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PRESERVATION RESTRICTION AGREEMENT
between
**THE BOSTON SOCIETY OF
THE GENERAL CHURCH OF THE NEW JERUSALEM, INC**
and the
TOWN OF CONCORD, MASSACHUSETTS

THIS PRESERVATION RESTRICTION is made ^{as of} this 28th day of November, 2006, by and between The Boston Society of the General Church of the New Jerusalem, Inc. ("Grantor") and the Town of Concord ("Grantee"), a municipal corporation acting by and through its Board of Selectmen, to be administered, managed, and enforced by the Concord Historical Commission ("CHC") on behalf of the Grantee.

WITNESSETH:

WHEREAS, Grantor is owner in fee simple of certain real property (the "Property") located at 53 Church Street in the Town of Concord, Middlesex County, Massachusetts, more particularly shown as Lot 39A on the plan (the "Plan") entitled "Plan of Land Subdivision of Parcel ID No. 2411, 53-55 Church Street, Concord, Mass." prepared by Otte & Dwyer, Inc. and dated April 11, 2005, revised February 21, 2006, and May 18, 2006, that is to be recorded herewith, said Property including the following structure (hereinafter "the Building"):

The Building is a well preserved example of a modest yet stylish wood-frame church in the late Queen Anne style embellished with gothic detailing and is an important illustration of the work of architects Chickering & O'Connell. The building retains most of its original features and details including numerous intact stain-glass windows. The property retains integrity of location, design, materials, workmanship, feeling, setting and association. The building occupies the hilltop at the heart of the Concord Junction neighborhood. The church has been an integral part of the lives of many of West Concord residents for almost one hundred years and was known as "Our Lady Help of Christians, Catholic Church" with a mailing address of 53 Church Street, Concord, Massachusetts 01742.

WHEREAS, the Building stands as a significant example of Queen Anne-style architecture in Massachusetts, illustrates aesthetics of design and setting, and possesses integrity of materials and workmanship;

WHEREAS, Grantee is authorized to accept preservation restrictions;

WHEREAS, the CHC is a governmental body of the Town of Concord whose purposes include the preservation and protection of sites, buildings, and objects of historical significance;

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

WHEREAS, the Building's preservation values are documented in a series of reports, drawings, and photographs (hereinafter, "Baseline Documentation") incorporated herein by reference, which Baseline Documentation the parties agree provides an accurate representation of the Building as of the date of this grant (other than the Massachusetts Historical Commission

*Patricia Saint James
Beveridge & DeLeonard
45 William St
Wellesley, Mass 02481*

Inventory Form including photographs dated October 25, 2004, which is included for historic documentation purposes only);

WHEREAS, the Baseline Documentation shall consist of the following:

- A) Legal Description of Property.
- B) Deed to property at 53 Church Street, Concord, Mass., dated November 20, 2006, and recorded on or about the date hereof at the Middlesex South Registry of Deeds.
- C) Massachusetts Historical Commission Inventory Form including photographs dated October 25, 2004.
- D) Concord GIS/Assessor's map showing Property.
- E) Photographs of Property and Building showing the condition of the Property and the Building as of the date hereof.
- F) Photographs of the original blueprints by Chickering & O'Connell, the original of which resides in the State Archives of Boston, Massachusetts.

All items, including original photographs listed as Item F, are on file in the offices of the Grantor and of the Grantee.

WHEREAS, the grant of a preservation restriction by Grantor to Grantee on the Property will assist in preserving and maintaining the Building and its architectural, historic and cultural features for the benefit of the people of Concord, Massachusetts;

WHEREAS, to that end, Grantor desires to grant to Grantee and Grantee desires to accept a preservation restriction (hereinafter, the "Restriction").

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, Grantor does hereby grant and convey unto the Grantee this Restriction over the Property, upon the following terms and conditions:

SECTIONS

1. Purpose. It is the purpose of this Restriction to assure that the architectural, historic, and cultural features of the exterior of the Building will be retained and maintained substantially in their current condition for preservation purposes and to prevent any use or change of the Building's exterior that will significantly impair or interfere with its preservation value during the term of this Restriction; provided, however, that the inclusion in the Baseline Documentation of photographs showing the interior of the Building is intended solely to show the design of the stained glass windows at closing and nothing herein or in the Baseline Documentation is intended to imply that any portion of the interior is affected or governed by this Restriction; provided, further however, that nothing herein should be deemed to create or invoke a restriction pursuant to Sections 31, 32, and 33 of Chapter 184 of the General Laws of Massachusetts.

2. Grantor's Covenants; Covenant To Maintain. Grantor agrees to use reasonable care at all times to maintain the exterior of the Building in at least the same structural condition and state of repair as that existing on the effective date of this Restriction. Subject to the casualty provisions of section 7, this obligation to maintain shall require replacement, rebuilding, repair and reconstruction of the Building whenever necessary in accordance with all applicable Town rules, bylaws and regulations including applicable Concord Historic Districts Commission ("HDC") Guidelines; provided, however, that if Grantor is a religious organization, compliance with such local rules, bylaws and regulations (including the HDC Guidelines) shall be required only to the extent applicable to a religious organization. Activities by Grantor to maintain or restore the exterior of the Building which constitute repair or replacement to a substantially similar look to that of the date of this Agreement shall not require in-kind materials and shall not require notice to or the approval of the Grantee. Nothing in this Restriction, including without limitation in the Baseline Documentation, shall be deemed to require the Grantor to (i) provide a view of the stained glass windows from the outside of the Building that is clearer than the view as of the date of this Agreement; (ii) remove the protective covering window(s) on the exterior side of the stained glass windows; (iii) improve the condition of the protective covering window(s); or (iv) replace such protective covering window(s).
3. Prohibited Activities. The following acts or uses are expressly forbidden on, over, or under the Property, except as otherwise conditioned in this Section 3:
- 3.1 Demolition, removal or razing of the Building, or any portion thereof except:
- (a) as provided in section 7; and
 - (b) Grantor reserves all rights to demolish the modern addition(s) at the rear of the Building in part or in whole, taking reasonable care that the preservation value of the remaining Building is maintained. Determination of the location of the modern additions can be made by referring to the Baseline Documentation.
- 3.2 Changes to the exterior (including fenestration and roof) of the Building including partial removal, construction, or other physical or structural change to the exterior, including any change to the footprint, size, mass, ridgeline, fenestration, rooflines and stained glass windows of the Building except:
- (a) As provided for in Section 7.
 - (b) The stained glass in the windows may be replaced by other stained glass subject to Grantee approval as provided for in Section 5.
 - (c) Religious medallions or any other religious symbols, religious words or religious imagery in the stained glass windows may be removed and replaced without notice to or approval from Grantee (in addition, subject to Section 2, above, Grantor shall use reasonable efforts to minimize the obstruction of the viewing of the stained glass windows from outside the Building).
 - (d) Should the Grantor determine that the finial crosses or the statue of Mary on the Building's exterior are not appropriate to display, or should this Building at any time cease to be used as a house of worship, these crosses and/or statue may be

removed at the Grantor's expense. If the Building will continue to be used as a house of worship, Grantor shall be entitled to install new religious symbols on the Building's exterior in the same locations and of the same general size and material as the finial crosses and statue that have been removed.

- (e) Subject to Grantee's approval, as provided for in Section 5, the Grantor may make material changes in materials, colors, or signs that will not negatively impact the preservation values of the Building, except as specifically permitted hereunder.
 - (f) So long as a display of religious symbols will not materially negatively impact the preservation values of the Building, and after notice to Grantee, Grantor reserves all rights to determine, in its sole discretion, the religious symbols that are appropriate to display, as well as the manner of such display, and the type and size of any such display, in accordance with Grantor's religious values.
 - (g) Grantor may build an addition at the north and/or east side of the Building, if such addition is well matched in style, materials and workmanship to the rest of the Building and adheres to the terms of any conservation restriction that impacts the Property and any otherwise applicable local rules, bylaws and regulations (including the HDC Guidelines); provided, however, that if Grantor is a religious organization, compliance with such local rules, bylaws and regulations (including the HDC Guidelines) shall be required only to the extent applicable to a religious organization.
- 3.3 Adding above-ground utility transmission lines on the Property, except those reasonably necessary for the existing Building.
4. Grantor's Reserved Rights. The Grantor reserves to itself the right to conduct or permit, in its sole discretion without any notice or approval by the Grantee, all acts and uses not expressly prohibited in Section 3, including, without limitation, changes to the interior of the Building that do not alter the Building's exterior in contravention of this Restriction.
5. Review of Grantor's Requests for Approval. Where this Restriction requires Grantor to obtain the approval of Grantee, Grantor shall submit to the Grantee for the Grantee's approval two copies of a written request that includes a description of the proposed activity (including plans, specifications, and designs where appropriate) with reasonable specificity and a timetable for the proposed activity sufficient to permit the Grantee to monitor such activity. Within forty-five (45) days of the Grantee's receipt of any such request for approval hereunder, the Grantee 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 Grantee shall provide Grantor with written suggestions for modification or a written explanation for the Grantee's disapproval. Any failure by the Grantee 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 Grantee of the plan or request as submitted and to permit Grantor to undertake the proposed activity in accordance with the plan or request submitted. Grantee's approval shall not be unreasonably withheld, delayed or conditioned.

6. Standards for Review. In exercising any authority created by the Restriction, the Grantee shall be guided by the HDC Guidelines to the extent applicable to a religious organization.
7. Casualty. In the event that the exterior of the Building is damaged or destroyed, Grantor will be required to restore the Building substantially to its condition at the time of the casualty (in accordance with Grantor's Covenants of section 2 above) so long as it is economically feasible to do so. In the event of any restoration or rebuilding of the Building under the provisions of the paragraph, Grantor will satisfy any otherwise applicable requirements pertaining to buildings within the Historic District (provided, however, that if Grantor is a religious organization, compliance with such local rules, bylaws and regulations (including the HDC Guidelines) shall be required only to the extent applicable to a religious organization). Grantor will use its best efforts to maximize the insurance proceeds available for repair or rebuilding of the Building, after legal or other fees and any required payments to secured creditors are paid. Grantor will, in good faith, prepare an estimate of the cost to restore or rebuild the Building to its original condition and will, in good faith, determine the economic feasibility of doing so. Grantor will consult with Grantee in the preparation of a plan for repair, rebuilding or demolition of the Building, and will file such plan with the Grantee in accordance with the provisions of section 5 above. In the event the decision is made to demolish the building, Grantor shall promptly demolish the Building in accordance with applicable laws and this Restriction shall automatically terminate.
8. Insurance. Subject to the next sentence, Grantor shall keep the Building insured for its functional replacement cost against loss from the perils commonly insured under standard fire and extended coverage. Grantor may decide, in Grantor's sole discretion, whether to insure against flood or earthquake damage, and whether to insure the stained glass windows in the building. Grantor shall provide evidence of insurance coverage for the Building to Grantee on an annual basis.
9. Written Notice. Any notice or request which either Grantor or Grantee may desire or be required to give to the other party hereunder shall be in writing and shall be mailed postage prepaid by overnight courier, facsimile transmission, registered or certified mail with return receipt requested, or hand delivered; if to Grantor, then to 53 Church Street, West Concord, MA 01742, with a copy to Brian Levey, Esq., at Beveridge & Diamond, P.C., 45 William Street, Suite 120, Wellesley, MA 02481; and if to Grantee, then to 22 Monument Square, Concord, MA 01742, with copies to the CHC at 141 Keyes Road, Concord, MA 01742. Either party hereto or the CHC shall be entitled to specify a different address hereunder by sending written notice to the other party hereto and the CHC as provided herein.
10. Inspection. Grantor hereby grants to Grantee and its designated representatives permission to enter the Property at reasonable times and in a reasonable manner for the purpose of inspecting the Property to determine compliance with this Restriction.
11. Grantee's and Grantor's Remedies. Grantee may institute suit(s) to enjoin any violation of the terms of this Restriction by ex parte, temporary, preliminary and/or permanent injunction, including prohibitory and/or mandatory injunctive relief, and to require the restoration of the Building to the condition and appearance required under this

Restriction. Each party shall have available all legal and other equitable remedies to enforce the other party's obligations hereunder. No waiver by a party, whether full or partial, of any default shall extend to or be taken to affect any subsequent default, or impair the rights resulting therefrom. The failure of either party to insist in any instance upon the strict performance of any of the terms hereof shall not be construed as a waiver of such term or terms, in the past, present or the future, and the same shall nevertheless continue in full force and effect.

12. Covenant Running with the Land. The terms and provisions herein shall be a covenant running with the land burdening the Property. Notwithstanding anything to the contrary contained herein, the rights and obligations under this Restriction shall become automatically assigned to each and every subsequent owner of the Property, such that any seller of the Property shall have no continual rights or obligations after their respective sales. Anything contained herein to the contrary notwithstanding, an owner of the Property shall have no obligation pursuant to this instrument if such owner shall cease to have any ownership interest in the Property by reason of a bona fide transfer.
13. Term. This Restriction has an initial term of 30 years, and may be sooner terminated in accordance with the terms of this Restriction. This Restriction may only be extended a maximum of four subsequent periods of twenty years each, in accordance with the notice provisions set forth in Section 27 of Chapter 184 of the General Laws of Massachusetts. This Restriction has a maximum period of 110 years, at which time the Restriction shall automatically terminate, and may not be further extended.
14. Effective Date. This Restriction shall be effective when it has been executed by the Grantor, accepted by the Grantee, approved by the Selectmen of the Town of Concord, and recorded in the Middlesex South District Registry of Deeds.
15. Estoppel Certificates. Upon request by Grantor, Grantee shall within thirty (30) days execute and deliver to Grantor any document, including an estoppel certificate, which certifies Grantor's compliance with any obligations of Grantor contained in this Restriction, and which otherwise evidences the status of this Restriction as may be requested by Grantor.
16. Condemnation. If all or any part of the Property or any interest therein 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 may commence appropriate proceedings at the time of such taking to recover the full value of Grantor's interests in the Property that are subject to the taking and all incidental and direct damages resulting from the taking. Grantee shall not be required to join in any proceedings relating to a taking of all or any part of the Property. So long as this Restriction is effective, Grantee agrees not to exercise its power of eminent domain or other act of public authority to take the Property or any interest of Grantor therein.
17. Interpretation. The following provisions shall govern the effectiveness, interpretation, and duration of the Restriction:
 - (a) This instrument may be fully executed in two counterparts, one of which is to be retained by Grantor and the other, after recording, which is to be retained by

Grantee. In the event of any disparity between the counterparts produced, the recorded counterpart shall in all cases govern. Except as provided in the preceding sentence, each counterpart shall constitute the entire agreement of the parties.

- (b) The interpretation and performance of this Restriction shall be governed by the laws of the Commonwealth of Massachusetts, and the Constitution for the Commonwealth of Massachusetts, and the Constitution of the United States.
 - (c) Nothing contained herein shall be interpreted to authorize or permit Grantor to violate any applicable ordinance or regulation, including, without limitation, ordinances or regulations relating to building materials, construction methods or use or handicapped accessibility requirements. In the event of any conflict between any 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 this Restriction (to the extent possible) and such ordinance or regulation. If Grantor is a religious organization, compliance with such local rules, bylaws and regulations (including the HDC Guidelines) shall be required only to the extent such local rules, bylaws and regulations are applicable to a religious organization.
 - (d) The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
18. Entire Agreement. Any prior or simultaneous correspondence, understandings, agreements, and representations with respect to the preservation of the Building shall be null and void upon execution hereof, unless set out in this Restriction, any governmental approval or in a separate document recorded with the Middlesex South Registry of Deeds.
19. Amendment and Termination. This Restriction may be amended or terminated by mutual agreement of the parties, in a written instrument recorded in the Middlesex South District Registry of Deeds.
20. Severability. In case any section, paragraph or part of this Restriction shall be for any reason declared invalid by any court, every other section, paragraph and part shall continue in full force and effect.
21. Authority. Grantor hereby warrants and represents to Grantee that the individual who is signing this Restriction on behalf of Grantor has been duly authorized to execute this document and to grant the restrictions set forth herein.

IN WITNESS WHEREOF, Grantor and Grantee have set their hands under seal on the day and year first set forth above.

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THE BOSTON SOCIETY OF THE GENERAL CHURCH OF THE NEW JERUSALEM, INC.

By: George R. Gantz

Its: President

COMMONWEALTH OF MASSACHUSETTS)

COUNTY OF ~~Middlesex~~ Norfolk)

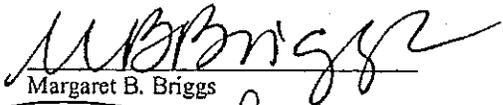
On this 15th day of November, 2006, before me, the undersigned notary public, personally appeared George R. Gantz, proved to me through satisfactory evidence of identification, which was driver's license, to be the person whose name is signed on the preceding or attached document and acknowledged to me that he/she signed it voluntarily for its stated purpose as President for The Boston Society of the General Church of the New Jerusalem, Inc.

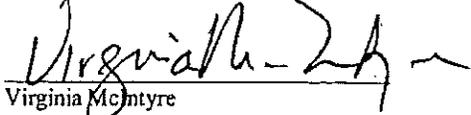
[Signature]
Notary Public:
My Commission Expires: 11-07-08
[Signature]

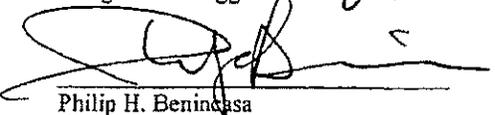
GRANTEE: CONCORD BOARD OF SELECTMEN

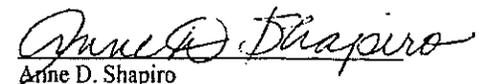
The foregoing Preservation Restriction is hereby approved and accepted by the Board of Selectmen of the Town of Concord this 13th day of November, 2006.

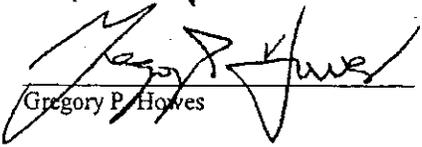
CONCORD BOARD OF SELECTMEN


Margaret B. Briggs


Virginia McIntyre


Philip H. Benincasa


Anne D. Shapiro


Gregory P. Howes

COMMONWEALTH OF MASSACHUSETTS)

)

COUNTY OF MIDDLESEX)

On this 13th day of Nov, 2006, before me, the undersigned notary public, personally appeared Margaret B. Briggs, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document and acknowledged to me that she signed it voluntarily for its stated purpose as a Member of the Board of Selectmen of the Town of Concord.

Anita S. Tekle

Notary Public:

My Commission Expires:

Anita S. Tekle
Notary Public
Commonwealth of Massachusetts
My Commission Expires
December 29, 2011

COMMONWEALTH OF MASSACHUSETTS)

)

COUNTY OF MIDDLESEX)

On this 13th day of Nov, 2006, before me, the undersigned notary public, personally appeared Virginia McIntyre, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document and acknowledged to me that she signed it voluntarily for its stated purpose as a Member of the Board of Selectmen of the Town of Concord.

Anita S. Tekle

Notary Public:

My Commission Expires:

Anita S. Tekle
Notary Public
Commonwealth of Massachusetts
My Commission Expires
December 29, 2011

COMMONWEALTH OF MASSACHUSETTS)

)

COUNTY OF MIDDLESEX)

On this 13th day of Nov 2006, before me, the undersigned notary public, personally appeared Philip H. Benincasa, proved to me through satisfactory evidence of identification, which was Personal Knowledge to be the person whose name is signed on the preceding or attached document and acknowledged to me that he signed it voluntarily for its stated purpose as a Member of the Board of Selectmen of the Town of Concord.

Anita S. Tekle

Notary Public:
My Commission Expires:

Anita S. Tekle
Notary Public
Commonwealth of Massachusetts
My Commission Expires
December 29, 2011

COMMONWEALTH OF MASSACHUSETTS)

)

COUNTY OF MIDDLESEX)

On this 13th day of Nov 2006, before me, the undersigned notary public, personally appeared Anne D. Shapiro, proved to me through satisfactory evidence of identification, which was Personal Knowledge to be the person whose name is signed on the preceding or attached document and acknowledged to me that she signed it voluntarily for its stated purpose as a Member of the Board of Selectmen of the Town of Concord.

Anita S. Tekle

Notary Public:
My Commission Expires:

Anita S. Tekle
Notary Public
Commonwealth of Massachusetts
My Commission Expires
December 29, 2011

COMMONWEALTH OF MASSACHUSETTS)
)
COUNTY OF MIDDLESEX)

On this 13th day of Nov 2006, before me, the undersigned notary public, personally appeared Gregory P. Howes, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document and acknowledged to me that he signed it voluntarily for its stated purpose as a Member of the Board of Selectmen of the Town of Concord.

Anita S. Tekle
Notary Public:
My Commission Expires:

Anita S. Tekle
Notary Public
Commonwealth of Massachusetts
My Commission Expires
December 29, 2011

Angus C. Brown
Attest. Middlesex S. Register