

MEMORANDUM OF AGREEMENT  
U. S. Courthouse  
Mobile, Alabama

WHEREAS, the General Services Administration (GSA), has determined that the GSA preferred alternative for the development of the U.S. Courthouse (the Undertaking) will have an effect upon the De Tonti Square Historic District, including the Hannah Houses, properties that are listed on the National Register of Historic Places; and

WHEREAS, GSA has consulted with the Alabama State Historic Preservation Officer (SHPO), the Advisory Council on Historic Preservation (Advisory Council), and other interested parties pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

WHEREAS, the City of Mobile, Alabama (City) participated in the consultation and has been invited to concur in this Memorandum of Agreement; and

WHEREAS, Chapter 44 of the Mobile City code designates the Architectural Review Board (ARB) as the entity responsible for reviewing construction and rehabilitation plans for compliance with Mobile's Design Review Guidelines for work in the historic Districts;

WHEREAS, the City's ordinances are not binding on the GSA by virtue of section 40 USC Section 619; nonetheless, GSA recognizes the value of having the project reviewed according to procedures applicable to other projects in the City;

NOW, THEREFORE, GSA, 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**

GSA will ensure that the following measures are carried out:

I. DESIGN REVIEW

A. The GSA shall:

1. Continue to develop the design of the Courthouse in consultation with the SHPO and the ARB; said consultation shall use as its basis the conceptual design prepared for GSA by Moshe Safdie and Associates [see Exhibit A]

2. Ensure that the design of the project is compatible with the historic and architectural qualities of the De Tonti Square Historic District and; generate a design which will meet the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (Standards and Guidelines) (U.S. Department of the Interior, National Park Service, 1990) and the Guidelines for New Residential and Commercial Construction in Mobile's Historic Districts; and meet GSA's and the Court's program goals for the Undertaking.

3. Provide design documents and other appropriate representations of the Courthouse to the SHPO for their review and comment at the following stages of project design: (1) completion of concept development, (2) 50% design development documents, and (3) 50% construction documents and 95% construction documents. This review schedule may be modified upon the agreement of the SHPO and GSA.

4. Provide design documents and other appropriate representations of the Courthouse to the ARB for their review and comment at the following stages of project design: (1) completion of concept development, (2) 50% design development documents, and (3) 100% design development documents. This review schedule may be modified upon the agreement of the ARB and GSA.

5. The ARB shall review each stage using the same procedures applicable to other projects; provided however, that the ARB will not issue a certificate of appropriateness but will instead furnish GSA and SHPO a copy of the Certified Record of the public hearing and any other comment the Board deems appropriate.

B. The ARB and the SHPO shall:

1. Focus review of the design of the Courthouse upon the visual relationship of the Courthouse to the De Tonti Square Historic District and the Hannah Houses.

2. At each stage of project design review, notify the GSA within fifteen (15) working days of receipt if it is determined that the documentation provided to them for review is not complete. Upon receipt of adequate and complete documentation of the design documents, the ARB and SHPO shall both have forty-five (45) days to complete their review and provide their comments to the

GSA, which GSA shall take into account in the further development of the Courthouse design.

3. Use the Standards and Guidelines and Mobile's New Construction Guidelines as the criteria upon which they provide comments to GSA.

## II. HANNAH HOUSES

### A. The GSA shall

1. Ensure that the design of the rehabilitation of the twin Hannah Houses located at 157-159 N. Conception Street is compatible with the historic and architectural qualities of the De Tonti Square Historic District and is consistent with the recommended approaches to rehabilitation set forth in the Standards and Guidelines and Mobile's Historic District Design Review Guidelines, and that the design and specifications of the project are developed in consultation with the City and submitted to the SHPO for approval.

2. Provide design documents and other appropriate representations of the rehabilitation of the Hannah Houses to the SHPO for their review and comment at the following stages of project design: (1) completion of design development, (2) 65% construction documents and (3) 95% construction documents. This review schedule may be modified upon the agreement of the SHPO and GSA.

3. Provide design documents and other appropriate representations of the Hannah Houses to the ARB for their review and comment at the following stages of project design: (1) completion of design development, (2) 65% construction documents and (3) 95% construction documents. This review schedule may be modified upon the agreement of the ARB and GSA.

4. The ARB shall review each stage using the same procedures applicable to other projects; provided however, that the ARB will not issue a certificate of appropriateness but will instead furnish GSA and SHPO a copy of the Certified Record of the public hearing and any other comment the Board deems appropriate.

### B. The ARB and the SHPO shall:

1. Focus review of the design of the Rehabilitation of the Hannah Houses upon the historic and architectural

qualities of the Hannah Houses and De Tonti Square Historic District.

2. At each stage of project design review, notify the GSA within fifteen (15) working days of receipt if it is determined that the documentation provided to them for review is not complete. Upon receipt of adequate and complete documentation of the design documents, the ARB and SHPO shall both have forty-five (45) days to complete their review and provide their comments to the GSA, which GSA shall take into account in the further development of the Courthouse design.

3. Use the Standards and Guidelines and the Design Review Guidelines for Mobile's Historic Districts as the criteria upon which they provide comments to GSA.

### III. ARCHAEOLOGY

#### A. The GSA shall

1. Conduct Phase II Archeological testing for portions of the project site that contain historic resources identified in the Cultural Resource Assessment for the Proposed New U.S. Courthouse Mobile, Alabama (New South Associates, 2002) that may be eligible for listing in the National Register. The contractor will provide security for the project site during the hours they are not working. Therefore, the site will have security 24 hours a day, 7 days a week. A detailed security plan will be detailed in the contractor's proposal for Phase II Archeological Testing.

2. The SHPO shall have 30 calendar days from receipt of the draft Phase II Archeological Testing to complete their review and provide written comments to GSA.

3. Any historic properties identified through Phase II testing will be evaluated in consultation with the SHPO pursuant to 36 CFR Part 800.4. If these historic properties are of value solely for their potential contribution to archeological research, GSA will develop a data recovery plan in consultation with the SHPO and will obtain concurrence of the SHPO in determination of no adverse effect pursuant to 36 CFR Part 800.5(D)(1). If historic properties are identified which are eligible for listing in the National Register for reasons other than their potential contribution to archeological research, GSA

will initiate the process set forth at 36 CFR Part 800.5.

4. The SHPO shall have 30 calendar days from receipt of the draft data recovery plan to complete their review and provide written comments to GSA.

5. Shall ensure that all materials and records resulting from the Phase II Archeological Testing and/or data recovery conducted at the project site are curated in accordance with 36 CFR Part 79.

#### IV. DISPUTE RESOLUTION

##### A. Among Consulting Parties

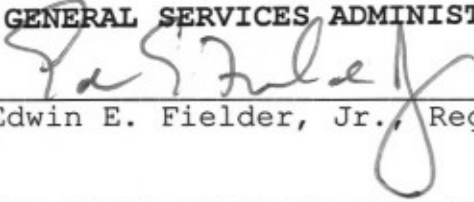
Should the SHPO or the City object within forty-five (45) days to any plans provided for review pursuant to this agreement, GSA shall consult with the objecting party to resolve the objection. If GSA determines that the objection cannot be resolved, GSA shall request further comments from the Advisory Council pursuant to 36 CFR Part 800.6(b). Any Advisory Council comment provided in response to such a request shall be taken into account by GSA in making a final decision on the proposed Undertaking and GSA shall report the decision to the Advisory Council. GSA's responsibility to carry out all actions under this agreement that are not the subjects of the dispute shall remain unchanged.

##### B. In Response to Public Objections

During implementation of the measures stipulated in this agreement, should an objection to any such measures or its manner of implementation be raised by a member of the public, GSA shall take the objection into account and may consult as needed with the objecting party, the SHPO, the City or the Advisory Council to resolve the objection.

Execution of this Memorandum of Agreement by GSA and SHPO and the City of Mobile, its subsequent acceptance by the Advisory Council, and implementation of its terms evidence that GSA has afforded the Advisory Council an opportunity to comment on the Undertaking and its effects on historic properties, and that GSA has taken into account the effects of the Undertaking on historic properties.

**U.S. GENERAL SERVICES ADMINISTRATION**

By:  Date: 5/5/04  
Edwin E. Fielder, Jr., Regional Administrator

**ALABAMA STATE HISTORIC PRESERVATION OFFICER**

By:  Date: September 19, 2003  
Dr. Lee Warner, State Historic Preservation Officer

**Concur:**

**CITY OF MOBILE**

By:  Date: 2-3-04  
Michael C. Dow, Mayor of Mobile

EXHIBIT A

**Proposed U.S. Courthouse**  
*Mobile, Alabama*

Conceptual Design Plans and Elevations

Drawing #	Date	Title
A-1	12/5/2002	Site Plan
A-10	12/5/2002	St. Joseph Street Elevation
A-11	12/5/2002	St. Louis Street Elevation
A-12	12/5/2002	St. Anthony Street Elevation
A-15	12/5/2002	Exterior Perspective 1
A-16	12/5/2002	Exterior Perspective 2
A-17	12/2/2002	Interior Perspective

Excerpts From Concept Narrative-pp. 8-12      12/05/2002