

MEMORANDUM OF AGREEMENT
SUBMITTED TO THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
PURSUANT TO 36 CFR PART 800.6(a)

WHEREAS, the U.S. Army Corps of Engineers, Memphis District (CE), has determined that Wolf River Harbor-94-000, Memphis, Shelby County, 95-0422 (The Tom Lee Monument Relocation Project) will constitute an effect upon the Cotton Row Historic District, a property listed in the National Register of Historic Places, and has consulted with the Tennessee State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800 regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f);

Whereas, the City of Memphis (COM) participated in the consultation and has been invited to concur in this Memorandum of Agreement; and

NOW, THEREFORE, the CE and the Tennessee 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 COM shall ensure that the following stipulations are carried out:

1. Project Design

The COM shall ensure that the design of the project is compatible with the historic and architectural qualities of the Cotton Row Historic District and that the design and specifications for the project are developed in consultation with the SHPO.

2. Interim Protection

The COM shall ensure that the Tom Lee Monument Relocation Project area be protected against damage until the applicable treatment measures stipulated below are implemented.

3. Tom Lee Monument Relocation Project Area

A. Prior to any ground disturbance, the COM, in consultation with the SHPO and CE, will ensure that a detailed history of the project area will be prepared. This documentation will include detailed information on past land use and the evolution of the built environment, and will include sufficient general information to place the project area in a historical context. Research sources should include records and maps of the City as well as local newspapers, traveler

accounts, and other City and Federal records. This documentation will be prepared in accordance with Secretary of the Interior's "Standards and Guidelines for Historical Documentation" (48 FR 44728-30).

B. In consultation with the SHPO and CE, COM shall prepare construction plans and preservation plans that shall include the following elements:

- (1) An information package about the property, including but not limited to:
 - photographs of the property
 - a parcel map
 - information on the property's historic significance
 - the properties association/relationship and importance to the remaining cobblestone area
- (2) Construction drawings detailing the proposed work including but not limited to:
 - drawings detailing limits of excavation; indicating limits both vertically and horizontally
 - drawings of the finished product
- (3) Preservation plans detailing, but not limited to:
 - cobblestone distribution, size, texture, pattern and lithology
 - recordation of cobblestones as they exist presently
 - proposed use of cobblestones after they are removed from their present setting

c. Upon the SHPO's agreement with the project plans, COM shall implement the plans.

4. Archeological Survey and Testing

A. The COM will ensure that the following archaeological survey and excavation measures are carried out in consultation with the SHPO and CE prior to any ground disturbance associated with the relocation of the Tom Lee Monument.

- (1) Excavation for new construction, and other earth-

moving activities associated with the relocation of the Tom Lee Monument will be conducted under the direct supervision of the COM supervising archaeologist or personnel reporting directly to the supervising archaeologist.

- (2) Identified archaeological resources will be sufficiently tested to provide the level of data necessary for determinations of eligibility for the National Register of Historic Places. This testing will be conducted in a manner consistent with the Secretary of Interior's Standards and Guidelines for Identification (48 FR 44720-23).
- (3) A report of the archaeological testing meeting the standards of the SHPO will be submitted to the SHPO for review and approval prior to subsequent ground disturbances.
- (4) If National Register-eligible archaeological resources are encountered during these activities, the COM, in consultation with SHPO, will prepare a data recovery plan.

5. Archeological Data Recovery

A. In the event properties eligible for inclusion in the National Register of Historic Places under Criterion D are identified during the survey and testing, the COM will ensure that the following measures are carried out in consultation with the SHPO:

- (1) A data recovery plan will be prepared outlining appropriate mitigation efforts. At a minimum the data recovery plan will specify recording and reporting of major features and artifact concentrations and the recovery/curation of a sample or remains.
- (2) Removal of cobblestones and underlying sediment will be conducted with equipment capable of maintaining high vertical and horizontal site integrity. The equipment must be approved by the COM archeologist.
- (3) In that portion of the project area south of the drainage channel, the riprap and fill should be removed to the top of the buried cobblestone pavement, after which the stones should be recorded. Excavation through the cobblestone layer should not proceed until the recordation is complete.

- (4) The supervising archaeologist will be empowered to halt or redirect construction activities to provide time for recording and sampling significant archaeological deposits and features.

6. Existing Archeological Site 408X352

A. The COM shall ensure that a data recovery plan is developed in consultation with the SHPO and CE for the recovery of archeological data from 408X352. The plan shall be consistent with the Secretary of the Interior's Standards and Guidelines for Archeological Documentation (48 FR 44734-37) and take into account the Advisory Council On Historic Preservation's (Council) publication, Treatment of Archeological Properties (Advisory Council on Historic Preservation, (draft) 1980), subject to any pertinent revisions that the Council may make in that publication prior to completion of the data recovery plan. It shall specify at a minimum:

- (1) The research questions to be addressed through the data recovery, with an explanation of their relevance and importance;
- (2) The methods to be used, with an explanation of their relevance to the research questions;
- (3) The proposed disposition of recovered materials and records;
- (4) Proposed methods for involving the interested public in the data recovery;
- (5) Proposed methods for disseminating results of the work to the interested public;
- (6) A proposed schedule for the submission of progress reports to the SHPO and the CE.

B. The COM shall ensure that the data recovery plan is submitted to the SHPO, Council, and CE for thirty (30) day review. Unless the SHPO or the Council object within thirty (30) days after the receipt of the plan, COM shall ensure that it is implemented.

C. The COM shall ensure all records resulting from the data recovery project are curated by an institution acceptable to the SHPO in accordance with 36 CFR Part 79 and that all materials resulting from the data recovery are maintained by such institution in accordance with 36 CFR Part 79 until their analysis is complete and they are returned to COM, provided, however, that human remains and grave-associated artifacts will be disposed of as outlined in Stipulation 4.D.

D. The COM shall ensure that any human remains and grave-associated artifacts excavated during the data recovery are treated in accordance with state law, including provisions for reburial of human remains and artifacts. All analysis of human remains and grave-associated artifacts must be completed within sixty (60) days after their exhumation.

E. All materials and documentation, including videotapes, shall be curated and disposed of as specified in Stipulations C and D, as applicable.

F. The COM will ensure that all final archeological reports resulting from actions pursuant to this agreement are provided to the SHPO and CE for peer review and submission to the National Technical Information Service (NTIS). The COM shall ensure that all such reports are responsive to contemporary professional standards, CE archeological report standards and to the Department of the Interior's "Format Standards for Final Reports of Data Recovery Program (42 FR 5377-79)".

G. The COM will ensure that information resulting from the archeological data recovery is provided to the SHPO in a form acceptable to the SHPO for inclusion in the State historic properties inventory.

7. Preservation of Northern Cobblestone Area

A. Prior to any ground disturbance, the COM shall, in consultation with the SHPO and CE, prepare a preservation plan for the total remaining cobblestone area north of the Tom Lee Monument Relocation Project Area. The preservation plan shall include, but not be limited to:

- (1) Additional archival research;
- (2) Mapping and photo-documentation of the cobblestones;
- (3) Geologic study of the cobblestone area that includes distribution, size, texture, pattern and lithology of the entire cobblestone area;
- (4) Plan for future renovation programs including repair methods;
- (5) Plan for future potential economic developments and long term maintenance in the area (i.e. restaurants, boat docks, general accessibility, etc.)
- (6) Plans for interpretive booklets and exhibits.

8. Administrative Conditions

A. The COM shall ensure that all historic research carried out pursuant to this agreement is carried out by or under the direct supervision of a person or persons meeting at a minimum the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-9) for Historians; that all studies in architectural history 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 Qualifications Standards (48 FR 44738-9) for Architectural Historians; and that all archeological studies are carried out by or under the direct supervision of a person or persons meeting at a minimum the Secretary of the Interior Professional Qualifications Standards (48 FR 44738-9) for Archeologists.

B. If any of Stipulations 1 through 4 above have not been implemented within two (2) years after execution of this agreement, the parties to this agreement shall review this agreement to determine whether revisions are needed. If revisions are needed, the parties to this agreement will consult in accordance with 36 CFR Part 800 to make such revisions.

C. Should any party to this agreement object within thirty (30) days after receipt to any plans, specifications, contracts or other documents provided for review pursuant to this agreement, or to the manner in which this agreement is being implemented, COM shall consult with the objecting party to resolve the objection. If COM determines that the objection cannot be resolved, COM shall forward all documentation relevant to the dispute to the Council. Within thirty (30) days after receipt of all pertinent documentation, the Council will either:

- (1) Provide COM with recommendations, which COM will take into account in reaching a final decision regarding the dispute; or

- (2) Notify COM that it will comment pursuant to 36 CFR Part 800.6(b) and proceed to comment. Any Council comment provided in response to such a request will be taken into account by COM in accordance with 36 CFR Part 800.6(c)(2) with reference to the subject of the dispute.

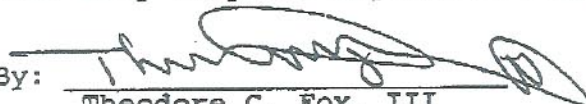
D. Any recommendations or comments provided by the Council will be understood to pertain only to the subject of the dispute; the COM's responsibility to carry out all actions under this agreement that are not the subjects of the dispute will remain unchanged.

E. At any time during implementation of the measures stipulated in this agreement, should an objection to any such

measure be raised by a member of the public, the COM shall take the objection into account and consult as needed with the objecting party, the SHPO, others as needed, and the Council if necessary to resolve the objection.

Execution of this Memorandum of Agreement by COM, the CE, and the Tennessee SHPO, its subsequent acceptance by the Council, and implementation of its terms, evidences that the COM has afforded the Council an opportunity to comment on the Tom Lee Monument Relocation Project and its effects on historic properties and that the COM has taken into account the effects of the undertaking on historic properties.

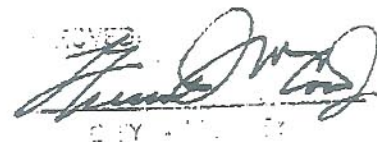
U.S. Army Corps Of Engineers, Memphis District

By: 
Theodore C. Fox, III
Colonel, Corps of Engineers
District Engineer

Date: 2 May 1995

CITY OF MEMPHIS

By: 
Dr. W.W. Herenton
Mayor


CITY OF MEMPHIS

Date: 4 May 1995

Tennessee State Historic Preservation Officer

By: 
SHPO

Date: 12 May 1995

Accepted for the Advisory Council On Historic Preservation

By: 
Executive Director

Date: 6/21/95