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Via electronic mail and U.S. mail

September 30, 2007

Mr. Thomas Ennis
Senior Project Manager/Senior Planner
Massachusetts Port Authority
Economic Planning & Development Department
One Harborside Drive, Suite 200S
East Boston, MA 02128

Re: L. G. Hanscom Field Hangar 24 Redevelopment Project (MHC# RC.40849)
Proposed Memorandum of Agreement between Massachusetts Port Authority and
the Massachusetts Historical Commission

Dear Mr. Ennis:

I serve as counsel to, and submit these comments on behalf of, Safeguarding the Historic Hanscom Area's Irreplaceable Resources, Inc. ("SHHAIR"), a nonprofit citizens organization dedicated to preservation of the environmental and historic resources in the area of Hanscom Field.

SHHAIR writes to voice its strong objection to the proposed Memorandum of Agreement (the "MOA") between Massachusetts Port Authority ("Massport") and the Massachusetts Historical Commission ("MHC"). The MOA appears to be not only premature and inconsistent with MHC regulations but also insufficient on its face to safeguard important historic resources.

I. Execution of an MOA at This Stage Would Be Premature.

The historic interests at risk are not yet fully understood. There is as yet inadequate understanding of the full nature of the historic interests at stake. While MHC had enough information to determine that demolition of Hangar 24 would adversely affect listed historic resources, it appears that MHC has not yet adequately assessed the nature of the historic interests that would be affected by the demolition of Hangar 24. In particular, it appears that MHC may be under a misimpression that Hangar 24 is associated with historically important activities but is not itself a historically significant structure when MHC has apparently not considered specific guidelines for the identification and evaluation of Cold War-era military-industrial historic properties such as Hangar 24 in relation to, among other things, the evaluation criteria set forth at 360 CFR 60.4(c) and

(d). Absent a complete understanding of the historic interests at stake, it is premature to determine that any MOA will serve to ensure that “all prudent and feasible means” have been adopted to eliminate, minimize or mitigate any adverse effect on such historic interests. 950 CMR 71.02(1).

The private project at issue has not yet been defined. The “project” to be analyzed by MHC has not even been defined. Early consultation between the proponent of a potential project and MHC is certainly to be encouraged as such consultation allows historic preservation objectives to be considered in the planning process and to shape the project. MHC’s regulations encourage state bodies to notify MHC of a proposed project “as early as possible in the planning process,” 950 CMR 71.02(1), and MHC may well be able to determine that a project described at a very conceptual stage would have an adverse effect on listed historic resources. At the same time, in advance of adequate definition of an actual project, there simply cannot be a determination that the project proponent has adopted “all prudent and feasible means to eliminate, minimize or mitigate adverse effects,” *id.*, whether through project elements and/or separate conditions proposed in a MOA.

In this case, Massport’s December 11, 2006 Project Notification Form (“PNF”) indicates that the “redevelopment” of Hangar 24 will be determined at some future point through a request for proposals (“RFP”) process resulting in a ground lease in favor of a selected developer. PNF at 1. The PNF states simply that “Massport intends to issue a Request for Proposals for redevelopment of the Project site for general aviation uses.” PNF at 1. Massport has apparently not drafted or issued its RFP much less received and evaluated any proposals from potential developers. It appears that no design work has been done with respect to the project (the developer ultimately selected “will be responsible for the . . . design” of the facility). PNF Continuation Sheet 2. Nor has there been any decision regarding the actual scope of the project, which may affect all of the Hangar 24 site or perhaps just some portion, may or may not include multiple new hangars and may or may not include an on-site fueling facility. *Id.*; *see also* Letter dated July 11, 2007 from Thomas J. Kinton, Jr., CEO and Executive Director, Massport to State Rep. Cory Atkins at 2 (“Kinton Letter”) (explaining that Massport has not even “decided whether an FBO will replace Hangar 24”).¹

Indeed, the MHC regulations suggest that the “project” that should be analyzed by MHC in these circumstances is not Massport’s plan to solicit third party proposals but rather the actual private project proposed by the selected developer. Again, while it may be quite appropriate (if not required) for a state body to *notify* MHC about an anticipated private project and even commence the consultation process, concluding the consultation process and drafting an appropriate MOA must await identification of the private project proponent and definition of the actual private project. *See* 950 CMR 71.02(1) (requiring consultation among “MHC, the state body *and the private project proponent*”) (emphasis

¹ The Kinton Letter was attached to the August 17, 2007 MOA submittal letter from Mr. Ennis to Director Simon.

added). Accordingly, no MOA should be executed at this time. Instead, if Massport elects to continue pressing for demolition of Hangar 24 and construction of new general aviation buildings on that historic site over community objections, Massport should issue an RFP indicating that the selected developer (and its architect and engineer) will be required to work with Massport in completing the MHC review process.²

The MHC review process should not occur before the MEPA review process. Although the concept of redevelopment of the Hangar 24 site was referenced in Massport's July 2002 Draft Environmental Status and Planning Report ("ESPR"), the private project that Massport now anticipates hosting at the Hangar 24 site has not yet been the subject of an Environmental Notification Form ("ENF"), much less any subsequent review, under the Massachusetts Environmental Policy Act, G.L. 30, §§ 61 to 62H ("MEPA"). Indeed, Massport has recognized that the filing of an ESPR "does not affect the requirement for filing an [ENF], or other environmental filing, for a specific project if the project meets or exceeds a MEPA regulatory threshold." Draft L.G. Hanscom Field 2005 ESPR at 1-4. As you are aware, the MHC regulations strongly favor a concurrent MHC and MEPA review process. 950 CMR 71.04(3). And, in light of the fact that MEPA review in these circumstances would necessarily require some analysis of potential project alternatives involving less impact on the environment and historical resources, *see* 301 CMR 11.05(4) and 11.07(6), prematurely concluding the MHC process now would be inconsistent with the MHC and MEPA regulations, would represent poor public policy, and would be an inefficient use of public resources.

There has been inadequate exploration of alternatives for preservation of all or portions of Hangar 24. While Massport has made some sweeping assertions and assumptions that would appear to preclude any alternative that would involve preservation on site of any element of Hangar 24, it does not appear that those assertions and assumptions have yet been subject to appropriate scrutiny. In fact, in the filings and correspondence that we have been able to review to date, it appears that the question of whether Hangar 24 can be preserved and the question of whether Hangar 24 should be developed into a museum have been confused. Those two questions must be answered separately and in a rigorous and forthright manner. Even if true, assertions and assumptions that call into doubt the viability of the community's museum proposal should not cut short a fair inquiry into the possibility of preserving key elements of Hangar 24 as part of a redevelopment project. It is shocking that Massport believes (and it would be even more shocking if MHC were to accept) that, simply because Hangar 24 may currently be structurally unsound and may in its current configuration be inadequate to meet certain perceived general aviation needs, Hangar 24 must be completely demolished and any salvaged elements moved entirely off-site in order to accommodate a reasonable redevelopment project.

² In addition, it would be prudent for MHC to wait until Massport has actually succeeded in soliciting acceptable proposals and selecting a developer before executing an agreement that could conceivably result in the demolition of a historic property and clearing of a site without any assurance that the site would in fact be used to meet Massport's alleged general aviation needs.

There has been inadequate scrutiny of the claim that the Hangar 24 site must be used immediately and exclusively for one or more larger hangars. It does not appear that there has been adequate scrutiny of Massport's sweeping assertions and assumptions regarding the need to put one or more new hangars on the Hangar 24 site or the obstacles to development of a successful museum within a restored Hangar 24. For example, while Massport contends that the Hangar 24 site is "one of the limited areas [at Hanscom] with airfield access available for redevelopment," PNF Continuation Sheet at 2, it does not appear that there has been any significant analysis of the *other* of the "limited areas with airfield access available for redevelopment." It may well be the case that, when all factors are considered in a robust MHC and MEPA review process – including relative environmental and historic resource impacts – one of those other "limited areas" may provide a more optimal site within Hanscom for necessary upgrades of Hanscom's general aviation resources. Likewise, while Massport has asserted that "there are security issues associated with locating a museum on the flight line," Kinton Letter at 3, it seems unlikely that those alleged security issues would be materially different with respect to use of the site by a nonprofit museum venture compared with use of the site for an aircraft hangar, fueling station, etc. Indeed, one could argue that additional general aviation and fuel storage activities would entail a far higher security risk both to Hanscom Field and the general population.

More fundamentally, Massport's assertion that the Hangar 24 site is a "critical airside location," Kinton Letter at 3, that must be reserved exclusively for general aviation purposes warrants further and exacting scrutiny. First, if there are other critical airside locations that can meet Massport's reasonable immediate needs but with less environmental and historic impact, those other locations should be used first. Second, there may be other valuable low-impact general aviation-related needs that could be served by a renovated and possibly expanded Hangar 24 that are nonetheless compatible with a museum. For example, perhaps Massport could develop very desirable, high-rent general aviation-related office space by coupling new offices with a renovated historic building and associated museum. Or perhaps a museum use could be coupled with use of a renovated and expanded Hangar 24 building for storage of equipment or materials that should be stored in an airside location.

II. Even If the MOA Were Not Premature, It Should Be Rejected Because on Its Face It Will Not Result in the Adoption of All Prudent and Feasible Means to Avoid or Mitigate Adverse Effects on the Historic Hangar 24.

The MOA does not embrace all prudent and feasible means of eliminating or minimizing adverse effects. The MOA notes that MHC has already determined that Massport's proposed redevelopment of Hangar 24 will have an adverse effect on Hangar 24 and Hanscom Field. As a result, Massport "*must adopt all prudent and feasible means to eliminate, minimize, or mitigate adverse effects.*" 950 CMR 71.02(1) (emphasis added). The MOA does not represent a plan to adopt all prudent and feasible means of eliminating, minimizing or mitigating adverse effects. For example, while there are

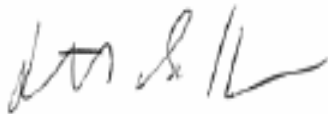
numerous redevelopment projects that preserve significant exterior and interior elements of a preexisting historic structure and incorporate those elements on-site into a new structure, the MOA does not include any measures that would avoid (or even potentially avoid) the complete demolition of the historic Hangar 24 building. In addition, while the MOA contains a number of off-site measures, it is noteworthy that nothing in the MOA even attempts to require that any new structure or use on the Hangar 24 site pay homage to the existence of Hangar 24 or the nationally significant activities carried out on that special site. Remarkably, the MOA does not even require the installation and proper maintenance of any plaque, photographs or other artwork to constitute an on-site reminder of the history associated with Hangar 24!

The mitigation measures outlined in the MOA lack specificity and enforceability. Significant additional weaknesses in the MOA abound. For example, the provision regarding salvage of hangar elements for “future interpretive display” imposes no timeline and could result in storage of hangar elements in perpetuity or, more likely, storage until people simply forget. The provisions requiring an “interpretative display” could result in a miniscule display that does not do justice to Hangar 24, and requiring a display in a “publicly accessible place” carries no assurance that the display will be in a heavily trafficked area, only an area that a member of the public can access if he or she chooses. Even more problematic is Massport’s vague, one-sentence commitment to “work with interested parties to identify an appropriate site at L.G. Hanscom Field, or other suitable location, for a future aviation museum.” This single weak sentence does not establish any timeline, does not require Massport to provide a Massport-owned location for a museum, does not require that the museum provide any information or artifacts regarding Hangar 24 and does not require that Massport provide any funding for development or maintenance of a museum.

For all the reasons discussed above, SHHAIR urges MHC and Massport not only to refrain from executing the proposed MOA but also to refrain from finalizing and executing any MOA at this time.

Thank you very much for your consideration.

Sincerely,



Jonathan S. Klavens

cc: William Francis Galvin, Secretary of the Commonwealth
Ian A. Bowles, Secretary, Executive Office of Energy and Environmental Affairs
Brona Simon, Acting Executive Director, Massachusetts Historical Commission

and Massachusetts State Historic Preservation Officer
Deerin Babb-Brott, Director, MEPA Office
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