

**MEMORANDUM OF AGREEMENT AMONG
OPUS DEVELOPMENT COMPANY, L.L.C.,
THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, AND THE
ILLINOIS STATE HISTORIC PRESERVATION OFFICER
REGARDING DEMOLITION AND NEW CONSTRUCTION OF
A MULTIFAMILY DEVELOPMENT AT
928 MAPLE AVENUE AND 932 MAPLE AVENUE IN
DOWNERS GROVE, ILLINOIS
(SHPO LOG #026011921)**

WHEREAS, Opus Development Company, L.L.C. (Opus) plans to undertake the demolition of 928 Maple Avenue and 932 Maple Avenue in Downers Grove, DuPage County, IL, and construct a new building at 920 Maple Avenue; and

WHEREAS, the project requires a National Pollutant Discharge Elimination System (NPDES) permit and a Water Pollution Control permit from the Illinois Environmental Protection Agency (IEPA), thereby making the project an Undertaking subject to review under the Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420) and its implementing rules (17 IAC 4180) (Act); and

WHEREAS, Opus has consulted with the Illinois State Historic Preservation Office (Office), a Division of the Illinois Department of Natural Resources (IDNR), pursuant to the Act; and

WHEREAS, the Office currently resides within IDNR, and the Director of IDNR is the duly designated State Historic Preservation Officer (SHPO); and

WHEREAS, on February 10, 2021, the SHPO determined that the building at 928 Maple Avenue (Building) is eligible for listing on the National Register of Historic Places (NRHP) under Criterion C at the local level of significance; and

WHEREAS, on February 10, 2021, the SHPO determined that the Undertaking will have an adverse effect on the Building;

NOW, THEREFORE, the Opus, IEPA, and the SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations in this Memorandum of Agreement (Agreement) in order to mitigate the adverse effects of this Undertaking to the NRHP-eligible property.

STIPULATIONS

I. MITIGATION

Opus shall retain a historical contractor(s) of its choice (Contractor) who meets the Secretary of the Interior's Qualifications (36 CFR Part 61, https://www.nps.gov/history/local-law/arch_stnds_9.htm) to complete the measures

described below. Opus will ensure that the following mitigation and Historic American Building Survey (HABS) recordation is/are completed by the Contractor. (see: <https://www.nps.gov/hdp/standards/index.htm>) is completed by the Contractor. The recordation must follow the HABS/HAER/HALS guidelines established by the Heritage Documents Programs division (HPD) of the National Park Service (see: <https://www.nps.gov/hdp/standards/index.htm>). The Contractor must consult with the SHPO prior to the initiation of the work to ensure that expectations are understood.

A. Recordation

1. Fieldwork: Site Visit, Photography, Measurements

- a. The Contractor shall take site, interior, exterior, and detail digital images of the Building. These photos should be used for reference in developing the architectural description outlined in I.A.2.d. Field notes/sketches should be used to create the digital sketch plans outlined in I.A.2.a.
- b. The Contractor shall submit draft digital images of the same or very similar views that are proposed for HABS photography to the SHPO for comment. Selection of view and quantity of images shall be done in consultation with the SHPO. Images must include site, elevations, distinctive exterior and interior architectural features, primary interior spaces, and representative non-primary interior spaces. Upon SHPO concurrence in writing of the selected draft views, the Contractor may proceed with taking the final HABS photography as outlined in I.A.1.c.
- c. Final HABS photographs must be taken by a professional photographer and must include all the views agreed to in I.A.1.b. Photographs must be taken with a large-format film camera using 4" x 5" or larger black-and-white negatives, processed according to HABS/HAER/HALS guidelines, with in-camera perspective correction (as needed).
- d. Upon completion of I.A.1.a, b, and c, the Contractor shall digitally submit the images and copies of field notes to the SHPO for review and comment. Upon SHPO confirmation in writing that all of the information necessary to complete HABS recordation has been collected, the demolition of the Building may commence.

2. Recordation components shall consist of the following items.

- a. Sketch plans, as defined by HABS/HAER/HALS guidelines. The sketch plans will be included as figures at the end of the relevant

report(s) and printed in accordance with HDP Transmittal Guidelines.

- b. HABS photographs. Prints from the negatives taken in I.A.1.c must be either wet processed on regular (not resin-coated) photo paper or inkjet-printed, according to HABS/HAER/HALS guidelines. The size of the final prints shall be the size of the negatives, and their mounting and labeling shall be done in accordance with guidance provided by HPD staff. Final recordation package must contain the photo prints, original negatives, and a contact sheet, per HABS/HAER/HALS standards.
- c. Archival digital photography. This set of labeled photos are those taken as a part of the reconnaissance and agreed to as stated in I.A.1.a. They should be printed as directed by HPD staff.
- d. Narrative and description. A written historic narrative and an architectural description of the Building using HABS-designated outline format printed single sided on regular-weight, archival (non-recycled, with 25% cotton fiber content) bond paper.
- e. Original and/or historic drawings. Any original and/or historic drawings of the Building scanned at a minimum of 400 ppi and dropped full-size onto HABS title blocks. Verify that the original/historic plans can be reproduced in accordance with the U.S. Copyright Act, as amended (see: <https://www.nps.gov/hdp/standards/copyright.htm>). The finished sheets will be printed on vellum in accordance with HDP's Transmittal Guidelines. The Contractor must consult with the SHPO to determine which extant plans warrant scanning and inclusion in the recordation package.
- f. Original field notes, if applicable (i.e., field sketches, laser-scan info, photogrammetric data info.)
- g. Historic images and maps. Photographic copies of illustrative historic images and maps must be scanned, and printed, and labeled according to HABS/HAER/HALS guidelines. The Contractor must consult with the SHPO to determine which historic images and maps warrant inclusion in the recordation package.
- h. CD/DVD. Digital versions of items I.A.2.a through I.A.2.g must be saved onto an archival CD/DVD.

3. Draft submission. The Contractor shall email in pdf format of the 95% draft of the items in I.A.2.a through g to the SHPO for review and comment. When the SHPO accepts in writing the 95% draft submission, the Contractor shall incorporate into the recordation any comments that the SHPO provides and complete the final documentation as directed in I.A.4.
4. Final submission. Upon completion of the final documentation, the Contractor shall submit the following to the SHPO:
 - a. One (1) HABS recordation package containing items I.A.2.a, b, c, d, e, f, g, and h.
 - b. One (1) recordation package containing items I.A.2.a, c, d, e, g, and h in an archival clamshell.
 - c. Digital versions of items I.A.2.a, c, d, e, and g uploaded to the State of Illinois file transfer site:
<https://filet.illinois.gov/filet/pimupload.asp> with the Cultural Resources Coordinator as the recipient.

Upon final approval, the SHPO will submit the HABS recordation package to the HPD for eventual deposit in the Library of Congress, and the SHPO will deposit the recordation package with the Abraham Lincoln Presidential Library in Springfield, Illinois.

II. DURATION

This Agreement shall be effective until such time as all of its terms are satisfied or it is amended or terminated and replaced. Prior to such time, Opus may consult with the other signatories to reconsider the terms of the Agreement and amend it in accordance with Stipulation VI AMENDMENTS below. Opus shall notify the signatories as to the course of action it will pursue. This Agreement shall expire upon final approval by SHPO of the HABS recordation package.

III. POST-REVIEW DISCOVERIES

If potential historic properties are discovered or unanticipated effects on historic properties found, Opus shall consult with the SHPO immediately and make reasonable efforts to avoid, minimize, or mitigate adverse effects to such properties. In the event of an unanticipated discovery of human remains or burials, Opus understands and agrees that it must immediately stop work within the area of discovery, consult with the SHPO, and comply with the Human Skeletal Remains Protection Act (20 ILCS 3440) and its implementing rules (17 IAC 4170) as administered by IDNR, which provides that no human skeletal remains shall be disturbed without a permit issued by IDNR.

IV. MONITORING AND REPORTING

Each six (6)-month period following the execution of this Agreement until it expires or is terminated, Opus shall provide all parties to this Agreement 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 Opus' efforts to carry out the terms of this Agreement.

V. DISPUTE RESOLUTION

Should any signatory to this Agreement object at any time to any actions proposed or the manner in which the terms of this Agreement are implemented, Opus shall consult with the signatories to resolve the objection. If the signatories cannot agree regarding a dispute, the signatories shall utilize the procedures provided in 20 ILCS 3420/4e.

VI. AMENDMENTS

This Agreement 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 is signed by all of the signatories.

VII. TERMINATION

If any signatory to this Agreement determines that its terms become impossible to carry out, that party shall immediately consult with the other signatories to attempt to develop an amendment per Stipulations V and VI above. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the Agreement upon written notification to the other signatories.

VIII. COUNTERPARTS; FACSIMILE OR .PDF SIGNATURES

This Agreement may be executed in counterparts, each of which shall be considered an original and together shall be one and the same Agreement. A facsimile or .pdf copy of this Agreement and any signatures thereon will be considered for all purposes as an original.

EXECUTION of this Agreement by Opus and IEPA and the implementation of its terms evidence that Opus and IEPA have afforded the SHPO an opportunity to comment on the effects of the Undertaking in compliance with the Act.

[Signature Pages to follow]

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SIGNATORY

OPUS Development Company, L.L.C. (Opus)

Signature:  Date: 7/1/2021

Name: Michael P. Yungerman
Senior Vice President, General Manager

Title: _____

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SIGNATORY

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (IEPA)

Signature: _____ Date: _____

Name: _____

Title: _____

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SIGNATORY

ILLINOIS DEPUTY STATE HISTORIC PRESERVATION OFFICER (SHPO)

By: Carey L. Mayer Date: 06/17/2021
Carey L. Mayer, AIA
Deputy State Historic Preservation Officer
Illinois Department of Natural Resources