

MEMORANDUM OF AGREEMENT
AMONG THE U.S. GENERAL SERVICES ADMINISTRATION
THE VIRGINIA STATE HISTORIC PRESERVATION OFFICE

AND THE

ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING THE CONSTRUCTION OF A UNITED STATES COURTHOUSE
RICHMOND, VIRGINIA

WHEREAS the U.S. General Services Administration (GSA) proposes to undertake the construction of a United States District Courthouse (District Courthouse) on a block bounded by Broad, Grace, Seventh and Eighth Streets in the city of Richmond, Virginia; and

WHEREAS the GSA has determined that the District Courthouse will have an adverse effect on the Richmond Grace Street Commercial Historic District, which is listed in the National Register of Historic Places, specifically the contributing building Syndor-Hundley Furniture Store/Thalhimer Brother's Business Office building (Syndor-Hundley Building), located at 700 East Grace Street, due to its demolition and possibly on unidentified subsurface archeological resources; and

WHEREAS the GSA has consulted with the Virginia State Historic Preservation Office (SHPO), also known as the Virginia Department of Historic Resources, and the Advisory Council on Historic Preservation (Council) in accordance with Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470 (NHPA) and its implementing regulation (36 CFR Part 800) to resolve the adverse effect of the District Courthouse on historic properties; and

WHEREAS pursuant to 36 CFR 800.6 (c)(3) the GSA also has invited the City of Richmond, the Historic Richmond Foundation, and Richmond Renaissance to participate as concurring parties in the consultation process and to concur in this MOA; and

WHEREAS the GSA has determined that to incorporate any portion of the Syndor-Hundley Building is not feasible to implement alternatives for the Syndor-Hundley Building in accordance with Section 110 (a)(1) of NHPA; and

WHEREAS the GSA has prepared an assessment of known and potential archeological sites and an assessment of known and potential architectural resources within the project area and has submitted the resulting document entitled Proposed United States Courthouse, Richmond, Virginia: Cultural Resource Assessment of Two Alternative Sites (Ahlman et al., 2001) to the SHPO and the SHPO has reviewed and approved it; and

NOW, THEREFORE, the GSA, the SHPO and the Council agree that the construction of the District Courthouse shall be implemented in accordance with the following stipulations in order to take into account the effect of constructing the Courthouse on historic properties, and that these stipulations shall govern the undertaking and all of its parts until this MOA expires or is terminated.

Stipulations

The GSA shall ensure that the following stipulations are implemented:

Design Review

- A. The GSA shall ensure that the new District Courthouse is compatible with the historic and architectural qualities of the Grace Street Historic District in terms of scale, massing, color, and materials, and is responsive to the recommended approaches to new construction set forth in the Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings (U.S. Department of the Interior, National Parks Service 1992); and
- B. The GSA shall provide architectural design documents and other appropriate representations of the Courthouse to the SHPO for review and comment at the following stages of project design: Concept Stage (30%); Design Development Stage (60%); and Construction Document Phase (95%).

II. Documentation

- A. Pursuant to Section 110(b) of the NHPA, and prior to demolition of the Syndor-Hundley Building at 700 East Grace Street, Richmond, the GSA shall ensure that the following recordation measures are carried out in consultation with the SHPO:
 - 1. Measured Drawings: Scaled elevations, floor plans, and site plan produced on Mylar
 - 2. Photographs: Black and White archival quality large-format (5"x7") negatives with proofs including general views of complete exterior, detailed frontal photographs of the main entrance, any exterior decorative elements, and selected interior views.
 - 3. Written Data: Completed SHPO Intensive Level Survey form on archival bond paper.
 - 4. Historical Documents: Compilation of any available copies of historic photographs, Sanborn Fire Insurance Maps, city directories, or any other historical documents related to the Syndor-Hundley Building.

- B. The SHPO shall provide comments on the draft recordation documentation no later than 30-days of receipt of materials.
- C. GSA shall ensure that all documentation is completed and accepted by the SHPO prior to the demolition of the Syndor-Hundley Building.
- D. GSA will provide final archival copies of the recordation documentation to the SHPO and a copy to each appropriate local archive designated by the SHPO.

III. Architectural Salvage

- A. GSA will ensure that the SHPO is afforded at least 30 days before the demolition of the Syndor-Hundley Building to select architectural elements for salvage, curation, public education, or reuse. The GSA shall provide the SHPO access to the Syndor-Hundley Building to select such items.
- B. The GSA shall ensure that the items selected are removed by the GSA's demolition contractor in a manner that minimizes damage and are safely delivered to the SHPO's Richmond office.

IV. Identification and Evaluation of Archeological Properties

- A. The GSA shall prepare and implement a program to identify and evaluate archeological properties within the project area in consultation with the Virginia SHPO. The area to be surveyed shall be determined by the GSA in consultation with the Virginia SHPO. The survey shall be conducted in a manner consistent with the Secretary of the Interior's Standards for Identification (48 FR 44720-23) and the Virginia SHPO's Guidelines For Conducting Cultural Resource Survey in Virginia: Additional Guidance for the Implementation of the Federal Standards Entitled Archaeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines (48 FR 44742, September 29, 1983) 1999, rev. 2000.

Prior to affecting any potentially eligible sites, the GSA shall develop a program to evaluate archeological sites in consultation with the Virginia SHPO. The testing program shall be of sufficient intensity to provide an evaluation of eligibility for the National Register of Historic Places by the GSA in consultation with the Virginia SHPO for all identified properties, following the regulations outlined in 36 CFR 800.4(c).

V. Treatment of Archeological Properties

- A. If archeological properties are identified as a result of the testing program, the GSA will develop a plan for their avoidance, protection, or recovery of information in consultation with the Virginia SHPO and approved by the Virginia SHPO prior to implementation.
- B. The GSA shall ensure that the data recovery plan describes and justifies the studies to be carried out, and specifies at a minimum:
1. The research question to be addressed through the data recovery, with an explanation of the relevance and importance;
 2. Why the research questions are worth addressing in the public interest;
 3. Why it is likely that the research question can be addressed using the data from the District Courthouse site;
 4. The methods to be used in fieldwork and analysis;
 5. The expected timetable for excavation, analysis, and preparation of the final report. The GSA shall notify the Virginia SHPO in writing once the fieldwork portion of the data recovery program is complete so that a site visit may be scheduled, if the Virginia SHPO finds it appropriate. The proposed construction may proceed following this notification while the technical report is in preparation.
 6. Description of the proposed disposition of recovered materials and records; and
 7. Proposed methods for disseminating results of the work to the interested public (e.g. slide packet for use in the City Schools, an exhibit in the City Library during Virginia Archeology Month, etc.)
- C. The GSA shall ensure that the data recovery plan is submitted to the SHPO for 21-calendar days review. Unless the SHPO objects within 21-calendar days after receipt of the data recovery plan the GSA shall ensure that the data recovery plan is implemented prior to and in coordination with those project activities that could disturb the features at the site.
- C.
- D. The GSA shall ensure that all materials and records resulting from the data recovery are curated in accordance with 36 CFR Part 79 by an institution or organization selected by GSA in consultation with the SHPO, and that all reports are responsive to contemporary professional standards, according to the Department of the Interior's Format Standards for Final Reports of Data Recovery Programs (42 FR 537-79).

VI Administrative Stipulations

- A. Definition of Parties: For the purposes of this MOA the term “signatories to this MOA” means the GSA, the SHPO, and the Council, each of which has authority under 36 CFR 800 to terminate the consultation process.
- B. Professional Supervision: The GSA shall ensure that all activities regarding historic buildings carried out pursuant to the MOA are carried out by or under the direct supervision of a person or persons meeting at a minimum the Secretary of the Interior’s Professional Qualification Standards for Historic Architecture (48 FR 44739), and that all activities regarding archeology carried out pursuant to this MOA are carried out by or under the direct supervision of a person or persons meeting at a minimum the Secretary of the Interior’s Professional Qualification Standards for Archeology (48 FR 44739). However, nothing in this stipulation may be interpreted to bar GSA or any agent or contractor of GSA to utilize the properly supervised services of employees who do not meet the above standards.
- C. Report Preparation: All archeological work, including data recovery plan(s) shall be consistent with the Secretary of the Interior’s Standards and Guidelines for Archeological Documentation (48 FR 4434-37) and the Virginia SHPO’s Guidelines for Conducting Cultural Resource Survey in Virginia: Additional Guidance for the Implementation of the Federal Standards Entitled Archaeology and Historic Preservation: Secretary of the Interior’s Standards and Guidelines (48 FR 44742, September 29, 1983) 1999, rev. 2000 and take into account the Council’s publication, Consulting About Archeology Under Section 106 (1990).
- D. Curation: All appropriate field and research notes, maps, drawing and photographic records collected as part of this project (with the exception of human skeletal remains and associated artifacts and artifacts used for appropriate exhibit purposes) will be cared for in accordance with the requirements in 36 CFR Part 79, curation of Federally Owned and Administered Archeological Collections. All such items may be made available to the city, educational institutions and individual scholars for appropriate exhibit and/or research under the operating policies of the facility.
- E. Alteration to Project Documents:

The GSA shall not alter any plan, scope of services, or other document that has been reviewed and commented on pursuant to this MOA, except to finalize the documents commented on in draft, without first affording the parties to this MOA the opportunity to review the proposed

change, and determine whether it shall require that this MOA be amended.

F. Resolving Objections

1. Should any party to this agreement object in writing to the GSA regarding any action carried out or proposed with respect to the undertaking or implementation of this agreement, GSA shall consult with the objecting party to resolve the objection. If after initiating such consultation GSA determines that the objection cannot be resolved through consultation, GSA shall forward all documentation relevant to the objection to the Council together with GSA's proposed response to the objection. Within 30 days after receipt of all pertinent documentation, the Council shall exercise one of the following options:
 - a. Advise GSA that the Council concurs in GSA's proposed response to the objection, whereupon GSA will respond to the objection accordingly;
 - b. Provide GSA with recommendations, which GSA shall take into account in reaching a final decision regarding its response to the objection;
 - c. Notify GSA that the objection will be referred for comment pursuant to 36 CFR 800.7 (a)(4), and proceed to refer the objection and comment. GSA shall take the resulting comment into account in accordance with 36 CFR 800.7 (c)(4) and Section 110 (I) of the NHPA.
2. Should the Council not exercise one of the above options within 30 days after receipt of all pertinent documentation, GSA may assume the Council's concurrence in its proposed response to the objections.
3. GSA shall take into account any Council recommendation or comment provided in accordance with this stipulation with reference only to the subject of the objection; GSA's responsibility to carry out all actions under this agreement that are not subjects of the objection shall remain unchanged.
4. At any time during implementation of the measures stipulated in this agreement, should an objection pertaining to this agreement or the effects of the undertaking on historic

properties be raised by a member of the public, GSA shall notify the parties to this agreement and take the objection into account, consulting with the objector and, should the objector so request, with any of the parties to this agreement to resolve the objection.

5. If the terms of this agreement have not been implemented by June 30, 2004 this agreement shall be considered null and void. In such event the GSA shall so notify the parties to this agreement, and if it chooses to continue with the undertaking, shall re-initiate review of the undertaking in accordance with 36 CFR Part 800.
6. The GSA shall ensure that a report on all activities pursuant to this agreement is provided to the SHPO, Historic Richmond Foundation, Richmond Renaissance, and the City of Richmond upon request.

VI. AMENDMENTS AND TERMINATION

- A. Any party to this agreement may propose to the GSA that the agreement be amended, whereupon the GSA shall consult with the other parties to this agreement, to consider such an amendment. 36 CFR 800.6(c)(1) shall govern the execution of any such amendment.
 - B. If GSA determines that it cannot implement the terms of this agreement, or if the SHPO or other parties to the agreement determines that the agreement is not being properly implemented, such party may propose to other parties to this agreement that it be terminated. Termination of this agreement is governed by 36 CFR 800.6(c)(8).
 - C. The party proposing to terminate this agreement shall notify all parties to this agreement, explaining the reasons for termination and affording them at least 30 days to consult and seek alternatives to termination.
 - D. Should such consulting fail, GSA or other signatory party may terminate the agreement, by so notifying all parties.
- F Should this agreement be terminated, GSA shall either:
1. Consult in accordance with 36 CFR 800.6 to develop a new MOA;
or

2. Request the comments of the Council pursuant to 36 CFR 800.7.

Execution of this MOA by GSA, the SHPO, and the Council, and implementation of its terms, evidence that the GSA has afforded the Council an opportunity to comment on the construction of the District Courthouse and its effects on historic properties; and that GSA has taken into account the effects of the undertaking on historic properties.

GENERAL SERVICES ADMINISTRATION

By: 
Jan Ziegler
Assistant Regional Administrator
Public Buildings Service

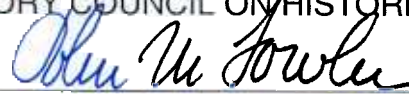
Date: June 26, 2003

VIRGINIA STATE HISTORIC PRESERVATION OFFICER

By: 
Kathleen S. Kilpatrick

Date: 7/23/03

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By: 
John M. Fowler

Date: 8/25/03

CONCUR:

CITY OF RICHMOND

By: _____

Date:

HISTORIC RICHMOND FOUNDATION

By: _____

Date:

RICHMOND RENAISSANCE

BY: _____

Date: