



STATE OF RHODE ISLAND

HISTORICAL PRESERVATION & HERITAGE COMMISSION

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MINUTES
RHODE ISLAND HISTORICAL PRESERVATION & HERITAGE COMMISSION
August 12, 2020

VIA VIDEO CONFERENCE

I. MEMBERS PRESENT

Dr. Tripp Evans
Dr. Morgan Grefe
Mr. Paul Jordan, representing Janet Coit, Director, DEM
Mr. John Paul Loether, State Historic Preservation Officer
Dr. E. Pierre Morenon
Mr. Clark Schoettle
Mr. John Smith
Ms. Ruth Taylor, Chair

MEMBERS ABSENT

Mr. Michael Abbott, AIA
Ms. Meredith Brady, Assoc. Dir., Div. of Statewide Planning
Mr. Warren Ducharme, representing the State Building Code Commissioner
Ms. Kaity Ryan
Mr. Jesse Saglio, President, Rhode Island Commerce Corporation
[Vacant]
[Vacant]

STAFF PRESENT

Donna Alqassar, Heritage Aide
Enerida Ademi, Data Control Clerk
Rosemary Carreiro, Fiscal Aide
Joanna Doherty, Principal Architectural Historian
Jeffrey Emidy, Deputy Director
Katherine Pomplun, Senior Grants Coordinator
Elizabeth Rochefort, Principal Architectural Historian

II. AGENDA

1. Call to Order

The meeting was called to order at 9:33 A.M., Ms. Taylor, Chair, presiding.

2. Roll call

Ms. Taylor called the roll of Commissioners. See page one of these minutes for the attendance list. Dr. Evans, shown as present in the list, was not present at the start of the meeting. He arrived at approximately during the Executive Director's report.

3. Meeting procedures overview

Ms. Taylor explained the procedures that would be followed by Commissioners and attendees of the meeting.

4. Minutes of July 8, 2020 Commission meeting

On a motion by Dr. Grefe, seconded by Mr. Schoettle, the commissioners voted unanimously to approve the minutes of July 8, 2020 without changes.

5. Executive Director's Report

Mr. Loether reported that:

- a) He thanks Jonathan Ames and Lindsay Koso, interns from Roger Williams University School of Law, for their work on the preparation of rules of procedure for the State Review Board and new regulations for the designation of State Archeological Landmarks, respectively. He also thanked RIHPHC staff Rosemary Carreiro, Katherine Pomplun, and Jeffrey Emidy for their reviews of the documents.
- b) He completed a second draft of the 2020 version of State Guide Plan Element #140 (Historic Preservation) and submitted the draft to the Division of Statewide Planning. This document is guidance regarding historic preservation for municipalities and state agencies.
- c) He continues to review draft components of the 2020 updated Comprehensive State Historic Preservation Plan.
- d) On behalf of the Strategic Planning Committee, he initiated work on drafting the RIHPHC's first internal agency strategic plan. It will be an internal guidance document that covers the next several years. A draft will likely be available for Commission review near the end of the calendar year.
- e) He continues to work with the Australian National Maritime Museum to finalize the language of a loan agreement for a cannon from the former *HMS Endeavour* shipwreck. The loan will have a five year duration. When the time comes, the cannon will be raised and likely will be moved to the Naval War College for preparation for shipping.

- f) He had a teleconference with representatives of the R.I. Department of Environmental Management (RIDEM) regarding repairs to the roof of the Beavertail Light Foghorn Building and the Coast Guard's announcement to transfer ownership of the property in accordance with the provisions of the National Historic Lighthouse Preservation Act. He ran the lighthouse program while at the National Park Service (NPS), so he is familiar with the process. The Coast Guard supports the RIDEM acquisition of the property. RIDEM is the current licensee and has been administering the property for years. RIDEM wants to perpetuate the existing use agreement with the Beavertail Lighthouse Museum.
- g) As a result of the request for an emergency grant for roof repair at the Beavertail Light Foghorn Building, he worked with RIHPHC's Katherine Pomplun to revise portions of the RIHPHC regulations for the implementation of the State Preservation Grants program. As they were examining the regulations for this instance, they noticed inconsistencies in the language. Also, the law does not prohibit emergency grants, but the regulations need to provide guidance for them.

The existing regulations say that the recipient of a grant must provide a historic preservation easement for the property to the RIHPHC, however, at times, "friends of" or other groups apply for grants for projects at federally-owned properties and the federal government is not interested in granting an easement, even though it is lawful to do so. The most substantive change that they have made to the regulations is that an easement will not be required for a federally-owned property because Section 106 requires review of projects on those properties. This is not exactly the same as a lien, but essentially accomplishes the same thing.

- h) He participated in the summer meeting of the board of directors of the National Conference of State Historic Preservation Officers. There is speculation that the Historic Preservation Fund from the federal government may be changed. The funds come from Land and Water Conservation Funds, not from the federal budget.
- i) He continues to monitor the day-to-day work related to the restoration of the exterior of the Old State House. It is progressing well, with a completion estimate of mid-October. One change is that getting a color match for patching the brownstone with tinted mortar is problematic, so replacement is being considered, but a decision has not yet been made. He has looked at the masonry work under the scaffolding and it looks very good.
- j) He has extended the current COVID-19 related restriction regarding public access to the Old State House and the telecommuting regimen for RIHPHC staff through Labor Day.
- k) He reviewed permit applications for Coastal Resources Management Council projects for compliance with historic preservation provisions of state law. There have been between about eight and fourteen projects to review every two weeks.
- l) He completed federal Section 106 reviews for the proposed outer continental shelf Vineyard Wind and South Fork Wind Farm projects. Neither is within the legal jurisdiction of the State of Rhode Island. Any impact of the 700-foot towers

located 25 miles from Rhode Island would be visual only, so he has determined that there will be no effect to historic resources.

- m) He conducted a preliminary review of Prudence Island Light, which is currently being processed for a transfer out of U.S. Coast Guard ownership in accordance with the provisions of the National Historic Lighthouse Preservation Act.
 - n) He has had multiple emails and phone calls with Lucas Reed at Senator Jack Reed's Washington office relating to Slater Mill in Pawtucket and Beavertail Light in Jamestown. The National Park Service is working to acquire the Slater Mill property. We have given them copies of some of our files, which contain information on the title and on an easement that we hold on the property.
6. For consideration: new rules and procedures for the Rhode Island Historical Preservation Review Board

Mr. Loether explained that the National Historic Preservation Act Grants Manual chapter 3 section 3 mandates that state review boards must have rules and procedures. Ours does not, or, if it did before it was merged with the Commission years ago (before again being split off), a copy has not been found. The State Review Board has reviewed and approved the draft document that the commissioners received in their meeting packet (attached). Once the Commission approves these, they will be sent to the NPS for final approval.

Ms. Taylor asked, regarding the composition of the Board, how close we are to compliance with the federal mandate of Secretary of Interior-qualified members. Mr. Loether replied that we are close because of a couple of current vacancies. The draft procedures contain different numbers than the federal mandate, but go beyond that mandate.

Mr. Loether thanked Jonathan Ames, our intern from Roger Williams University School of Law, for his work on the development of the procedures. Mr. Ames thanked the Commission for the opportunity and stated that he enjoyed working on the project with RIHPHC staff.

Mr. Loether requested that the commissioners consider approving the draft procedures with the caveat that the staff may make necessary typographical changes as they prepare the document for transmittal to the NPS.

Mr. Schoettle asked for clarification as to whether the Board members need to be members of the Commission. Mr. Loether stated that they do not.

Ms. Taylor asked if anything in the draft resulted in protracted discussion when presented to the Board members for review. Mr. Loether replied that the membership makeup and final number were the issues that resulted in the most conversation.

Ms. Taylor read the following proposed resolution into the record:

The Rhode Island Historical Preservation and Heritage Commission votes to approve the

proposed “Rhode Island State Historic Preservation Review Board Rules and Procedures” as endorsed by the State Historic Preservation Officer and unanimously approved by the Rhode Island Historical Preservation Review Board on August 3, 2020, with the provision that RIHPHC staff may make small typographical corrections.

On a motion by Mr. Schoettle, seconded by Dr. Morenon, the commissioners voted unanimously to approve the resolution.

7. For consideration: proposed regulations for the designation of State Archaeological Landmarks

Mr. Loether stated that the commissioners received a copy of the draft regulations for the designation of State Archaeological Landmarks (attached) in their meeting packet. He explained that, a few months ago, the Commission designated a State Archaeological Landmark. State law does not require a process for doing so, however, regulations for the designation of State Archaeological Landmarks have been drafted for guidance and in case anyone should challenge a designation in the future. It is also good public policy to have a transparent process. He stated that Roger Williams University School of Law student and RIHPHC intern Lindsay Koso is responsible for considerable work on the preparation of this document, for which he thanks her immensely. He also thanked Katherine Pomplun for her review of and input on the document.

Ms. Taylor noted that the regulations state that landmarks are not on private land and not on sovereign Indian land.

Dr. Morenon asked how landmark designation can be removed and if a landowner can make such a request. Mr. Loether stated that the designation can be removed if the site loses integrity but not simply because of an owner request; the Commission has to make the decision to remove the determination.

Ms. Taylor asked if there is any notification of the designation of a landmark on the property's deed and stated that it seems that there should be. Mr. Loether replied that he does not believe that we have the authority to do so. We could, however, notify the appropriate town clerk. He also noted that National Register listing is not documented in the deed.

Dr. Grefe stated that she wants to ensure that the property owner isn't just notified of a determination after the fact; they should be informed ahead of time. Mr. Loether stated that the law says that the owner has to comment on the determination. That provides notice for owners at the time of designation, but not for future owners.

Ms. Taylor asked if the definitions in these regulations are consistent with the same terms in other office regulations. Mr. Loether replied that they are.

Dr. Morenon asked if there will end up being a fairly large number of properties that are

designated as archaeological landmarks. Mr. Loether responded that he thinks the number will be fairly small. There is only one other property on the horizon that he is aware of now.

Ms. Taylor read the following proposed resolution into the record:

The Rhode Island Historical Preservation and Heritage Commission votes to approve the proposed Title 530, Chapter 10, Subchapter 00, "Part 3 - rules and regulations for the designation of state archeological landmarks."

Dr. Grefe asked if it is appropriate for her to vote because she is involved with a site for which designation may be pursued later. Ms. Taylor stated that she understands that unless there is a financial interest, the conflict of interest rules do not apply, so voting is fine.

On a motion by Dr. Morenon, seconded by Mr. Schoettle, the commissioners voted unanimously to approve the resolution.

8. For consideration: proposed modifications to the regulations of the State Preservation Grants program

Mr. Loether stated that the commissioners received a copy of the proposed modifications to the regulations of the State Preservation Grants program (attached) in their meeting packet. He stated that he covered a lot of the background for this topic in the executive director's report. The intent of updating the regulations is to make it clear in the regulations what the Commission's authority and responsibilities are.

Two new definitions were added to the State Preservation Grant (SPG) regulations, for "emergency" and "federal agency". The "emergency" definition states that the project must be time sensitive, the grants can only be made if funding is available, and that the Commission makes emergency grants at its discretion. Also, added language explains that the state cannot put a preservation restriction on itself, but can create a memorandum of agreement to put restrictions on another state agency.

Ms. Taylor read the following proposed resolution into the record:

The Rhode Island Historical Preservation and Heritage Commission votes to approve the proposed changes to Title 530, Chapter 10, Subchapter 00, "Part 1 - rules and regulations for the state preservation grants."

On a motion by Dr. Grefe, seconded by Dr. Evans, the commissioners voted unanimously to approve the resolution.

9. Old Business

Mr. Loether apologized for not doing it earlier in the course of the meeting and asked Lindsay Koso if she wanted to comment on the State Archaeological Landmarks regulations. Ms. Koso stated that she enjoyed the project and that it was a pleasure to work with Ms. Pomplun and Mr. Loether. Ms. Taylor added her thanks for Ms. Koso's work.

11. New Business

There was no new business.

12. Announcements

The next Commission meeting will be held September 9, 2020. It will likely be a virtual meeting.

13. Adjourn

The meeting adjourned at 10:12 am.

Minutes recorded by,



Jeffrey D. Emidy
Deputy Director
Deputy State Historic Preservation Officer

RHODE ISLAND STATE HISTORICAL PRESERVATION REVIEW BOARD

RULES AND PROCEDURES

I. Preamble

- a. In order to encourage the interest in the value of, and necessity of preserving, the historical, architectural, and cultural heritage of the State of Rhode Island and her citizens, pursuant to 54 U.S.C. § 302301(2) and R.I. Gen. Laws § 42-45-5(a)(12), these rules and procedures are proposed by the Rhode Island Historical Preservation and Heritage Commission and adopted on this 3rd day of August, 2020.

II. Name of the Board

- a. The name of this body is the Rhode Island State Historical Preservation Review Board.

III. Authority

- a. Authorization for the State Historical Preservation Review Board is provided by 54 U.S.C. § 302301(2) and R.I. Gen. Laws § 42-45-5(a)(12).
- b. The National Register of Historic Places notification and review process follows federal regulations 36 CFR 60, *et seq.* The Rhode Island State Register of Historic Places notification and review process follows state regulations 530 RICR 010-00-1, *et seq.*

IV. Definitions

- a. “Commission” means the Rhode Island Historical Preservation & Heritage Commission as established by R.I. Gen. Laws § 42-45-1, *et seq.*
- b. “Executive Director” means the Executive Director of the Rhode Island Historical Preservation & Heritage Commission, the appointed authorizing agent of the Commission.
- c. “National Register” means the National Register of Historic Places as established pursuant to the National Historic Preservation Act of 1966, as amended (54 U.S.C. § 302101, *et seq.*).
- d. “Review Board” means the Rhode Island State Historical Preservation Review Board.
- e. “SHPO” means the State Historic Preservation Officer of the State of Rhode Island, Rhode Island’s representative in matters of historic preservation to the federal government, other state governments, and other interested parties. The SHPO is appointed by the Governor.
- f. “State Register” means the Rhode Island State Register of Historic Places.

V. Duties & Responsibilities

- a. The Review Board's duties and responsibilities include the following;
 1. Providing advice, guidance, and professional recommendations to the SHPO and Commission in carrying out duties and responsibilities in accordance with 54 U.S.C. § 302303(b)(2) and R.I. Gen. Laws § 42-45-5(a)(12);
 2. Reviewing and making recommendations on National Register nomination proposals, using the National Register of Historic Places Criteria for Evaluation, and ensuring such documents are accurate, complete, and technically well prepared;
 3. Reviewing and making recommendations on State Register nomination proposals, using the State Register Criteria for evaluation in conformance with 530 RICR 010-00-1.4(C)(2), and ensuring such documents are accurate, complete, and technically well prepared;
 4. Inviting individuals from the public to offer technical expertise, contribute personal knowledge, or to share professional experience relevant to a pending nomination in addition to regular public comment and participation;
 5. Participating in the review of appeals to rejected National Register nominations;
 6. Reviewing and making recommendations for any removal from either the National Register or the State Register;
 7. From time to time, adopting interpretations or clarifications regarding the application of the National Register of Historic Places Criteria for Evaluation;
 8. Providing advice and comment about documentation submitted to the National Park Service in conjunction with the Historic Preservation Fund including end-of-the-year reports, the state comprehensive historic preservation planning process, and certain grant documentation provided by the SHPO;
 9. Complying with all provisions of the Rhode Island Open Meetings Act (R.I. Gen. Laws § 42-46, *et seq.*);
 10. Performing such other duties as may be appropriate and otherwise advise the Commission when requested.

VI. Membership

- a. The Commission shall appoint members to the Review Board.
- b. All Review Board members must demonstrate competence, interest, or knowledge in historic preservation.
- c. The Review Board voting membership shall include no more than eleven persons.

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- d. In compliance with 36 CFR § 61.4(f)(1), a minimum of six Review Board members must meet the Secretary of the Interior's (Historic Preservation) Professional Qualifications Standards. These members must include:
 1. At least one individual meeting the Secretary of the Interior's (Historic Preservation) Professional Qualifications Standards for history;
 2. At least one individual meeting the Secretary of the Interior's (Historic Preservation) Professional Qualifications Standards for historic archaeology or prehistoric archaeology; and
 3. At least one individual meeting the Secretary of the Interior's (Historic Preservation) Professional Qualifications Standards for architectural history;
 4. At least one individual meeting the Secretary of the Interior's (Historic Preservation) Professional Qualifications Standards for historical architect;unless otherwise approved by the Secretary of the Interior in accordance with 36 CFR § 61.4(f)(2).
- e. In addition, the Review Board must include at least one professional qualified in each of the following fields:
 1. landscape architecture or history;
 2. pre-contact archaeology; and
 3. preservation planning.
- f. The term of office for each Review Board member is three years, beginning on February 1 and ending on January 31 or until the expiration of the term for which the member was appointed. All members may serve after their term expires until their successors are appointed and qualified. There is no limit to the number of terms a member may serve.
- g. Of the members initially appointed after July 4, 2020, four of the members shall be appointed for a term expiring on January 31, 2021; four for a term expiring on January 31, 2022; and three for a term expiring on January 31, 2023.
- h. At the start of a new term, each member shall confirm they understand these rules and amendments by signing and dating in the spaces provided below. Signed copies may be retained by the Commission for general record keeping.
- i. The absence of a Review Board member from three consecutive meetings will constitute a voluntary resignation from the Review Board without prejudice. Any resigned individual may be reappointed as a Review Board member by vote of the Commission.
- j. Except as noted in above subsection i. no voting member may be removed from the Review Board other than for just cause.

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VII. Officers

- a. The officers of the Review Board are the Chairman, Vice-Chairman, and Secretary.
- b. The Chairman and Vice-Chairman shall be elected from and among the members by majority vote.
- c. The term of office for each Chairman and Vice-Chairman is one year. With the consent of a majority of Review Board members and the officer, the term of office may be extended for a second year without election. Elections as necessary shall be held annually at the first regularly scheduled meeting subsequent to the first day of March, or as otherwise needed.
- d. The Secretary, an ex-officio and non-voting officer, is appointed to the Review Board by the Executive Director or his/her designee. The Secretary shall not be counted towards the Review Board's quorum.
- e. The duties of the Chairman are as follows:
 1. Preside over regular and special meetings in accordance with the Rhode Island Open Meetings Act (R.I. Gen. Laws § 42-46, *et seq.*);
 2. Create meeting agendas and add items recommended by the Commission and other Review Board members and officers;
 3. Ensure that members adhere to these rules and procedures and other applicable guidelines;
 4. Make committee assignments as necessary;
 5. Assign special responsibilities to members when required; and
 6. Sign approved minutes prepared by the Secretary and submit those minutes to the Commission.
- f. The duties of the Vice-Chairman are as follows:
 1. Assist the Chairman by ensuring public attendance, exhibits, and other items newly presented to the Review Board at meetings are accounted for; and
 2. Preside at meetings and perform all those duties usually performed by the Chairman in their absence.
- g. The duties of the Secretary are as follows:
 1. Assure that accurate minutes of all meetings are properly recorded;
 2. Handle correspondence as requested by the Chairman; and

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3. Schedule and arrange locations for Review Board meetings.
- h. If the Chairman and the Vice-Chairman are not in attendance at a meeting, those members present shall, by majority vote of present voting members, elect a Temporary Chairman.

VIII. Meetings

- a. The Review Board shall meet a minimum of three times with a calendar year. Additional meetings may be held as necessary to complete its work in a timely fashion but no meeting may be scheduled unless a majority (half of the members plus one) of the membership is planning to attend. Emergency meetings may be called by the Chairman only with notice of ten working days before the intended meeting.
- b. All meetings must be made open to the public for participation. All Review Board meetings must comply with the Rhode Island Open Meetings Act (R.I. Gen. Laws § 42-46, *et seq.*).
- c. Notwithstanding subsection b. above, remote meetings may be held pursuant to any orders or directives given by the offices of the Governor or the Attorney General.
- d. Members are expected to notify the SHPO and the Secretary if they expect they cannot attend a meeting.

IX. Compensation

- a. Review Board members shall serve without compensation but may be reimbursed for their documented reasonable actual expenses necessarily incurred in the performance of their duties.

X. Conflict of Interest

- a. In this section:
 1. “HPF” means Historic Preservation Fund.
 2. “Person” means Review Board members, their employees, agents, and family members.
 3. A “real conflict of interest” exists when a person may benefit (either through financial or personal gain) from the position he/she holds with respect to the HPF-assisted program or may be unable to make impartial decisions or render impartial advice due to outside relationships or other activities with other persons as defined above. This applies to those persons who participate in or influence the grant award decision-making process, gain information not available to the general public, or provide oversight or administration of any aspect of the HPF grant program.

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4. An “apparent conflict of interest” exists whenever circumstances are such that a person may appear to be in a position to benefit (either through financial or personal gain) from the position he/she holds with respect to the HPF-assisted program or may be unable to make impartial decisions or render impartial advice due to outside relationships or other activities with other persons as defined above. This applies to those persons who participate in or influence the grant award decision-making process, gain information not available to the general public, or provide oversight or administration of any aspect of the HPF grant program whether or not such a conflict actually exists. An apparent conflict of interest also exists when a person may appear to have an unfair competitive advantage because of his/her relationship with the Review Board.
- b. In compliance with R.I. Gen. Laws § 36-14-5 and the Historic Preservation Fund Grants Manual, Chapter 3, Section C:
1. No person may participate through approval, disapproval, recommendation, or other decision concerning any National Register nomination, State Register nomination, or review and compliance case if such a real or apparent conflict exists.
 2. No person may participate in the selection, award, or administration of any HPF-assisted program activity, subgrant, contract, or subcontract if a conflict of interest, real or apparent, exists.
 3. No person may engage in outside employment or have a direct or indirect financial interest that conflict or would appear to conflict with the fair, impartial, and objective performance of assigned duties and responsibilities for administration of the Historic Preservation Fund program.
 4. No person may solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to potential or actual HPF grant awards or associated with a National or State Register nomination.
 5. When a real or apparent conflict of interest situation arises in the context of a voting situation, the person must disclose the possible conflict and physically absent and recuse himself/herself from the decision-making process (including presentation and discussion) and neither vote directly, in absentia, nor by proxy in that matter. The recusal and the reasons therefore must be recorded in the meeting minutes. Those in a position to make a decision must be fully informed as to the possible interest of the person abstaining and recusing himself/herself.
 6. When any person is involved in nonvoting situations and a real or apparent conflict of interest situation exists, the person involved must disclose the possible conflict and physically absent and recuse himself/herself from the decision-making process. The conflict shall be declared and documented in writing (by providing the name, date, and nature of the conflict) as soon as the situation becomes apparent but, at a minimum, before the issue or action for which the conflict exists is acted upon or

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brought to resolution. Those in a position to make a decision must be fully informed as to the possible interest of the persons involved.

- c. Any document memorializing a real or apparent conflict of interest shall be submitted to the Commission.

XI. Amendments

- a. These rules and procedures may be amended by approval of the Commission, provided that the amendment is submitted in writing to each member and to the SHPO no less than thirty days prior to the meeting at which the amendment is to be considered and is approved for proposal at any meeting by a vote of two-thirds majority of the total number of members present.

SIGNATURE

DATE

TITLE 530 – HISTORIC PRESERVATION

CHAPTER 10 – GENERAL PROCEDURES

SUBCHAPTER 00 – N/A

PART 3 – Registration and Protection of state archaeological landmarks

3.1 Purpose

These rules and regulations establish the procedures for providing protection pursuant to R.I. Gen. Laws § 42-45.1-10 for archaeological sites that are significant to the State of Rhode Island as a whole through the designation of state archeological landmarks.

3.2 Authority

R.I. Gen. Laws § 42-45 authorizes the Rhode Island Historical Preservation & Heritage Commission to prescribe rules for the identification, preservation, excavation, study, and exhibition of the state's archaeological resources.

3.3 Definitions

- A. For the purposes of these regulations, the following terms shall have the following meanings:
1. "ARCHAEOLOGICAL PROPERTY" means the place or places where the remnants of a past culture survive in a physical context that allows for the interpretation of these remains; can be a district, site, building, structure, or object.
 - a. *Building* -- A construction which was created principally to shelter any form of human activity but is no longer fit for human habitation (i.e., partially standing or ruined), and which has yielded, or may be likely to yield, information important in prehistory or history.
 - b. *District* -- A significant concentration, linkage, or continuity of sites, buildings, structures, or objects that are linked historically or by function, theme, or physical development or aesthetically by plan.
 - c. *Site* -- The location of a significant event, a pre or post-contact occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself possesses archaeological value regardless of the value of any existing building or structure.
 - d. *Structure* -- A construction distinguished from buildings, functional for purposes other than creating human shelter.

2. "ASSOCIATION" means the direct link between an important historic event or person and an historic property. Association is measured in the strength of interrelation between data and important research questions.
3. "COMMISSION" means the Rhode Island Historical Preservation & Heritage Commission, an agency of the state government as described in R.I. Gen. Laws § 42-45 that is authorized to administer the State Archaeological Landmarks program.
4. "DESIGN" means the combination of elements that create the form, plan, space, structure, and style of a property.
5. "EXECUTIVE DIRECTOR" means the person holding the position of Executive Director of the Rhode Island Historical Preservation & Heritage Commission.
6. "INDIAN LANDS" means all lands under the sovereign jurisdiction or control of an Indian tribe.
7. "INDIAN TRIBES" means the governing body of any Indian tribe, band, nation, or other group that is recognized as an Indian tribe by the State of Rhode Island.
8. "LOCATION" means the place where the archaeological property is situated.
9. "MATERIALS" means the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration.
10. "MUNICIPALITY" means any city or town, or the governing body of such, in the state of Rhode Island.
11. "NON-INDIAN LANDS" means any and all lands that do not fit the definition of "Indian Lands" above.
12. "PRIVATE OWNER" means the possessor or holder of real property in fee simple that is not the U.S. Government, the State of Rhode Island, or its political subdivisions or instrumentalities.
13. "SETTING" means the physical environment of a historic property. Setting includes elements such as topographic features, open space, viewshed, landscape, vegetation, and artificial features.
14. "WORKMANSHIP" means the physical evidence of the labor and skill of a particular culture or people during a given period in history.

3.4 Nomination of State Archaeological Landmarks

A. Purpose:

1. Nominations should be prepared for archaeological properties of statewide significance where the management or preservation of the property is anticipated or desirable to the State of Rhode Island and its people.

B. Participants:

1. Executive Director: the Executive Director will review requests, make preliminary determinations of eligibility, and assist the Commission with identifying eligible properties.
2. Commission: The Commission shall designate a property's status as a State Archaeological Landmark by a majority vote of its voting members.
3. Municipalities: Local governments are generally encouraged to take an active role in the nomination and review processes when undertakings affect historic properties within their jurisdiction. The Commission will afford a municipality's chief elected official ~~with~~ an opportunity to review and comment on any state archeological landmark designation located within that municipality.
4. Indian Tribes:
 - a. A property located within the sovereign jurisdiction or control of any Indian Tribe recognized by the State of Rhode Island is not eligible for designation as a state archeological landmark.
 - b. If a property proposed for state archeological landmark designation lies within known ancestral lands of an Indian Tribe that do not fall within Tribal sovereign jurisdiction or control, the Commission will provide the governing body said Tribe with an opportunity to review and comment on the proposed designation.
5. Private Owner: No privately owned property shall be designated a State Archaeological Landmark without the express written consent of the owner.

C. Criteria for Evaluation for State Archaeological Landmark Nomination:

1. *Criteria for evaluation for state archaeological landmark nomination* - The criteria are as follows:
 - a. The quality of significance in Rhode Island state history, architecture, archaeology, engineering and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, association, and:
 - i. That have yielded, or may be likely to yield, information important in prehistory or history of the State of Rhode Island as a whole; and
 - ii. That are associated with events that have made a significant contribution to the broad patterns of our state history; or
 - iii. That are associated with the lives of persons significant in our state's past; or
 - iv. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic value, or that represent a significant and distinguishable entity whose components may lack individual distinction.

- b. Standards for evaluation of properties according to the above criteria may be referenced in National Register Bulletin 36 developed by the National Park Service, "Guidelines for Evaluating and Registering Archaeological Properties." (2000)

D. Criteria Considerations

1. All nominations shall contain:
 - a. An assessment of the property's level of significance. The Commission shall determine the property's level of significance; and
 - b. A detailed description of the district, site, building, or structure; and
 - c. Maps detailing the specific dimensions, location, and ownership if applicable; and
 - d. Photographs sufficient to document the property appropriately; and
 - e. All nominations shall be adequately prepared and technically correct in accordance with the criteria listed in § 3.4(C) of this Part. Nominations that are incomplete or otherwise incorrect shall not be considered.

E. Nomination Procedures

1. Nominations are prepared according to the technical standards of the Rhode Island State Register of Historic Places per 530-RICR-10-00-1, Procedures for Registration and Protection of Historic Properties, or should include documentation deemed by the Commission as equivalent to the requirements detailed therein. Nominations documentation shall be reviewed for substantive and technical adequacy and completeness.
2. Nominations of privately owned properties will not be processed without the owner's prior express written permission.
3. Upon receipt of an adequate and complete nomination the Commission may act thereon as prescribed in these regulations.

3.5 Designation as a State Archaeological Landmark

- A. A property may be designated as a state archaeological landmark by the Commission when such designation is consistent with the criteria cited in these regulations and the provisions of Rhode Island General Laws § 42-45.
- B. Upon designation of a property as a state archeological landmark, the owner of the designated property shall be provided with written notification of the designation by the Commission. This notification may be delivered electronically.
- C. Notwithstanding any other provision in these regulations, the Commission retains the right and ability to designate a property a state archaeological landmark without notice if the Commission determines that the property:
 - 1) is not privately owned; and
 - 2) is in immediate danger of destruction, degradation, or any other disruption that would undermine its preservation or integrity.

- D. A property designated as a state archaeological landmark shall automatically be included on the Rhode Island State Register of Historic Places.
- E. These regulations shall not apply to any property designated as a state archeological landmark by the Commission prior to August 30, 2020.
- F. In the event that any provision or part of these regulations is found to be invalid or unenforceable, only that particular provision or part so found, and not these regulations in their entirety, will be inoperative.

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530-RICR-20-00-1

TITLE 530 – HISTORIC PRESERVATION

CHAPTER 20 – GRANTS AND LOANS

SUBCHAPTER 00 – N/A

PART 1 – Rules and Regulations for the State Preservation Grants

1.1 Purpose

These rules and regulations establish the operating procedures for the State Preservation Grants and the State Preservation Grants Review Panel.

1.2 Authority

R.I. Gen. Laws § 42-45-5 authorizes the Historical Preservation & Heritage Commission to "grant or loan funds... made available therefore by the state or federal government, for the purpose of acquiring, restoring, relocating or otherwise preserving land or buildings designated in the state register."

1.3 Definitions

- A. For the Purposes of These Regulations, the Following Terms Shall Have the Following Meanings:
1. "APPLICANT" means A private non-profit organization that has non-profit 501(c)(3) status with the IRS, an agency of local or state government, or an Indian tribe recognized by the Secretary of the Interior.
 2. "CAPITAL IMPROVEMENTS" means Preservation, restoration, or rehabilitation expenditures that permanently improve or significantly extend the useful life of the historic property.
 3. "COMMISSION" means The Rhode Island Historical Preservation & Heritage Commission an agency of the state government as described in Chapter 42-45 of the General Laws of Rhode Island that is authorized to administer the State Preservation Grants.
 4. "CREATIVE AND CULTURAL ECONOMY BONDS" means approved 2014 state ballot question that authorizes the State of Rhode Island to issue general obligation bonds, refunding bonds, and temporary notes in an amount not to exceed thirty-five million dollars (\$35,000,000) to fund capital improvement, preservation and renovation projects for public and nonprofit artistic, performance centers, historic sites, museums and cultural art centers located throughout the State of Rhode Island.

- ~~5.~~ 5. "DIRECTOR" means The Executive Director of the Rhode Island Historical Preservation & Heritage Commission as described in R.I. Gen. Laws Chapter 42-45.
- ~~6.~~ 6. "EMERGENCY" means an unforeseen and critical building failure to which an urgent response is required.
- ~~5-7.~~ 5-7. "FEDERAL AGENCY" means an administrative division within the federal government that serves specifically assigned purposes for the legislative, judicial, or executive branches of the federal government.
- ~~6-8.~~ 6-8. "GENERAL MAINTENANCE" means The ongoing process of maintaining existing facilities and structures.
- ~~7-9.~~ 7-9. "HISTORIC STRUCTURE" means Any building or other structure listed in the State Register in accordance with R.I. Gen. Laws § 42-45, or a structure that is documented to be eligible for listing in the State Register.
- ~~8-10.~~ 8-10. "HISTORICALLY APPROPRIATE" means Consistent with the U.S. Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (current edition) as interpreted by the Commission.
- ~~9-11.~~ 9-11. "IN-KIND SERVICES" means Non-cash contributions provided by the grantee. In-kind contributions consist of the value of materials and/or services directly benefiting and specifically identifiable to the project.
- ~~10-12.~~ 10-12. "LOCAL COMPREHENSIVE PLAN" means The plan adopted by each municipality and approved pursuant to R.I. Gen. Laws Chapter 45- 22.2, including the approved affordable housing plan.
- ~~11-13.~~ 11-13. "MAINTENANCE PLAN" means A written plan approved by the grantee's board of directors or governing authority that specifically outlines the proposed uses, operation, and continuing maintenance of the historic structure.
- ~~12-14.~~ 12-14. "MUNICIPAL AGENCY" means One or more units of local government whose purpose includes the stewardship and operation of a public historic site, museum, or cultural arts center; said unit(s) having the operational capability and legal authority to effectuate this purpose.
- ~~13-15.~~ 13-15. "MUSEUM OR CULTURAL ARTS CENTER" means A historic structure open to the public that is used principally to house artifacts and exhibits of historical, artistic, cultural, or educational value; or a historic structure open to the public that is used principally to present cultural events such as performances of music, dance, or theater. At a minimum, the museum or cultural arts center must be open to the public twelve (12) days per year.

- ~~14-16.~~ "NAMED RECIPIENTS" names The nine Rhode Island non-profit arts and cultural organizations that are specifically identified in 2014 R.I. Pub. Laws 145 as being recipients of designated amounts of the Creative and Cultural Economy Bonds funds: specifically, Trinity Repertory Company (\$4,647,750); Rhode Island Philharmonic (\$2,390,250); Newport Performing Arts Center (\$4,216,800); United Theatre/Westerly Land Trust (\$2,369,440); The Chorus of Westerly (\$1,054,200); The Stadium Theatre Conservatory in Woonsocket (\$2,108,400); 2nd Story Theater (\$1,054,200); AS220 (\$2,108,400); and Waterfire Providence (\$3,162,600).
- ~~15-17.~~ "NON-PROFIT AGENCY" means A group or organization formed pursuant to R.I. Gen. Laws § 7-6-1 et. seq. or which otherwise has qualified as a tax exempt public charity under Section 501(c)(3) of the Internal Revenue Code whose purpose is the stewardship and operation of a public historic site, museum, or cultural art center as defined in its articles of incorporation.
- ~~16-18.~~ "PUBLIC HISTORIC SITE" means A historic structure open to the general public that is used for events or activities of broad community interest and that is widely recognized as being representative of the community's heritage. At a minimum, the public historic site must be open to the public twelve (12) days per year.
- ~~17-19.~~ "REVIEW PANEL" means A committee to advise the Historical Preservation & Heritage Commission on grant applications.
- ~~18-20.~~ "STATE AGENCY" means A unit of Rhode Island state government among whose purposes includes the stewardship and operation of a public historic site, museum, or cultural arts center; said unit(s) having the operational capability and legal authority to effectuate this purpose.
- ~~19-21.~~ "STATE CULTURAL FACILITIES GRANTS" means Competitive grants administered by the Rhode Island State Council on the Arts (RISCA) for capital improvements at buildings used primarily for arts and cultural purposes.
- ~~20-22.~~ "STATE REGISTER OF HISTORIC PLACES" means A list of properties kept by the Commission in accordance with R.I. Gen. Laws § 42-45-5(b) which meet certain established criteria of historical, architectural, archeological, and/or cultural significance and physical integrity.
- ~~21-23.~~ "WAIVER OF RETROACTIVITY" means Approval by the Commission of costs incurred prior to a grant award as eligible for match. Waivers of Retroactivity must be requested by the applicant in writing and must document that waived costs are directly related to the grant project. Costs incurred prior to the approval of a project are at the applicant's risk and

approval of retroactive matches is not assured. The granting of a waiver of retroactivity does not constitute assurance that the project will be approved.

1.4 Application Procedures

A. Application Form:

1. The form that shall qualify an applicant for consideration shall be the form designated "Application" and approved by the Commission.

B. Availability of Application Forms:

1. Application forms and instructions shall be available to applicants upon request and available online at www.preservation.ri.gov.

C. Filing of Applications:

1. Applications shall be filed with the Rhode Island Historical Preservation & Heritage Commission, 150 Benefit St., Providence, RI 02903, or such other address as the Commission designates in the application form instructions. Applications shall be accepted by the Commission any business day during regular working hours and shall be date-stamped and signed upon receipt.

D. Application Contents:

1. The application shall contain:
 - a. Application Summary: a concise identification of the applicant and a summary of the project.
 - b. Property Information: information about of the historic and cultural significance, planning status, and general condition of the property.
 - c. Project Information: information about the project including a schedule and budget.
 - d. Applicant Information/ Project Impact: information about the Public Historic Site, Museum, or Cultural Arts Center and how the project will impact the use of the historic structure as a Public Historic Site, Museum, or Cultural Arts Center.
 - e. Assurances: consent forms signed by the property owner and applicant
 - f. Additional Information: any additional information that the Commission may require.

E. Application Submission:

1. Applications for State Preservation Grants must be filed within the prescribed period established by the Rhode Island Historical Preservation & Heritage Commission.

1.5 Allocation of Funds

The Commission shall by majority vote of the full Commission, schedule the number, frequency and duration of local grant funding rounds consistent with the "State Capital Budget Plan." The Commission may establish a maximum per project funding level for any given grant round. This amount may be increased or decreased during each year by a majority vote of the Commission.

1.6 State Preservation Grants Review Panel

A. Appointment of Review Panel:

1. The Commission shall appoint a panel of experts to review applications.
2. Members of the Review Panel may be selected from among Commissioners, National Register Review Board members, or other experts. In making appointments to the Review Panel, the Commission shall endeavor to include a historian, an architect, and a representative of the arts community.
3. The Commission will ensure that members come from different parts of the state.
4. In order to represent the evaluations of the Commission's professional staff, the RIHPHC Executive Director shall be a voting member of the Review Panel.

1.7 Application Review & Project Selection

A. Preliminary Review:

1. After the closing date, the applications will be reviewed by Commission staff, and incomplete applications will be returned to the applicant within 30 days of receipt. Applicants will have up to 5 business days to resubmit a complete application before the application is deemed ineligible. The Review Panel will evaluate all of the timely and complete applications according to the scoring criteria. The Review Panel may request additional information about any application.

B. Minimum Eligibility Requirements:

1. An application shall be deemed eligible for evaluation only if it satisfies all of the following criteria:
 - a. The applicant is a 501(c)(3) nonprofit agency; a municipal agency; a state agency; or an Indian tribe recognized by the Secretary of the Interior. Applicants must demonstrate the capacity to successfully carry out the project. Applications will not be accepted from private individuals, for-profit organizations or corporations. Applications will not be accepted from municipal agencies in any city or town that does not have an approved local comprehensive plan. The Rhode Island Historical Preservation & Heritage Commission shall be responsible for determining eligibility status to participate in the State Preservation Grants program.
 - b. The applicant owns or operates the property for which the grant is sought. Applicants who have a lease or written agreement of at least 20 years from the date of the application are eligible. Applicants with less than a 20-year lease or written agreement will be considered on a case-by-case basis.
 - c. The property for which the grant is sought is used as a Public Historic Site, Museum, or Cultural Art Center.
 - d. The property for which the grant is sought is listed or is eligible for listing on the State Register of Historic Places. Properties which are part of or eligible to be part of a historic district must contribute to the significance of the district in order to be eligible for a grant.
 - e. The grant is sought for historically appropriate capital improvements to the property.
 - f. The applicant certifies that any property rehabilitated with funds made available by the Commission will be preserved without alteration for a term of years except as approved in writing by the Commission.
 - g. The application contains all information and supporting documentation specified or requested in the application package.
 - h. An eligible applicant may only submit one application in each State Preservation Grant application round. Applications for projects that include some activities to be funded by the State Preservation Grant program and other activities to be funded by the State Cultural Facilities Grant program will be considered.
 - i. The following activities are not eligible for grant funding:

- (1) Mitigation activities performed as a condition or precondition for obtaining a local, state, or federal permit, license, or other approval.
 - (2) New construction.
 - (3) Reconstruction such as recreating a building.
 - (4) Projects whose entire scope of work consists solely of general maintenance.
 - (5) Landscaping or site work as part of non-historic improvements such as parking lots, sidewalks, etc.
 - (6) Projects that consist only of predevelopment or planning, such as historic structure reports, master plans, and architectural studies.
 - (7) Acquisition of property or collections.
 - (8) Restoration of historical artifacts or collections.
- j. The following activities are not allowed on State Preservation Grant projects:
- (1) Any type of abrasive cleaning of exterior surfaces (including but not limited to sandblasting, wet grit blasting, high pressure water washing).
 - (2) Application of aluminum or vinyl siding
 - (3) Use of mortar which does not match original in composition, color, strength, and appearance
 - (4) Scrubcoating masonry surfaces
 - (5) Installation of insulation without a proper vapor barrier, or where the installation will result in inappropriate changes to the interior or exterior of the building
 - (6) Replacement of original historic windows; if original historic windows are beyond repair, as determined in consultation with RIHPHC architects, replacement-in-kind will be allowed.
- k. If the applicant received a previous State Preservation Grant, that project has been completed and closed out.

- l. If the applicant was a “named recipient” of the Creative and Cultural Economy Bonds funds, the project for which those funds were designated has been completed and closed out.
- m. If the applicant received a previous State Cultural Facilities Grant, the applicant must have completed and closed out or made substantial progress towards completion of the project in order to be eligible for a State Preservation Grant.

C. Evaluation:

- 1. The following evaluation criteria, detailed further in the “Evaluation of Applications for State Preservation Grants” on the RIHPHC website, shall be used to rank applications (40 points total):
 - a. HISTORICAL/ARCHITECTURAL SIGNIFICANCE (10 points): 1-10 points will rate the property’s historical and architectural significance.
 - b. PROJECT NEED (10 points): 1-10 points will rate the project’s physical preservation needs.
 - c. PROJECT IMPACT (10 points): 1-10 points will rate the project’s ability to serve the public and to attract support.
 - d. GEOGRAPHIC DISTRIBUTION (5 points): 1-5 points will rate the project’s ability to address the needs of significantly underserved populations and/or recognize the project as the best in its town or region.
 - e. PLANNING (5 points): 1-5 points will rate the project’s compatibility with a local comprehensive plan or development plan.

D. Selection of Grants

- 1. The Review Panel shall submit its recommendations to the Commission within forty-five (45) days of its final meeting. The Commission will review the recommendations of the Review Panel within forty-five (45) days of receiving the recommendations. The Commission shall vote to accept, not accept, or modify the recommendations. The date of the Commission’s vote shall be the date of grant award.

1.8 Grant Terms

A. Grant Amount:

- 1. Grants will be available in two categories: Small Project Grants of \$8,000 to \$30,000 and Large Project Grants up to \$150,000.

B. Matching Fund Requirements

1. Small Project Grants are for projects that cost between \$12,000 and \$45,000. The minimum grant is \$8,000, and the maximum grant is \$30,000. Small Project Grants shall be matched at a ratio of \$2 in grant funds matched by \$1 from grantee funds. The following "in-kind" contributions will be accepted for Small Projects Grants:
 - a. building materials approved by the RIHPHC
 - b. professional design and construction services approved by the RIHPHC, such as work performed by an architect or engineer or a licensed contractor

The donated work of volunteers who are not construction professionals is not eligible as match. No grant funds may be used to pay a member of the grantee organization to manage the project, and grantee staff time devoted to the project is not considered match.
2. Large Project Grants are for projects that cost more than \$45,000. The maximum grant is \$150,000. Large Project Grants shall be matched in cash on a dollar for dollar basis. No "in-kind" matches will be accepted. No grant funds may be used to pay a member of the grantee organization to manage the project, and grantee staff time devoted to the project is not considered match.
3. Funds awarded through the State Cultural Facilities Grants program, including funds to the Named Recipients of the Creative and Cultural Economy Bonds, will not be considered match.

C. Maintenance Plan:

1. It shall be an explicit condition of the receipt of a grant that any properties to which grant funds are applied are maintained in their historic condition and in accordance with an approved plan. The plan shall be periodically reviewed and updated to reflect changing circumstances and/or new opportunities for preservation, access and/or use. The plan shall identify sources of funds for routine and periodic maintenance. A maintenance plan must be submitted and approved prior to the release of grant funds.

D. Restrictive Covenants:

1. It shall be an explicit condition of the receipt of a grant that the owner of the property for which the grant is provided ~~each recipient~~ shall execute a historic preservation easement held by the Commission or the State of Rhode Island. Properties shall be preserved without alteration except as approved in writing by the Commission. This restriction shall apply to the

entire exterior of the historic structure where the project is located, significant interior features that were improved by the project, and the land area surrounding the structure in consultation with the RIHPHC. If the grantee's historic property has more than one structure, only structures affected by the project will be subject to the easement. Properties will be subject to a historic preservation easement for a term as follows:

- a. Small projects: 10-year covenant.
- b. Large projects: 25-year covenant.

E. Exceptions to §1.8(D) of this Part:

1. If the property for which the grant is provided is owned by the state, in lieu of an easement the Commission may require that the state agency with jurisdiction over the property or an authorized designee enter into a Memorandum of Agreement with the Commission that includes the same substantive terms included in a standard Commission historic preservation easement. The duration requirements for such memoranda shall be the same as those described in §1.8(D) of this Part.
2. If the property for which the grant is provided is owned by the federal government, listed in or eligible for listing in the National Register of Historic Places, and thus subject to the provisions of Section 106 (54 U.S.C. 306108) and Section 110 (54 U.S.C. 306101-306114) of the National Historic Preservation Act, no preservation easement is required.

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E.F. Timing

1. The beginning date of a project period will normally be the date on which the RIHPHC votes to approve a grant for the project (date of approval). Funds spent on the project after the date of approval shall be eligible for reimbursement or eligible to be considered matching funds, if the work is approved by the RIHPHC. Funds spent prior to the date of approval are not eligible for reimbursement. Funds spent prior to the date of approval are not eligible to be considered match unless the Commission issues a waiver of retroactivity. Project construction must begin within one year of the date of the signed grant agreement and must be completed within two years of the date of the signed grant agreement. At its discretion, the Commission may grant a 12-month extension.

F.G. Notice

1. Notice of an award shall be by mail via the United States Postal Service.

G.H. Terms and Conditions:

1. The grant agreement will set forth all grant terms, schedules and conditions, including most particularly those relating to record keeping, procurement of goods and services, verification of expenditures, and disbursement of grant funds.

H.I. Public Access:

1. Any property assisted with funds from this grant program shall be open to the public for a minimum of twelve (12) days per year, subject to reasonable limits on the type and extent of use of properties supported by this grant program when such a limitation is necessary for maintenance or preservation of the property and subject to reasonable fees.

H.J. Public Works

1. Any municipal agency or state agency that owns a property assisted with funds from this grant program shall comply with R.I. Gen. Laws Chapter 37-13.

1.9 Additional Administration or Fiscal Requirements

The Commission, the Department of Administration, or other authorized representatives of the State of Rhode Island may establish from time to time additional administrative or fiscal requirements, not inconsistent with these regulations, to assure the effective operation of the State Preservation Grants. Additional administrative or fiscal requirements may include procedures to encourage an open and competitive process of awarding contracts for rehabilitation work. Information about all requirements of the Grants shall be available through the Commission.

1.10 Emergency Grants

In the event of an emergency, the Commission may award a State Preservation Grant outside of the standard timeframe for grant applications described in §1.4(E) of this Part. Applications for an emergency grant must include justification of the basis for the emergency. Inadequate anticipation of need shall not be considered justification for an emergency grant. Deferred maintenance resulting in building or systems failures shall not be considered justification for an emergency grant. Emergency grants may only be considered by the Commission if State Preservation Grant funds meeting or exceeding the amount of the proposed emergency grant are unobligated and available.

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1.10.11 Commission's Authorized Representative

The executive director of the RIHPHC is authorized to act on behalf of the Commission to implement and carry out a grants program in accordance with

these regulations. Decisions of the executive director may be appealed to the Commission in accordance with the Commission's procedures.

4.11.12 Severability

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.