

## MEMORANDUM OF UNDERSTANDING AND ASSESSMENT OF CIVIL PENALTY

A. The State of Alabama, by the authority of Attorney General Steve Marshall, notified the City of Mobile, Alabama (hereinafter “the City”) of its intent to file a complaint alleging that the City has violated the Alabama Memorial Preservation Act of 2017, § 41-9-230 et seq., Code of Alabama, 1975 (hereinafter “the Act”). The Act provides that “[n]o architecturally significant building, memorial building, memorial street, or monument which is located on public property and has been so situated for 40 or more years may be relocated, removed, altered, renamed, or otherwise disturbed.” Ala. Code § 41-9-232(a). The Act further provides that “[i]f the Attorney General determines that an entity exercising control of public property has . . . relocated, removed, altered, renamed, or otherwise disturbed” a “monument from that public property without first obtaining a waiver from the committee as requested by this act . . . the entity shall be fined twenty-five thousand dollars (\$25,000) for each violation. The fine shall be collected by the Attorney General, forwarded by his or office to the State Treasurer, and deposited into the Alabama State Historic Preservation Fund.” Ala. Code § 41-9-235(a)(2)d. After a request for more information regarding the City’s removal of a monument on June 5, 2020, the Attorney General notified the City of his determination that it had committed a violation of the Act as follows:

The City removed or relocated a statue of Admiral Raphael Semmes that had been situated on public property for 40 or more years in violation of Alabama Code § 41-9-232(a). The statue was a “monument” within the meaning of Alabama Code § 41-9-231(6). While Alabama Code § 41-9-233 allows a governmental entity to take “proper and appropriate measures . . . for the protection, preservation, care, repair, or restoration of” monuments, that section does not allow a monument to be removed or relocated. Alabama Code § 41-9-235(a)(2)b. permits a governmental entity to “temporarily relocate” a monument only if “there is a need for emergency repairs or construction at the site of” the monument—a condition that was not present here. Therefore, the Attorney General has determined that the City “removed” or “relocated” a protected monument in violation of Alabama Code § 42-9-232(a).