

**MEMORANDUM OF AGREEMENT
AMONG
THE CITY OF CLEVELAND,
AND
THE OHIO HISTORIC PRESERVATION OFFICER
IN REGARD TO
THE ART HOUSE PROJECT AT 3119-3201 DENISON AVENUE
(Listed on the National Register of Historic Places)
CLEVELAND, OHIO
UNDER 36 CFR Part 800**

WHEREAS the City of Cleveland plans to carry out and fund the Art House Project (undertaking) pursuant to 36 CFR part 800; and

WHEREAS the undertaking consists of the demolition of the residential buildings at 3119 Denison Avenue and 3201 Denison Avenue, both of which are located within the Brooklyn Centre Historic District, listed in the National Register of Historic Places, and redevelopment of the properties to include the expansion of the existing Quonset hut, expansion of the parking lot, and creation of green space; and

WHEREAS, the City has defined the undertaking's area of potential effect (APE) as extending one parcel deep on both sides of Denison Avenue from the western edge of Pearl Road to the western edge of the properties located on the northwest and southwest corners of West 33rd Street and Denison Avenue; and

WHEREAS, the City has determined that the undertaking may have an adverse effect on properties listed in the National Register of Historic Places, and has consulted with the Ohio Historic Preservation Officer pursuant to 36 C.F.R. part 800 of the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f); and

WHEREAS, the City has consulted with Art House, Inc. and the Cleveland Restoration Society regarding the effects of the undertaking on historic properties and has invited them to sign this MOA as invited signatories; and

WHEREAS, the City has consulted with Consulting Parties, listed in Appendix A, who demonstrated an interest in the proposed undertaking, regarding the effect of the undertaking on historic properties and has invited them to sign this MOA as concurring parties; and

WHEREAS, the properties are located in the Brooklyn Centre Cleveland Landmarks Historic District, and that the Cleveland Landmarks Commission approved the demolition of the buildings (This step has not been completed. Enter the date of Landmarks approval if/when the project is issued a Certificate of Appropriateness by the Commission); and

WHEREAS, the City has worked extensively with the invited signatories and other consulting parties over the last five years to actively identify and engage possible end-users for the buildings at 3119 and 3201 Denison Avenue that would avoid or minimize the adverse effect caused by this undertaking; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), the City has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

NOW, THEREFORE, the City and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The City shall ensure that the following measures are carried out:

I. The demolition of the buildings at 3119 Denison Avenue and 3201 Denison Avenue may commence once the following stipulations are met:

A. The properties will be documented through measured black and white drawings, a brief written history and statement of significance for the property, and photographic documentation according to National Register Photography Policy standards. A copy of this documentation will be submitted to the Cleveland Landmarks Commission for review and approval. An original archival set of this documentation, including printed photographs and three (3) archival disks containing digital files, will be maintained at the Cleveland Landmarks Commission office and will be made available on the internet through the Cleveland Landmarks Commission website.

B. Within two (2) years of the demolition of 3119 Denison Avenue, an educational pamphlet will be developed, printed and distributed to all residents and property owners within the Brooklyn Centre Historic District, listed on the National Register of Historic Places, and the Brooklyn Centre Cleveland Landmarks Historic District. This pamphlet, which will be developed by the Cleveland Landmarks Commission, Cleveland Restoration Society, and Art House, Inc., will inform individuals and businesses of the neighborhood's historical status and historic assets, and will highlight processes for reviews of physical alterations to properties and programs available to residents and property owners within the historic districts.

II. Final plans for the parking area, building addition, and associated landscape features will meet the Secretary of the Interior's Standards for the Treatment of Historic Properties and will be submitted to the City's Section 106 Compliance Officer, the Brooklyn Centre Design Review Committee, and the Cleveland Landmarks Commission for review and approval.

III. DURATION

This MOA will be null and void if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, the city may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation XI below.

IV. MONITORING AND REPORTING

Every six months following the execution of this MOA until it expires or is terminated, the city shall provide all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in city's efforts to carry out the terms of this MOA.

V. DISPUTE RESOLUTION

Should any signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the city shall consult with such party to resolve the objection. If the city determines that such objection cannot be resolved, the city will:

A. Forward all documentation relevant to the dispute, including the city's proposed resolution, to the ACHP. The ACHP shall provide the city with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the city shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The city will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the city may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the city shall prepare a written response that takes into account any timely

comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.

C. The City's responsibilities to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

VI. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

VII. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation VIII, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, the city must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The city shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by the city and SHPO and implementation of its terms evidence that the city has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORIES:

City of Cleveland

_____ Date
Daryl Rush, Director, Department of Community Development

State Historic Preservation Officer

_____ Date
Mark Epstein, Department Head

INVITED SIGNATORIES:

Art House

_____ Date
Amy Craft, President

Cleveland Restoration Society

_____ Date
Kathleen Crowther, Executive Director

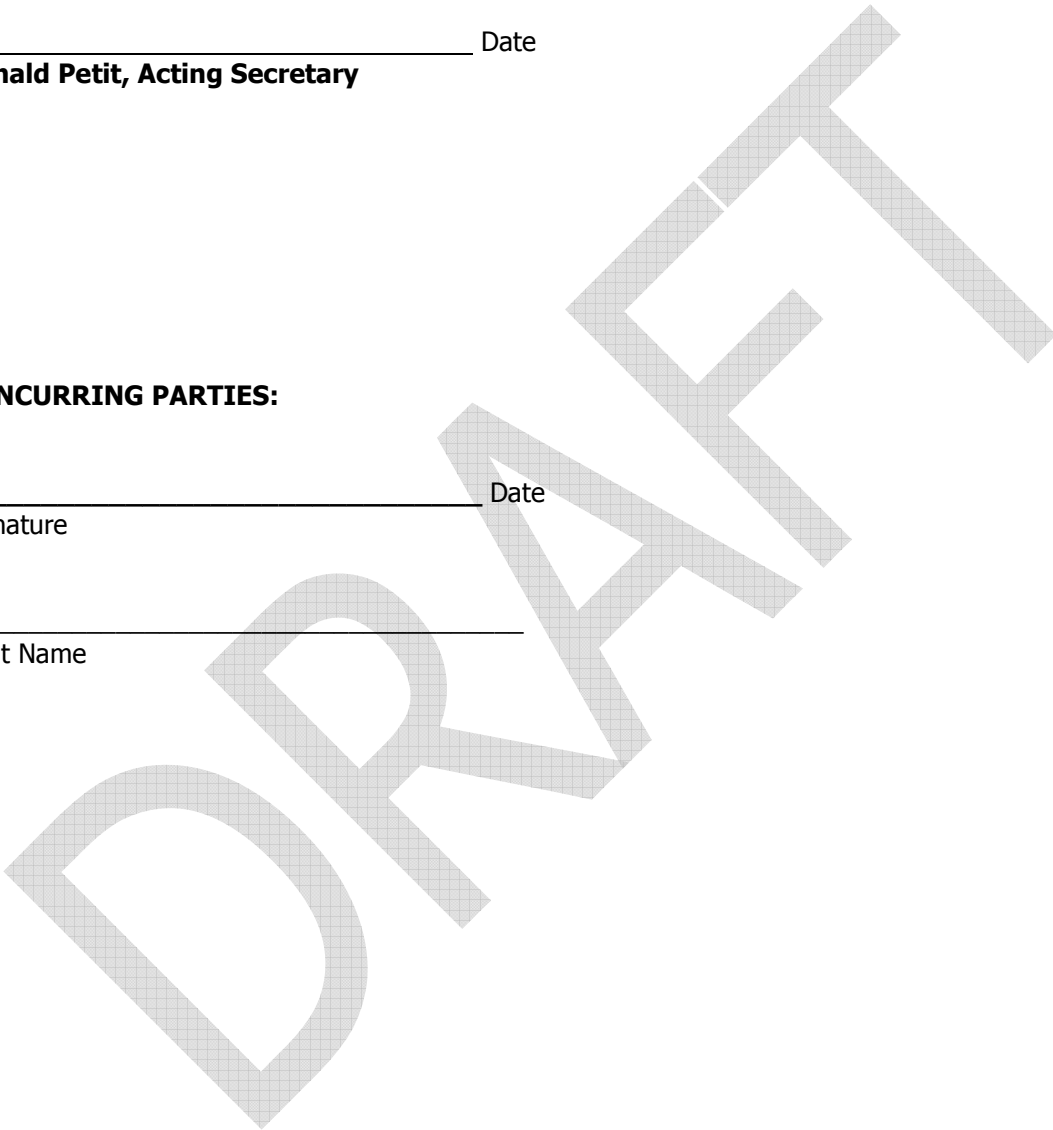
Cleveland Landmarks Commission

_____ Date
Donald Petit, Acting Secretary

CONCURRING PARTIES:

_____ Date
Signature

_____ Date
Print Name



APPENDIX A: List of Consulting Parties

Craig Bobby
Councilman Anthony Brancatelli
Roger Bundy
Councilman Brian Cummins
Tim Donovan
William Eging
Gloria Ferris
Tim Ferris
Mike Harrison
Rudy Hauret
Paul Kirk
Laura McShane
Richard Nicholson
Ann Pallotta Nagin
Chris Pekoc
Dorothy Rieman
Jock Thompson

NEW PARTICIPANT NAMES TO BE ADDED

DRAFT