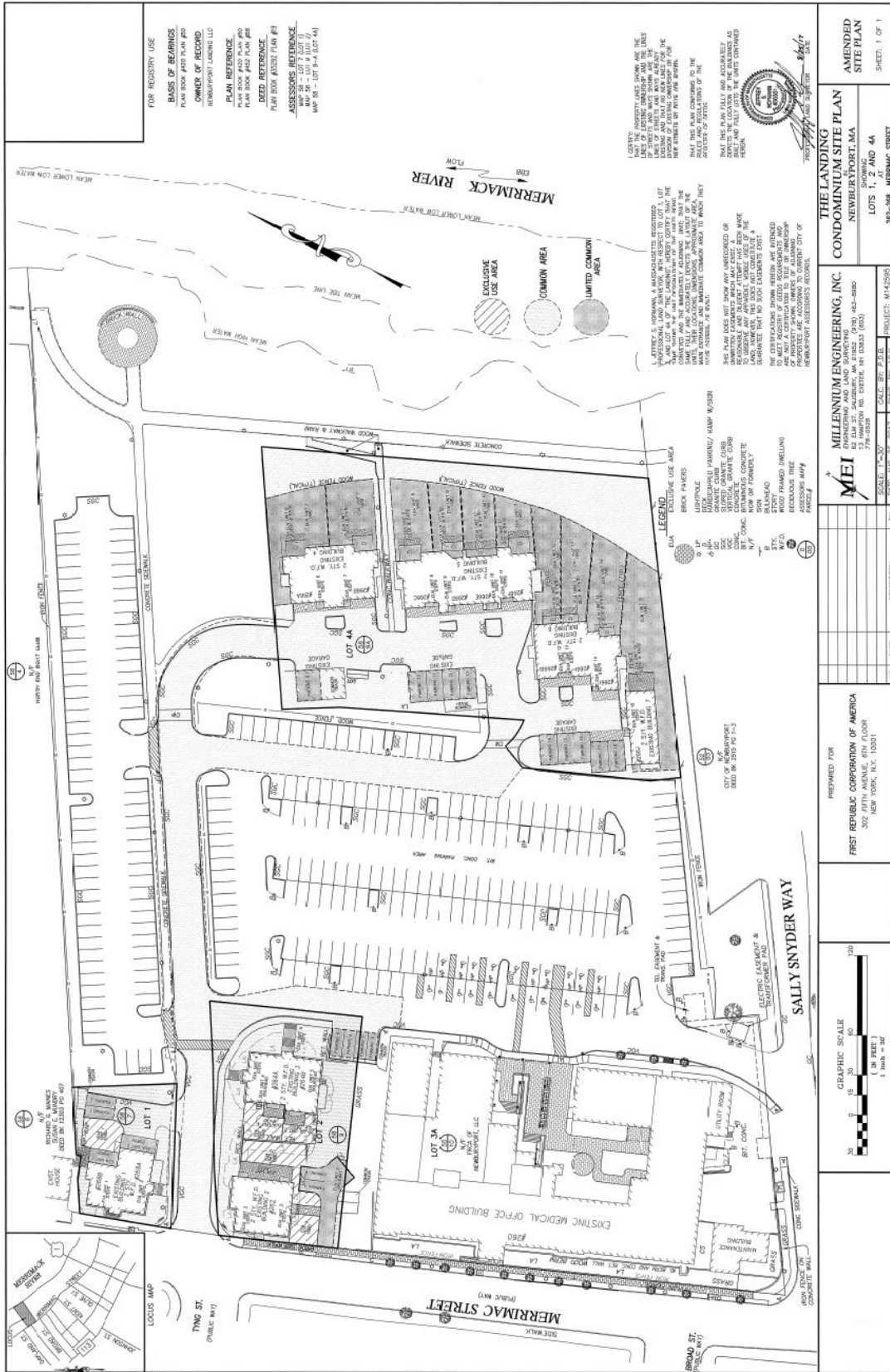
SCALE: 1" = 40'
DATE: MAR 15, 2016
CALC. BY: S.J.R.
CHKD. BY: J.S.N.

PLAN OF LAND IN NEWBURYPORT, MA
LOT LINE ADJUSTMENT
280 & 286 MERRIMACK STREET NEWBURYPORT, MA

ANR
LOT LINE ADJUSTMENT
280 & 286 MERRIMACK STREET NEWBURYPORT, MA

SHEET: 1 OF 1

Exhibit B-2 Detail of Plan of Property



THE LANDING CONDOMINIUM SITE PLAN AMENDED SITE PLAN NEWBURYPORT, MA LOTS 1, 2 AND 4A 282-388 MERRIMACK STREET	
MEI MILLENNIUM ENGINEERING, INC. ENGINEERING AND LAND SURVEYING 13 HAWTHORN HILL DRIVE, SUITE 201 NEWBURYPORT, MA 01960 TEL: 978-538-7744 FAX: 978-538-7745 WWW.MEINGENR.COM	PROJECT: M14-2595 SCALE: AS SHOWN DATE: JULY 2017 DRAWN BY: JET/STP CHECKED BY: JET/STP
PREPARED FOR: FIRST REPUBLIC CORPORATION OF AMERICA 300 WALL STREET NEW YORK, N.Y. 10021	SHEETS: 1 OF 1

Exhibit C
Massachusetts Historical Commission Inventory Form B

FORM B – BUILDING

MASSACHUSETTS HISTORICAL COMMISSION
 MASSACHUSETTS ARCHIVES BUILDING
 220 MORRISSEY BOULEVARD
 BOSTON, MASSACHUSETTS 02125

Assessor's Number USGS Quad Area(s) Form Number

55/10 Newburyport West NWB.L
 NWB.I NWB.255
 NR DIS 1984

Town/City: Newburyport

Place: *(neighborhood or village):*

Address: 260 Merrimac Street

Historic Name: Towle Manufacturing Company

Uses: Present: Office Building

Original: Arms Factory; Silverware Factory

Date of Construction: 1866, circa 1894, 1926, 1947

Source: Stone (1930), Tolles (1971), Malloy (1976), Sanborn Insurance Atlases (1894-1946) Aerial Imagery (various 1998-2012)

Style/Form: Italianate

Architect/Builder: Tilton Company
 G.H. Perkins, Engineer.

Exterior Material:

Foundation: Brick/Stone

Wall/Trim: Brick/Stone, EFIS, aluminum

Roof: Composite Membrane

Outbuildings/Secondary Structures:

Maintenance Building -2008

Major Alterations (with dates):

1870, 1940 additions to the building
 Removal of original mansard roof

Condition: Good

Moved: no yes **Date:**

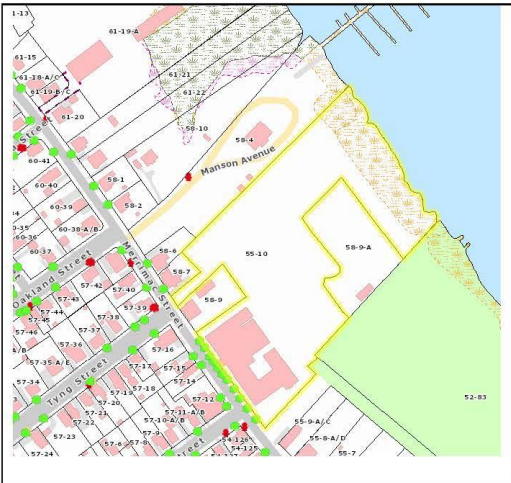
Acreage: 5.76 acres

Setting: Located on the eastern side of Merrimac Street along western side of the Merrimack River within a residential and commercial neighborhood.

Photograph



Locus Map



Recorded by: Brielly Allen

Organization: Epsilon Associates

Date (month / year): March / 2018

INVENTORY FORM B CONTINUATION SHEET

NEWBURYPORT

260 MERRIMAC STREET

MASSACHUSETTS HISTORICAL COMMISSION
220 MORRISSEY BOULEVARD, BOSTON, MASSACHUSETTS 02125

Area(s) Form No.

NWB.L	NWB.255
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 Listed in the National Register of Historic Places.

Use as much space as necessary to complete the following entries, allowing text to flow onto additional continuation sheets.

ARCHITECTURAL DESCRIPTION:

Describe architectural features. Evaluate the characteristics of this building in terms of other buildings within the community.

The Towle Building is located on a 5.76 acre parcel of land located on the eastern side of Merrimac Street in the City of Newburyport. The site is bound by Merrimac Street to the west; the Merrimack River and 266 Merrimac Street to the east; Sally Snyder Way to the south and 262-264 Merrimac Street and 282 Merrimac Street to the north. In addition to the Towle Building, the property contains a paved surface parking lot at the eastern and southern ends of the property and a c. 2008 brick maintenance building to the south. The Towle Building fronts on Merrimac Street to the west, and can be accessed at the rear via Sally Snyder Way and a drive way entrance north of 268.

Originally constructed in 1866 as the Merrimac Arms Manufacturing Company, the building expanded with subsequent additions to form the building's present configuration. The main 1866 building's west elevation (Merrimac Street facade) was constructed as a four-story building with a mansard roof at the southern portion of the building (figure 9). According to historic images, the mansard roof was removed between 1905 and 1910 and replaced with the existing fourth floor and flat roof (figure 10). The four-story brick Italianate factory building rests on a brick foundation and extends to a flat roof defined by a brick header course and dentil molding. The 35-by-7 bay wide facade features the retained original 1866 portion of the building at its center (photo 16). The original portion of the building features a red brick exterior laid in a common bond with Flemish headers. The facade contains regularly spaced bays of 18-light simulated divided light aluminum fixed sash windows with brick segmental arch lintels and rectangular wood aluminum clad sills. The facade's defining feature is the five-story, two-by-one bay wide stair tower projecting from the center of the original building block (photo 11). The tower is capped by a mansard roof defined by brick modillions and segmental arched dormers (photo 12). The tower connects the building to the sidewalk of Merrimac Street at the second floor level. A modern aluminum glazed panel double door is located at the center of the tower's east elevation, accessed at street level.

A circa 1926 four-story two-bay wide brick addition extends north from the original building's north elevation (photos 17 and 18). Projecting slightly west from the original plane of the building, the addition's facade is framed by projecting brick piers and capped by a simple brick stepped cornice. The windows of this elevation of the addition are consistent with the fenestration of original facade; 18-light replacement windows with brick segmental arched lintels. This northern block extends two bays to the east. Its north elevation is laid in common bond with Flemish headers, the elevation features bays of large divided fixed sash windows set on cast stone sills divided by brick piers resting on a concrete base.

A subsequent three-story five-bay wide brick addition extends the north elevation of the 1926 addition two-bays to the east. According to the Sanborn Insurance Atlas this addition was constructed by 1946 (photos 18 and 19). Continuing the fenestration and brick work of the north elevation, the 1946 addition follows the slope of the parcel to the rear surface parking lot. The three-stories feature large divided fixed sash windows set on cast stone sills. The elevation is framed by brick piers set on a concrete base. The westernmost two bays of the 1946 building's north elevation have atop them an addition of an EFIS one-story fourth floor addition. Recessed from the plane of the brick elevation, the addition features four paired single fixed sash windows and is capped by a flat roof (photos 18, 19, and 20). A single story single bay wide EFIS headhouse is located at the east end of the roof and contains paired fixed sash windows with transom sash (photos 19 and 20).

The southern end of the 1866 building was enlarged with the addition of a four-story six bay wide brick building constructed in 1947 (photos 13-16). A stone date block located in the southwest corner of the addition's foundation dates the addition to 1947 (photo 15). The fenestration and brick work of the west elevation of the 1947 building is consistent to that of the west elevation of the 1866 building. The west elevation features regularly spaced bays of 18-light divided replacement fixed sash windows with brick segmental arch lintels and rectangular wood aluminum clad sills. The brick header course and dentil detail forming the cornice of the building is set in line with the matching cornice of the 1866 building. The south elevation of the 1947 addition extends 7-bays to the east and features similar fenestration to the building's north elevation; regularly set large rectangular

Continuation sheet 1

INVENTORY FORM B CONTINUATION SHEET

NEWBURYPORT

260 MERRIMAC STREET

MASSACHUSETTS HISTORICAL COMMISSION
220 MORRISSEY BOULEVARD, BOSTON, MASSACHUSETTS 02125

Area(s) Form No.

NWB.L	NWB.255
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window vertically divided sash with transoms (photos 27 and 28). Resting on a concrete foundation, the 4-story elevation has a red brick exterior laid in common bond and extends to a cornice of a brick header course and brick dentil detail. A one-story two-bay wide brick loading dock extends from the eastern end of the south elevation (photo 27). The loading dock features an overhead garage door and an aluminum door accessed by a set of wood stairs. Infilled window openings are located throughout the east and south elevations of the loading dock.

The three-bay wide east elevation of the 1947 addition rests on a raised concrete foundation and extends four-stories to a flat roof (photos 22, 26, 27). The elevation features a single glazed aluminum paneled door within the northernmost bay of the elevation. Set at grade the entrance is accessed by a concrete path extending from a concrete sidewalk. The southern bay of the elevation contains large vertical divided light rectangular fixed replacement sash windows capped by transoms. The two northern bays contain narrow single and divided light fixed replacement sash windows with transoms. The cornice of the south elevation continues onto the east elevation of the addition.

A nine-by-five bay four-story brick building abuts the north elevation of the 1947 building, forming a continuous east elevation (photos 9, 22 and 26). According to the Sanborn Insurance Atlases, the building was constructed as a free-standing three-story building prior to 1894 (figure 3). According to the 1946 Sanborn Atlases, the building's fourth floor was constructed between 1924 and 1946. The brick exterior of the lower three levels are laid in common bond with Flemish headers. Resting on a brick foundation, two basement level window headers are partially visible at grade. A projecting brick cornice extends along the east and west elevations of the building delineating the former roof line of the three-story building. The exterior brick of the fourth floor is laid in a stretcher bond, further differentiating it from the lower levels. The fenestration of the overall building features single fixed sash windows with brick segmental arch lintels and rectangular sills. The roof line of the building is enhanced with a simple brick header course cornice. The five-bay wide north elevation of the building contains an entrance set within the westernmost bay of the first floor. Set at grade the glazed aluminum frame door contains a side light and transom (photo 24). The building also has an entrance on its west elevation within the courtyard. The glazed aluminum frame west elevation entrance features a side light and transom. The entrance is sheltered beneath a metal and glass saw-tooth roof portico supported by concrete piers (photo 25).

A courtyard is located to the west of the 1894 building, enclosed to the east by the 1866 building, the south by the 1947 addition and the east by the 1894 building. Open to the north, the courtyard is accessed by a concrete path extending from the surface parking lot east of the building (photo 25). The rear (east) elevation of the original 1866 building is laid in common bond with Flemish headers and fixed single sash window with brick segmental arch lintels. At the courtyard's southern end, the four story north elevation of the south 1947 addition features a brick exterior laid in common bond with two bays of rectangular vertical divided replacement sash with transoms (photo 26).

A six-story brick water tower projects from the center of the 1866 building's east elevation. Constructed between 1900 and 1906 the tower first appeared on 1906 Sanborn Insurance Atlas (figure 5). The square tower is laid in a common brick bond and features four vertical recessed panels capped by brick segmental arches. The two center recessed bays contain narrow fixed sash windows at the fifth and sixth floors (photos 21, 23 and 24). A 4-story modern EFIS addition encloses the tower obscuring the first through fourth floors of the east elevation from view (photo 24). The EFIS addition was construction ca. 2000 following the demolition of two brick one-story structures (figures 4-8). Void of detailing, the east elevation of the EFIS addition contains a single bay of single fixed sash windows. The southeast corner of the EFIS addition is formed by a former free standing brick smokestack, projecting slightly above the roof of the EFIS addition (photo 24). The brick of the smokestack is laid in a common bond with Flemish headers. An aluminum glazed double door is located within the northernmost bay of the EFIS addition. Currently functioning as the building's main entrance, the entry is accessed by a set of concrete stairs and a brick and concrete handicap ramp. The entrance and ramp is covered by a modern portico formed by concrete piers supporting a metal and glass arched saw-tooth roof, construction ca. 2010 according to historic aerials (photos 23 and 24).

A modern ca. 2000, 4-story brick and EFIS addition extends from the north elevation of the southern EFIS addition and runs north along the east elevation of the 1866 building (photos 21-23). The three bay wide east elevation of the addition features vertical EFIS bays with single fixed sash windows divided by projecting brick piers. The EFIS east elevation of the addition contains regularly set rectangular vertically divided fixed sash windows. The southernmost bay of the elevation is framed by brick piers and features a segmental arched window opening. The four bays of the northern portion of the elevation contain triple attached single fixed replacement sash windows with no visible trim. A six-story brick water tower projects from the west elevation of the EFIS addition. Built prior to 1894, according to Sanborn maps the tower features narrow segmental arched windows at the fifth floor and is capped by a flat roof defined by brick dentil molding (photos 3-7, 21, 22, 23).

Continuation sheet 2

INVENTORY FORM B CONTINUATION SHEET

NEWBURYPORT

260 MERRIMAC STREET

MASSACHUSETTS HISTORICAL COMMISSION
220 MORRISSEY BOULEVARD, BOSTON, MASSACHUSETTS 02125

Area(s) Form No.

NWB.L	NWB.255
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A modern ca. 2000, one-story brick and EFIS addition extends from the east elevation of the four-story EFIS addition (figures 23 and 24). The addition is set on a brick foundation and has a low pitched roof. The brick exterior of the east elevation is laid in common bond with Flemish headers. A large glazed aluminum frame opening is located at the center of the elevation and contains a single glazed door. The entrance is flanked by fixed sash vertical divided replacement windows. The three openings feature brick segmental arches enhanced with brick dentil detail and two brick header courses. The south elevation of the building is sheltered within the saw tooth roof of the entrance portico. The low half of the elevation is covered in EFIS while the upper half retains a brick exterior laid in a common bond with Flemish headers. Within the EFIS elevation two window openings hold vertical divided sash with segmental arch transoms. A single glazed aluminum frame door is located at the eastern end of the elevation. A set of concrete stairs is located to the north of the one-story addition accessing an entrance within the east elevation of the four-story EFIS addition.

The property contains a one-story brick maintenance building (photos 29) located at the southwest corner of the property at the intersection of Merrimac Street and Sally Snyder Way. According to historic aerials, the building dates to ca. 2008. Resting on a concrete foundation the T-shaped one-story building is capped by intersecting hip roofs covered with asphalt shingles. The east elevation contains a vehicle overhead garage door set within a brick arched opening. Set into the slope of the property the south and west elevations feature simple fenestration of fixed sash divided windows set within brick arched openings.

HISTORICAL NARRATIVE

Discuss the history of the building. Explain its associations with local (or state) history. Include uses of the building, and the role(s) the owners/occupants played within the community.

The Towle Building is located in the North End neighborhood of the City of Newburyport and included in the Newburyport National Register Historic District. The Towle Building was originally constructed in 1866 by the Merrimack Arms Manufacturing Company. In 1872, the site was owned by the Brown Manufacturing Company and in 1883 the property had been acquired by the Towle Manufacturing Company, a silversmith manufacturing company.

Recognized as a national leader in the production of sterling silver products, Towle Manufacturing specialized in solid silver tableware in colonial, classic and modern styles. The company was a vital contributor to the economy of Newburyport employing over 300 operatives during the late 19th and early 20th century. The Towle Manufacturing Company began in 1857 under the partnership of Anthony F. Towle and William P. Jones as "Towle and Jones Silverware". Both Towle and Jones apprenticed with the Newburyport silversmith Joseph Moulton, purchasing his business to form "Towle and Jones Silverware". In 1870, Edward P. Towle joined the company and the name was changed to "Towle, Jones and Company". In 1873 the company was dissolved and Anthony and Edward Towle reestablished the company as "A.F. Towle & Son", becoming the Towle Manufacturing Company in 1882. The company was headquartered on Pleasant Street in Newburyport prior to relocation to the Merrimac Street building in 1883.

According to an 1884 Newburyport Atlas (figure 1) the building at the time of the Towle Manufacturing Company's purchase consisted of a ca. 1866 L-shaped brick structure set adjunct to Merrimac Street. By 1894, the building had been enlarged and the former northern portion of the building had been removed. At this time the 1866 building was noted as three-stories with a four-story center section and a projecting five-story central stair tower. The building's interior operations is detailed as; production on the first floor, packing and burnishing on the second, finishing on the third and storage on the fourth. A one-story L-shaped coal house extended from the east elevation of the four-story center section, attaching to a ca. 1894 rectangular three-story brick building. At this time the 1866 building contained a machine shop on the first floor, wood working on the second and fancy case making on the third floor. A second floor walk connected the machine shop to the main production building at the center of the west elevation. A one-story melting room was located adjacent to the southern side of the coal house and east of the 1866 building. A two-story storage and corp. shop was located to the east of the main complex and connected by a third story connector. A two-story rectangular storage building was located to the east of the building, while a smaller storage shed was located to the north.

By 1900, according to the 1900 Sanborn Insurance Atlas (figure 3) the operations within the main building had been altered slightly with production continuing on the first floor, an office and general work on the second floor, packing and finishing on the third, and burnishing, plating and storage on the fourth. A six story water tank had been constructed on east elevation at the

Continuation sheet 3

INVENTORY FORM B CONTINUATION SHEET

NEWBURYPORT

260 MERRIMAC STREET

MASSACHUSETTS HISTORICAL COMMISSION
220 MORRISSEY BOULEVARD, BOSTON, MASSACHUSETTS 02125

Area(s) Form No.

NWB.L	NWB.255
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north end of the 1866 building. The existing one-story coal house was by this time extended to the east, in line with the plane of the 1866 building's east elevation. The melting room was relocated to the enlarged one-story building located between the coal room and 1866 building. The previous melting room functioned as a cleaning room at this time. The interior operations of the 1866 building continued as a machine shop, woodworking, and fancy case making. A one-story shed was constructed south of the second floor walk.

The 1906 Sanborn Insurance map (figure 3) shows that a new one-story building was constructed at the east end of the north elevation of the coal house. The western section of the coal house had been extended to four-stories by this time, while the eastern section remained a single story. The six-story water tower was constructed by this time between the 1866 building and the cleaning room. The storage shed north of the building had been demolished by this time. A two-story rectangular stock house was constructed northeast of the building. The previously existing two-story east outbuilding was demolished at this time for the construction of a three-story outside set at the center of the 1866 building, connected by a one-story walk at the second floor. The stucco covered outbuilding contained a machine shop on the first floor, box shop on the second and case making on the third. The outbuilding located at the southern end of the complex is noted at this time as a laboratory.

The 1906 configuration of the building remained into the 1940s, while the interior operations of the buildings changed. In 1914, (figure 4) the 1866 building contained storage in the basement, hollow ware on the first floor, office space on the second floor, finishing on the third floor, engraving and finishing on the fourth. By 1924 (figure 5) the southern one-story laboratory building had been removed and a one-story rectangular addition was constructed on the western elevation of the three-story southeast building. By 1946, according to the Sanborn Insurance map (figure 6) the existing four-story brick addition was constructed at the north elevation of the 1866 building. A three-story brick rectangular addition was constructed on the east elevation of the two-bay wide addition, extending the building in line with the east elevation of the existing building. The east outbuilding was enlarged by this time with a one-story north addition.

According to historic aerial photographs the eastern free-standing three-story building was demolished between 1995 and 1998 for the existing paved surface parking lot. Many of the complex's components within the center of the complex were demolished by 2001 for the construction of the two existing EFIS additions, one-story brick addition and saw-tooth entrance portico. The existing maintenance building located southeast of the building was constructed in 2008 according to historic aerials and Newburyport Assessors Department.

In 1990 Towle Manufacturing Company changed its name to Merrimac Corp., later closing and selling the property in 1997 to The First Republic Corporation of America (FRCA). According to Newburyport Assessors department the mill building was rehabilitated and converted to office space in 1997 by the First Republic Corp. of America. In 2004, a first floor restaurant space was established in the one-story east building. In 2006 the building was sold to FRCA of Newburyport LLC the current owners of the property. Under its ownership the existing maintenance building south of the building was constructed in 2008.

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Stirwolt, Mary Jane. "Towle Manufacturing Co." MHC Inventory Form B (NWB.255), 1980

Continuation sheet 4

INVENTORY FORM B CONTINUATION SHEET

NEWBURYPORT

260 MERRIMAC STREET

MASSACHUSETTS HISTORICAL COMMISSION
220 MORRISSEY BOULEVARD, BOSTON, MASSACHUSETTS 02125

Area(s) Form No.

NWB.L	NWB.255
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Tilton, George Prescott. *The Colonial Book of the Towle Mfg. Co.: Which is Intended to Delineate and Describe Some Quaint and Historic Places in Newburyport and Vicinity and Show the Origin and Beauty of the Colonial Pattern of Silverware*. Printed for the Towle Mfg. Co., by W. Bradley at the Wayside Press., 1897

Tolles, Bryant F., Jr. "Towle Manufacturing Company. MHC Inventory Form B (NWB.255), 1971

Wright, John Hardy. *Newburyport*. Arcadia, 1999.

Continuation sheet 5

INVENTORY FORM B CONTINUATION SHEET

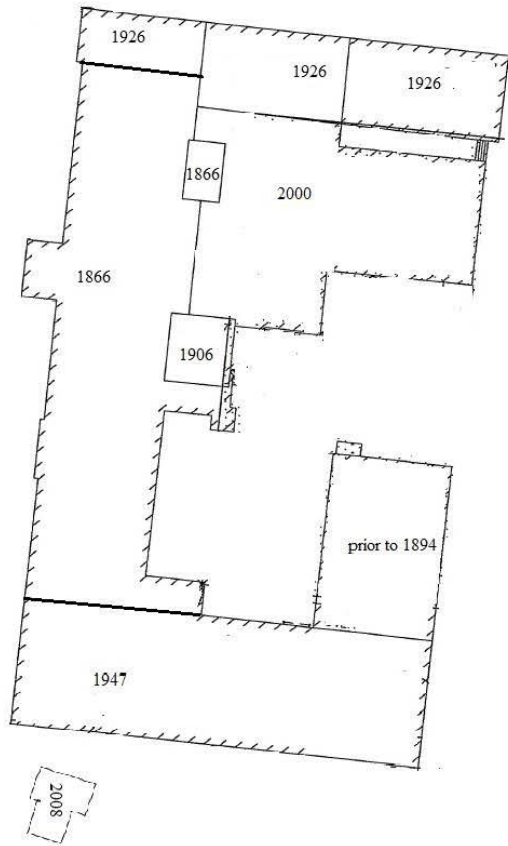
NEWBURYPORT

260 MERRIMAC STREET

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1. Towle Manufacturing Company plan (2018)

Continuation sheet 6

INVENTORY FORM B CONTINUATION SHEET

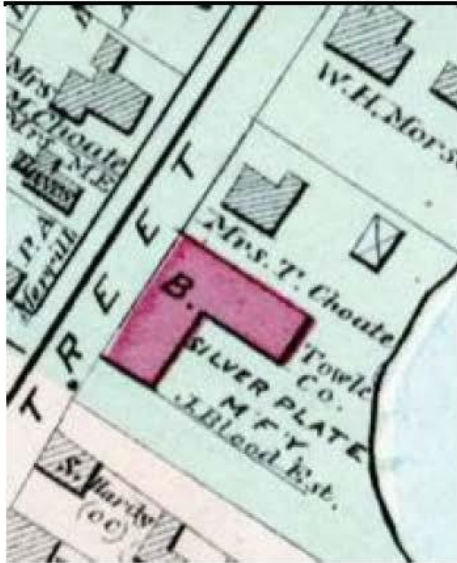
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260 MERRIMAC STREET

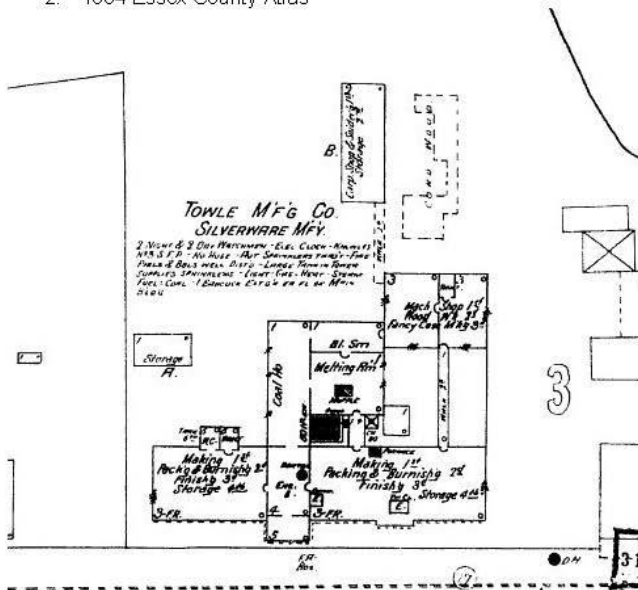
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2. 1884 Essex County Atlas



3. 1894 Sanborn Insurance Atlas

Continuation sheet 7

INVENTORY FORM B CONTINUATION SHEET

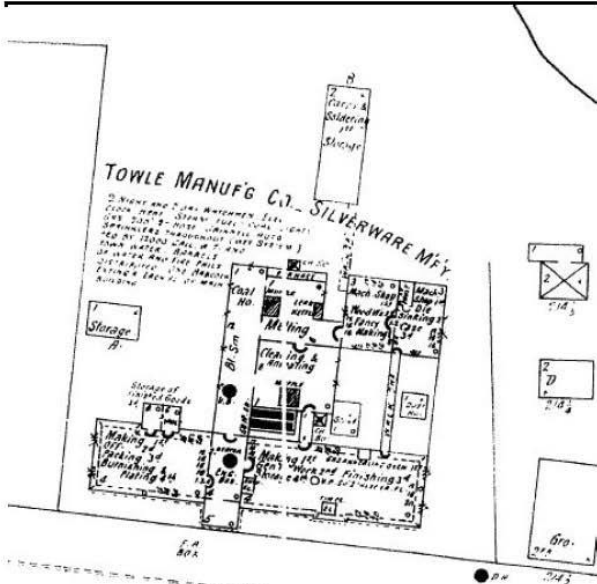
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260 MERRIMAC STREET

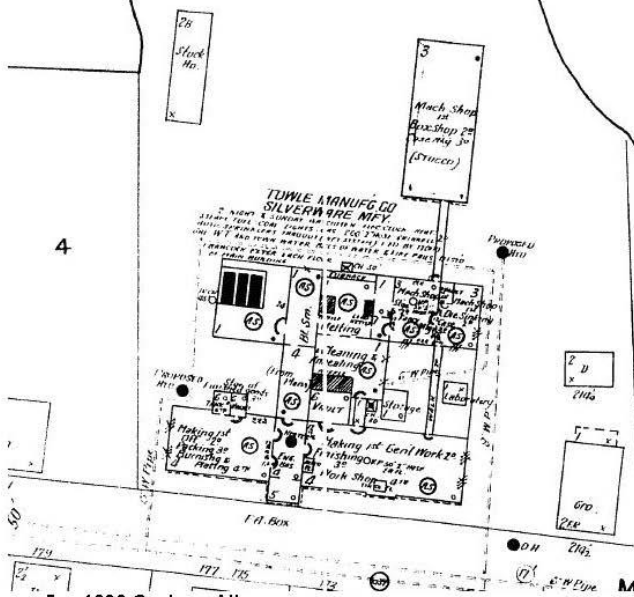
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4. 1900 Sanborn Insurance Atlas



5. 1906 Sanborn Atlas

Continuation sheet 8

INVENTORY FORM B CONTINUATION SHEET

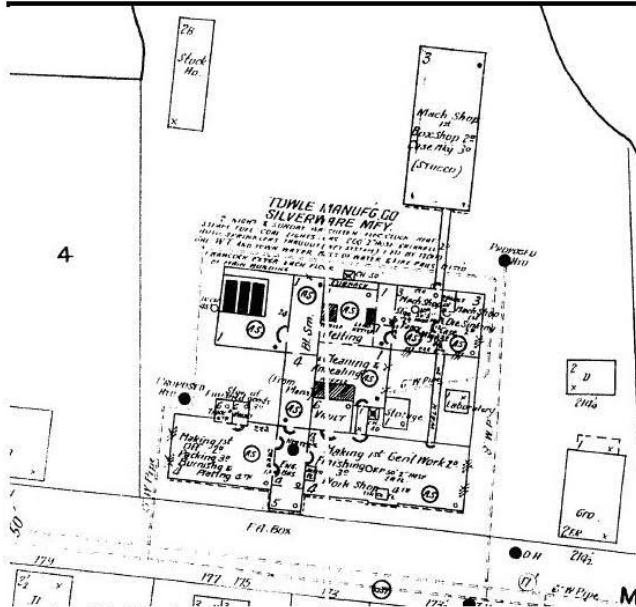
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260 MERRIMAC STREET

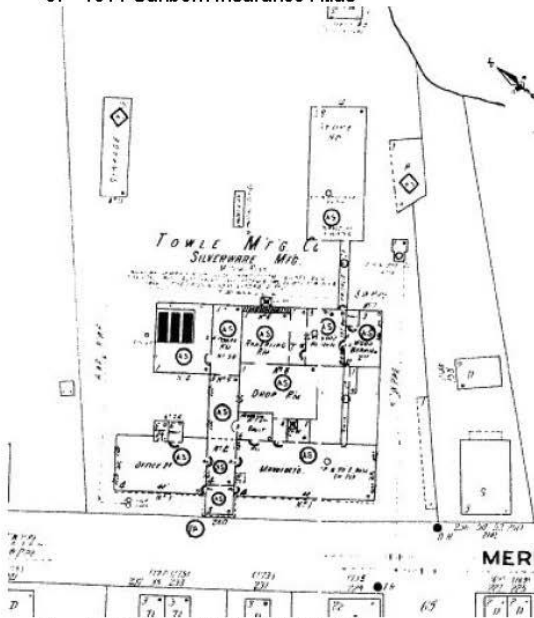
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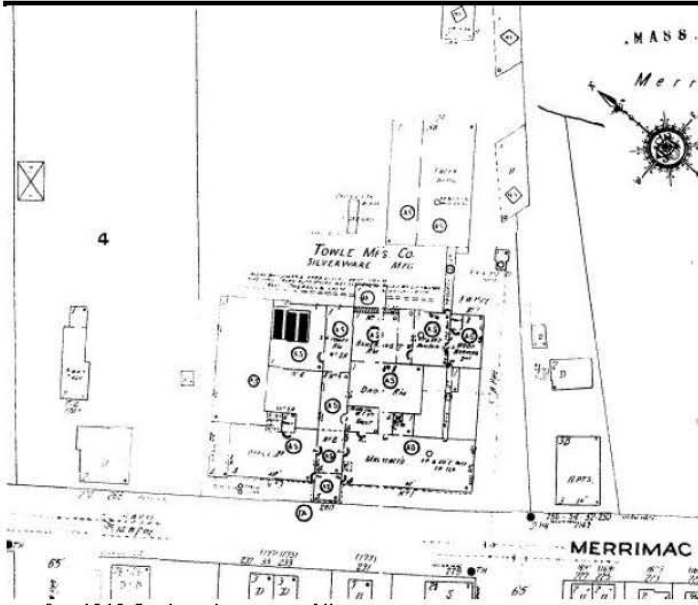


6. 1914 Sanborn Insurance Atlas

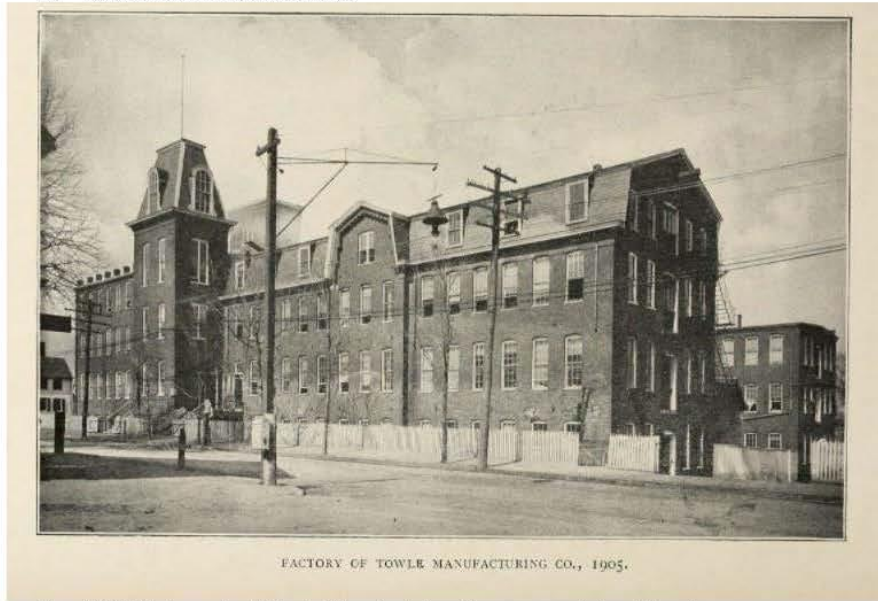


7. 1924 Sanborn Insurance Atlas

Continuation sheet 9

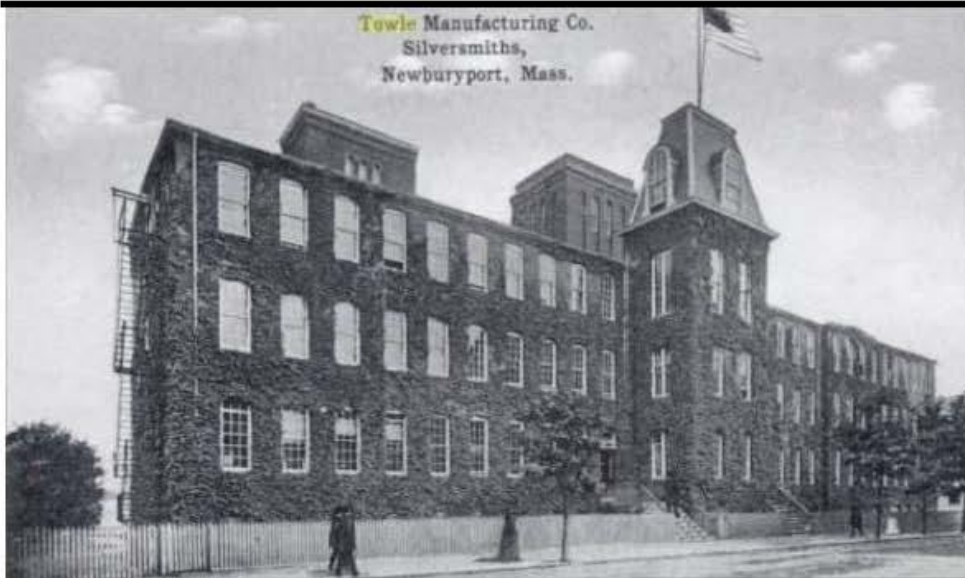


8. 1946 Sanborn Insurance Atlas



9. 1905 Photograph of Towle Manufacturing Company, John J. Currier

Continuation sheet 10



10. 1910 Postcard of Towle Manufacturing Company, John Hardy Wright



11. West elevation of 1866 building, view east at center

Continuation sheet 11

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12. West elevation of 1866 building, detail of upper level of center stair tower, view east



13. West elevation of 1866 building on left, south elevation of 1947 building on right, view northeast

Continuation sheet 12

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14. West elevation of 1866 and 1947 buildings on left, south elevation of 1947 building on right, view northeast



15. West elevation of 1947 Addition , detail of date block at southwest corner of the foundation

Continuation sheet 13

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16. West elevation of 1866 building, view northeast



17. West elevation of 1866 building at north end, view northeast

Continuation sheet 14

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18. North elevation of c. 1926 addition on left, west elevation of 1866 building and 1926 addition on right, view southeast



19. North elevation of 1926 addition on right, east elevation of 1926 addition on left, view southwest

Continuation sheet 15

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20. View southwest across property



21. View southwest across property

Continuation sheet 16

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22. View northwest across property



23. North end of east elevation of complex, view west

Continuation sheet 17

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24. East elevation of EFIS addition, detail at entrance, view west



25. Courtyard, west elevation of 1947 addition, east elevation of 1866 building on right, view southwest

Continuation sheet 18

INVENTORY FORM B CONTINUATION SHEET

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26. East elevation of 1947 addition on left, east elevation of 1866 building on right, view northwest



27. South elevation of 1947 addition on left, east elevation of 1947 addition and 1866 building on right, view northwest

Continuation sheet 19

INVENTORY FORM B CONTINUATION SHEET

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28. South elevation of 1947 addition, view north



29. East elevation of maintenance building, view west

Continuation sheet 20

Exhibit D
Baseline Photographic Documentation



1. West elevation (façade), left and south elevation to Towle Building, right. West elevation of Maintenance Building (far right).



2. West elevation (façade), left and north elevation, right.



3. Façade, detail of stairtower



4. South elevation of Towle Building. South elevation of Maintenance Building (foreground).



5. South elevation, left and east elevation, right



6. East elevation



7. East elevation



8. East elevation



9. East Elevation



10. East elevation



11. View northeast of courtyard



12. View south of courtyard



13. View east of courtyard

Exhibit E
Key Architectural Features of the Towle Building

Any changes which would impact the key architectural features (“Key Features”) of the Building must be reviewed and approved by the Newburyport Historical Commission prior to receiving a building permit. The Commission will give special consideration to changes which will impact the Key Features of the Building including the following:

Architectural Elements

1. Style, form, and massing of the original 1866, 1926, and 1947 Italianate four-story façade along Merrimac Street including windows and window openings as described in Exhibit C.
2. Style, form, and massing of other original 1866, circa 1894, 1926 and 1947 elevations as described in Exhibit C.
3. Style, form, and massing of the prominent front five-story stair tower with entrance off Merrimac Street and mansard roof.
4. Four-story side elevations of front stair tower.
5. Style, form, massing of the two water towers and smoke stack near east side entrance.
6. Exterior materials including red brick with decorative segmental arched lintels, corbelling and dentil detail as well as steel tie backs
7. Wood features on front stair tower including cornice and trim, as well as copper elements and roof shingles.

Changes to modern nonsignificant features will be allowed without review of the Newburyport Historical Commission so long as they are like kind replacements and do not change the existing size, shape, material, and appearance of the existing feature. The following features are modern nonsignificant alterations to the building:

Modern Nonsignificant Features

1. All windows and trim except for the Merrimac Street (west elevation) façade. It is desirable, although not a requirement of this Agreement, that when the current modern replacement windows on the north and south elevations of the Building are replaced at a future date, Grantor consult with the Commission to determine replacements of a configuration and appearance that conforms with the documented historic appearance of the original historic sash in these locations. The foregoing sentence shall in no way be used against the Grantor to require a change and any replacement shall be at the sole discretion of the Grantor
2. All entrances including pedestrian doors and overhead doors except for on the Merrimac Street (west) façade.
3. Existing HVAC equipment including rooftop equipment.
4. Artificial siding at the fourth story penthouse additions and at the north and east elevations including but not limited to metal cladding, panel systems and concrete parging.
5. Existing membrane roofing, skylights, metal caps, gutters, downspouts, and copping.
6. Modern additions including a four-story exterior insulation and finish system (EFIS) clad addition on the east elevation, rooftop EFIS and metal clad additions and entry portico on the east elevation

Exhibit F **Restriction Guidelines**

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

In an effort to explain what constitutes a minor alteration and what constitutes a major change, which must be reviewed by the GRANTEE, 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 - 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, ornamental woodwork, stone, masonry, decorative or significant original stucco or plaster.

WINDOWS AND DOORS

Minor - Regular maintenance including caulking, painting and necessary reglazing. 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 repointing 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 buildings or property; 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 exterior appearance changes (i.e. exterior 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 GRANTEE and their impact on the historic integrity of the property assessed.

It is the responsibility of the property owner to notify the GRANTEE 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 GRANTEE to review proposed alterations and assess their impact on the integrity of the building, not to preclude future change. GRANTEE will attempt to work with property owner to develop mutually satisfactory solutions, which are in the best interests of the Property.