

5/7/07

**MEMORANDUM OF AGREEMENT  
BETWEEN U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
AND THE  
OHIO HISTORIC PRESERVATION OFFICER  
REGARDING THE COLUMBUS EMPOWERMENT ZONE'S MAIN & WILSON RETAIL  
DEVELOPMENT PROJECT**

**WHEREAS**, the U.S. Department of Housing and Urban Development (HUD) has provided Empowerment Zone funds to the City of Columbus (CITY), and the CITY has distributed these funds to the Columbus Compact Corporation (COMPACT) to demolish the existing apartment building at 411-423 Wilson Avenue and construct a new retail building on the site (PROJECT); and

**WHEREAS**, HUD, in consultation with the Ohio Historic Preservation Office (Ohio SHPO) and pursuant to 36 C.F.R. part 800, the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f), has determined that the building at 411-423 Wilson Avenue is a contributing resource in a historic district that is eligible for listing in the National Register of Historic Places; and

**WHEREAS**, HUD, in consultation with the Ohio SHPO, has determined that the PROJECT will have an adverse effect on the building at 411-423 Wilson Avenue and the historic district; and

**WHEREAS**, HUD has consulted with the CITY and the COMPACT regarding the effects of the undertaking on historic properties and has invited them to sign this MOA as invited signatories; and

**WHEREAS**, HUD has consulted with Near East Area Commission, Columbus Landmarks Foundation, Central Ohio Transit Authority, Salvation Army, Main Street Business Association, South of Main Block Watch, Heritage Ohio, ComproTax, Central Community House, Children's Hospital Near East Clinic, Olde Towne East Neighborhood Association, ProTeam Resources, and Columbus Neighborhood Health Centers regarding the effects of the undertaking on historic properties and has invited them to sign this MOA as concurring parties; and

**WHEREAS**, in accordance with 36 C.F.R. § 800.6(a)(1), HUD 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**, HUD and the Ohio 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**

HUD shall ensure that the following measures are carried out:

**I. PREPARATION OF A HISTORY AND ARCHITECTURE SURVEY**

The COMPACT has contracted with a preservation consultant meeting Professional Qualification Standards (36 CFR Part 61) in history to complete a detailed history/architecture survey (SURVEY) of the area which is bounded as follows: Main Street to the north; Ohio Avenue to the west; mid-block between Cole and Fulton Avenues to the south; and Kimball Place to the east. A draft of the SURVEY has been submitted to the Ohio SHPO and the CITY Historic Preservation Officer (CITY HPO) for review and comment. The Ohio SHPO and the CITY HPO shall provide comments and request revisions by April 30, 2007. The preservation consultant shall make any changes requested by the Ohio SHPO and the City

HPO and provide copies of the revised final report to the Ohio SHPO, where it will be made available to the public, and the CITY HPO, who shall use the survey for planning purposes.

- A. The primary focus of the SURVEY shall be to make recommendations regarding the eligibility of individual properties and historic districts for listing in the National Register of Historic Places. The Consultant engaged to prepare the SURVEY shall apply the National Register Criteria for Evaluation to arrive at his/her recommendations.
- B. The SURVEY shall contain the following sections: (1) literature review, (2) survey methodology, (3) historic/architectural context, and (4) results/National Register Recommendations/Conclusion. Appendices should contain relevant mapping, photographs, and other figures.
- C. The SURVEY shall include up to ten 10 Ohio Historic Inventory Forms for buildings that have not been previously inventoried.
- D. The SURVEY shall include a delineation of recommended boundaries for any eligible historic district that may extend beyond the boundaries of the survey area.

## **II. DESIGN REVIEW OF NEW CONSTRUCTION AT 1209 EAST MAIN STREET / 411-423 WILSON AVENUE**

The building to be constructed on the parcel created by the demolition of the apartment building at 411-423 Wilson Avenue shall be subject to design review to ensure its conformance to the Secretary of the Interior's Standards for the Treatment of Historic Properties (STANDARDS) as they pertain to new construction adjacent to historic properties. Because Section 106 consultation identified the design of the new building to be a primary concern of consulting parties, their input has been sought throughout this process and is being utilized to develop the final design of the building.

- A. The COMPACT circulated a rendering of the proposed building to consulting parties on December 18, 2006 and January 5, 2007 and requested that comments be submitted within ten (10) days by electronic mail, standard mail, or fax.
- B. On January 22, 2007, the COMPACT provided copies of all comments to the project architect and requested that he incorporate recommendations made in the comments into the design of the proposed building, when feasible. In addition, the COMPACT requested that the project architect consider the results of the July 8, 2006 Visioning Charette for East Main Street sponsored by the City of Columbus and the Near East Area Commission when modifying the design.
- C. The COMPACT provided copies of all comments that it receives to HUD, the Ohio SHPO, and the CITY on February 1, 2007.
- D. On February 5, 2007, the COMPACT, the Ohio SHPO, and the CITY HPO met with the project architect to review the proposed design and make modifications thereto.
- E. After the project architect had modified the design, on February 8, 2007 the COMPACT circulated scale drawings of the proposed building's East Main Street and Wilson Avenue facades and a site plan done to scale showing the location of the building on the lot to consulting parties and requested that comments be submitted to the COMPACT within ten (10) days by electronic mail, standard mail, or fax.

- F. No comments were received from consulting parties regarding the February 8, 2007 revised design.
- G. The COMPACT shall submit final design documents, including scale drawings, plans, and specifications, to the Ohio SHPO for review and comment by May 31, 2007. The Ohio SHPO shall conduct its review within thirty (30) days of receipt of this submission and provide its comments to the City of Columbus Historic Preservation Officer (CITY HPO), who shall determine whether the proposed design conforms to the STANDARDS within thirty (30) days of receipt of the Ohio SHPO's comments.
  - i. When reviewing the final design documents, the Ohio SHPO and the CITY HPO shall consider all comments submitted by consulting parties that relate to how the proposed design fits in with the architecture of the historic neighborhood in which it will be located.
  - ii. The Ohio SHPO and the CITY HPO shall utilize their professional judgment in applying the STANDARDS to the proposed design.
  - iii. The CITY HPO shall either approve the plans or require that changes be made to allow the plans to conform to the STANDARDS. If the CITY HPO requests that changes be made, he shall provide a detailed written account of these changes and request a meeting with the COMPACT, the architect, and the Ohio SHPO to discuss ways to resolve conflicts with the STANDARDS. The CITY HPO shall provide notice of his findings to consulting parties via standard mail.

### 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, HUD may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VIII below.

### IV. 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, HUD shall consult with such party to resolve the objection. If HUD determines that such objection cannot be resolved, HUD will:

- A. Forward all documentation relevant to the dispute, including HUD's proposed resolution, to the ACHP. The ACHP shall provide HUD 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, HUD 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. HUD 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, HUD may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, HUD 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. HUD's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

**V. AMENDMENTS**

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

**VI. TERMINATION**

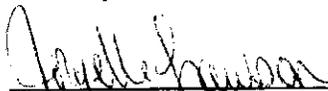
If any signatory or invited signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation VIII, above. If within thirty (30) days (or another time period agreed to by all 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, HUD 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. HUD shall notify the signatories as to the course of action it will pursue.

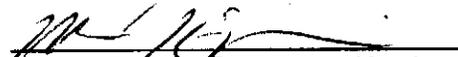
Execution of this MOA by HUD and SHPO and implementation of its terms evidence that HUD has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

**SIGNATORIES:**

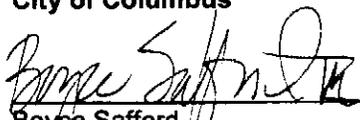
**U.S. Department of Housing and Urban Development**

  
 \_\_\_\_\_ Date: 5/2/07  
 Jorgelle Lawson, Director  
 Community Planning & Development Division  
 Columbus Field Office

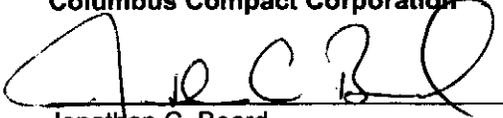
**Ohio Historic Preservation Officer**

  
 \_\_\_\_\_ Date: 5/7/07  
 Mark J. Epstein, Department Head  
 Resource Protection and Review

**City of Columbus**

  
 \_\_\_\_\_ Date: 5/14/2007  
 Boyce Safford  
 Interim Director, Development Department

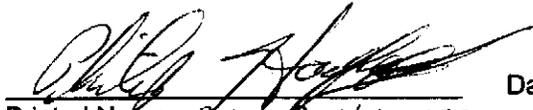
Columbus Compact Corporation



Date: 5/15/07

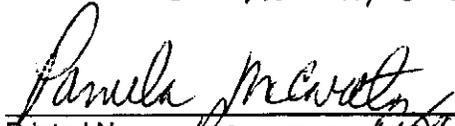
Jonathan C. Beard  
President and CEO

CONCURRING PARTIES:



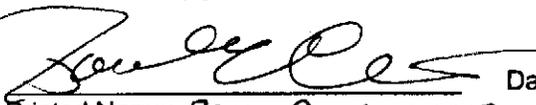
Date: 5-18-07

Printed Name: PHILIP HAYNES  
Title: OWNER  
Organization: COMPRO-TAX OLDE TOWNE EAST



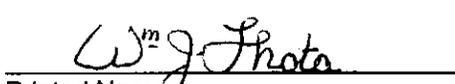
Date: 5-18-07

Printed Name: PAMELA MCARTHUR  
Title: EXECUTIVE DIRECTOR  
Organization: CENTRAL COMMUNITY HSE



Date: 5-21-2007

Printed Name: PAUL CAIN, MAJOR  
Title: AREA COORDINATOR  
Organization: THE SALVATION ARMY



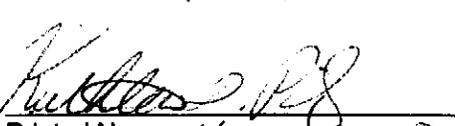
Date: 5/29/07

Printed Name: Wm J. Prota  
Title: PRESICED  
Organization: COTA



Date: 5/30/07

Printed Name: KEITH STEVENS  
Title: President  
Organization: PROTECTAM STAFFING



Date: 6/8/07

Printed Name: KATHLEEN D BAILLY  
Title: PRESIDENT  
Organization: SOUTH OF MAIN BLOCKWATCH

\_\_\_\_\_  
Date:  
Printed Name:  
Title:  
Organization:

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Date:  
Printed Name:  
Title:  
Organization: