



The Commonwealth of Massachusetts William
Francis Galvin, Secretary of the Commonwealth
Massachusetts Historical Commission

May 11, 2007

Carol Meeker
Division of Capital Asset
Management One Ashburton
Place
Boston, MA 02108

RE: J. Michael Ruane Judicial Center/Salem Trial Courts, Salem; MHC# 32308 and
EOEA# 13944

Dear Ms. Meeker:

Please find enclosed, per our discussions at the most recent consultation meeting for the above referenced project, a draft Memorandum of Agreement for review, comment and discussion. The draft MOA is intended to be a working document and the MHC anticipates that there will be modifications to the document based on input from interested parties.

The draft MOA contains only the mitigation and process issues discussed to date and is meant to be a working document. MHC anticipates that as additional mitigation measures are discussed, they will be added to this document.

The MHC looks forward to continued consultation to resolve the effects of the proposed project on historic properties. MHC staff understand that the next consultation meeting is scheduled for May 16th, 2007, at 11 a.m. at DCAM's offices.

These comments are offered to assist in compliance with Massachusetts General Laws, Chapter 9, Section 26-27C, as amended by Chapter 254 of the Acts of 1988 (950 CMR 71.00). Please do not hesitate to contact Ann Lattinville of my staff, should you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Brona Simon".

Brona Simon
State Historic Preservation
Officer Executive Director
Massachusetts Historical Commission

xc: Gail Rosenberg, DCAM
Hannah Diozzi, Salem Historical
Commission Barbara Cleary, Historic
Salem, Inc.
Lynn Duncan, City of Salem
Meg Twohey, Federal Street Neighborhood
Association Rita Markunas, Federal Street
Neighborhood Association Patricia Zaido, The
Salem Partnership
Doug Kelleher, Epsilon Associates

MEMORANDUM OF AGREEMENT BETWEEN
THE DIVISION OF CAPITAL ASSET
MANAGEMENT AND THE MASSACHUSETTS
HISTORICAL COMMISSION
REGARDING THE J. MICHAEL RUANE JUDICIAL CENTER/SALEM TRIAL
COURTS PROJECT

WHEREAS, the Division of Capital Asset Management ("DC AM") is authorized to construct a new trial court facility in Salem, Massachusetts ("the Judicial Center"); and

WHEREAS, the project site ("the site") is within the Federal Street Historic District, which is listed in the State and National Registers of Historic Places, and adjacent to the Essex County Court Building Complex; and

WHEREAS, These two historic districts contain a remarkable collection of 19th and early 20th century historic civic buildings, including: the 1841 County Commissioners Building (also known as the Old Essex County Courthouse); the 1862/1889 Superior Courthouse; a 1909 Clarence Black all courthouse (historically the Essex' County Registry of Deeds and now the Probate and Family Court); a well-preserved c. 1805 Baptist church; and three historic wood-frame properties at 58,60 and 62 Federal Street; and

WHEREAS, in order to construct the project, DCAM proposes to relocate, with partial demolition of later additions, the Baptist Church and remove the properties at 58, 60, and 62 Federal Street; and

WHEREAS, the construction of the courthouse project constitutes a project undertaken by a state body pursuant to 950 CMR 71.03 and is a project for which DCAM has sought the comments of the Massachusetts Historical Commission ("MHC") pursuant, to M.G.L. Chapter 9, Section 26-27C, as amended by Chapter 254 of the Acts of 1988 and 950 CMR 71.00; and

WHEREAS, the project will result in the courts vacating the County Commissioners and Superior Court buildings; and

WHEREAS, no legislation currently exists authorizing DCAM to transfer the Superior Court or County Commissioners Building to any other state agency or to dispose of either of those facilities to a private party; and

WHEREAS, the MHC has determined that the proposed removal of 58,60, and 62 Federal Street and the relocation and partial demolition of the Baptist Church and subsequent move by the courts out of the Superior Court and County Commissioner's building without a plan for the disposition of the Commonwealth-owned court facilities with adequate restrictions to protect the historic character of the buildings constitutes an adverse effect on State Register properties pursuant to 950 CMR 71.05(a) and (e); and

WHEREAS, DCAM and MHC have consulted regarding the adverse effects of the project on State Register property, have examined alternatives, and have concluded that subject to compliance with the terms of this Agreement, there are no prudent alternatives that eliminate the need for removal of 58, 60 and 62 Federal Street and that eliminate the need for the courts to vacate the Superior Court and the County Commissioner's building; and

WHEREAS, MHC has determined that there are no prudent alternatives that would eliminate the adverse effect of the project and has determined to accept the adverse effect of the project on the buildings, in consideration of the mitigation measures described herein; and

WHEREAS, MHC has invited the Salem Historical Commission, the City of Salem (by and through its Planning Office), Historic Salem, Inc., the Federal Street Neighborhood Association, the Salem Partnership, the Essex National Heritage Corridor Commission and the Alliance of Salem Neighborhood Associations to participate in the consultation process under 950 CMR 71.02(2)(b); and

NOW THEREFORE, DCAM and the MHC have agreed that the Project shall be undertaken and implemented in accordance with the following stipulations to mitigate the effect of the Project on State Register Property in accordance with M.G.L. Chapter 9, Section 26-27C and 950 CMR 71.00.seq.

STIPULATIONS

1. Documentation of structures to be relocated: Prior to the removal of 58,60, and 62 Federal Street, and prior to the relocation and partial demolition of the Baptist Church, DCAM shall document the interior and exterior of the buildings in accordance with the Digital Recordation requirements outlined in the attached Digital Recordation specifications document.
2. Protection of the Baptist Church during relocation: Prior to the relocation of the Baptist Church, DCAM shall provide MHC, the Salem Historical Commission, and Historic Salem, Inc., the opportunity to review and approve relocation specifications. Specifications shall be developed in accordance with the principals set forth in "Moving Historic Buildings" by John Obed Curtis (US Dept. of the Interior 1979). A contractor experienced with moving historic structures shall oversee the relocation.
3. Disposition of the Superior Court and the County Commissioner's Building:
 - A. Within 60 days of signing this Memorandum, DCAM shall provide MHC with an estimated schedule for the next steps in DCAM's process for polling agencies and/or surplussing these historic buildings. DCAM shall work toward disposition of the property concurrent with the development and construction of the new court facility in order to minimize to the extent feasible the length of time that the Superior Court and County Commissioner's buildings may be vacant. Toward that end, DCAM shall expeditiously produce a Reuse and Redevelopment Feasibility Study for the Superior Court and County Commissioner's Building and shall issue a scope of services • solicitation in order to procure such a report. DCAM, MHC, the City of Salem, Salem Historical Commission, and Historic Salem, Inc., shall use the contents of the report to actively plan for the most expeditious disposition, including, but not limited to, the development of a Request for Proposals concurrent with the polling process/schedule in order to avoid undue delay in the over all disposition process AND/OR development of alternative disposition legislation that would expedite the Commonwealth's ability to surplus the property to a known agency or municipal department.
 - B. DCAM agrees that the placement of appropriate preservation restrictions and/or historic covenants will be required during any future disposition in the event of the transfer of the Superior Court and County Commissioner's Building out of Commonwealth ownership. DCAM agrees that placement of appropriate preservation restrictions and/or historic covenants may be required during any future disposition of the Superior Court and County Commissioner's Building to any other state agency or municipal department to protect, in particular, the interior of the Superior Court. DCAM shall consult with the MHC, the City of Salem, the Salem Historical Commission and Historic Salem, Inc., in the development of preservation restrictions and/or historic covenants.
 - C. In the event that the Superior Court and/or County Commissioner's Buildings are proposed for transfer out of state ownership and notwithstanding any legislation to the contrary that would negate the need for the development of a Request for Proposals, DCAM shall develop a Request for Proposals and shall solicit the comments of the MHC, the City of Salem, the Salem Historical Commission, and Historic Salem, Inc. concerning the contents of and distribution list for the Request for Proposals prior to the issuance of the Request for Proposals. Once proposals have been received, DCAM

Commission, and Historic Salem, Inc. concerning the proposals.

Design Review of New Construction: DCAM shall afford the MHC, the City of Salem, Salem Historical Commission, and Historic Salem, Inc., the opportunity to review and comment on the proposed new construction. DCAM shall solicit comments at the 25%, 50% and 75% design stages (or their equivalent). DCAM shall also provide final design plans for review prior to their release for public bidding. Special focus and consideration shall be given, to the treatment of the relationship between the new court facility, the relocated Baptist Church, and the streetscape of the Federal Street Historic District in order to ensure that the integrity of the historic context is maintained.

Design Review of Baptist Church/Law Library: DCAM shall afford the MHC, the City of Salem, Salem Historical Commission, and Historic Salem, Inc., the opportunity to review and comment on the proposed renovation and rehabilitation plans and specifications for the Baptist Church/Law Library at the at the 25%, 50% and 75% design stages (or their equivalent). DCAM shall also provide final design plans for review prior to their release for public bidding.

Design Review of Registry of Deeds: DCAM shall afford the MHC, the City of Salem, Salem Historical Commission, and Historic Salem, Inc., the opportunity to review and comment on the proposed renovation and rehabilitation plans and specifications for the Registry of Deeds at the at the 25%, 50% and 75% design stages (or their equivalent). DCAM shall also provide final design plans for review prior to their release for public bidding. The Registry of Deeds will be planned and executed as a distinct project and as such, DCAM shall file a Project Notification Form with the MHC.

Disposition and relocation of 58, 60, and 62 Federal Street: DCAM shall make available for relocation the properties at 58, 60, and 62 Federal Street. DCAM shall issue a Request for Responses and shall hold two open houses for prospective bidders. DCAM, in cooperation with Historic Salem, Inc., and any other interested party, shall produce and make available : the open houses a list of preferably preserved features of the houses and an addendum to the Request for Responses which contains selection criteria upon which DCAM will base the decision to transfer the house(s) to bidders. Selection criteria shall give weight to those proposals which demonstrate a proposal sensitive to the historic character of the house(s) an which propose a sensitive and feasible relocation plan and end location.