

**MEMORANDUM OF AGREEMENT
AMONG
FEDERAL HIGHWAY ADMINISTRATION,
OKLAHOMA DEPARTMENT OF TRANSPORTATION,
AND THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICE,
REGARDING
REPLACEMENT OF US-81/I-40B BRIDGE OVER UPAC RAILROAD**

WHEREAS, the Oklahoma Department of Transportation (ODOT) plans to replace the existing bridge carrying I-40B over the UPAC Railroad in El Reno, Canadian County, Oklahoma, a property determined eligible for listing on the National Register of Historic Places (NRHP), by constructing a new bridge existing alignment; and

WHEREAS, the Federal Highway Administration (FHWA) plans to fund the Project, thereby making the Project an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA, 54 U.S.C. § 300101 et seq), and its implementing regulations, 36 CFR Part 800; and

WHEREAS, FHWA has determined that Federal-Aid Project NHPPI-4000-(014)SS, State Job J/P 27004(04) will have an adverse effect to the I-beam bridge over the UPAC Railroad (Structure 0904 0690X [NBI 10566]), a property determined eligible for inclusion in the National Register of Historic Places, and has consulted with the Oklahoma State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800; and

WHEREAS, the subject bridge retains design elements and associations consistent with its association as a former 1947 alignment of Route 66 and was constructed as part of a Depression-era Federal-aid Works Program Grade Separation Project FAGH 163G.

WHEREAS, in accordance with 36 CFR 800.3(f) ODOT and FHWA, in consultation with the Oklahoma SHPO, identified the Oklahoma Route 66 Association, the City of El Reno, Preservation Oklahoma, Oklahoma Historic Bridge and Highway Group, Preservation El Reno, and El Reno Main Street as consulting parties and invited them to sign this MOA; and

WHEREAS, ODOT and FHWA consulted with Oklahoma SHPO, Preservation Oklahoma, Preservation El Reno, and El Reno Main Street on February 6, 2015; and

WHEREAS, the FHWA has consulted with the Cheyenne and Arapaho Tribes, Comanche Nation, Delaware Nation, Osage Nation, and Wichita and Affiliated Tribes in accordance with 36 CFR 800.2(c)(2), and determined that no properties of traditional religious cultural significance will be affected by the undertaking; and

WHEREAS, in accordance with 36 CFR Part 800.6(a)(1), the FHWA has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation and the ACHP has chosen not to participate in the consultation; and

NOW, THEREFORE, FHWA, ODOT, and the Oklahoma 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

FHWA will ensure that the following measures are carried out. Measures will be met within the timeframes presented for each stipulation.

- I. **Documentation.** Prior to the construction of the new bridge, ODOT will record the existing bridge at the equivalent of Level II documentation as specified by the Historic American Engineering Record (HAER).
 - A. High Quality, 35 mm black and white photographs, ✓ of the bridge documenting its present appearance and major structural or decorative details, together with all negatives on archival gold CD as digital TIFF files that meet or exceed the minimum requirement for pixel depth. The photographs will be a minimum 4" x 6" and no larger than 8" x 10", and will be clearly labeled with the following information:
 - a. Name of property; ✓
 - b. Location (county, city, state, and street address); ✓
 - c. Name of photographer; ✓
 - d. Date of photograph ✓
 - e. Location of photographic negative; ✓
 - f. Indication of direction camera is pointing; and ✓
 - g. Number of photograph in series ✓
 - B. The document will include photographic reproduction of selected original (as-built) construction plans and historic photographs, if they exist. ✓
 - C. The document will include a preparation of a brief written technical description of the bridge and historical summary. ✓
 - a. The summary shall include documentation of the association of the structure with Route 66 and its construction under a Federal-aid Works Program Grade Separation project. ✓
 - i. ODOT will make a reasonable attempt to seek out individuals in the El Reno vicinity who may have worked on construction of the bridge and who may be able to provide additional perspectives regarding the historic context of the bridge. ?
 - D. All documentation will be edited, catalogued and packaged in a manner acceptable to the Oklahoma SHPO. The Oklahoma SHPO and the City of El Reno will be the repository for the documentation.
 - E. ODOT will provide all research documentation, research materials, copies of

photographs, and HAER documentation of the bridge to the Oklahoma SHPO and the City of El Reno within three years of the execution of this MOA.,

- II. **Mitigation.** ODOT will implement design considerations to acknowledge the historic association of the bridge in its Route 66 and Works Progress Administration (WPA) context. These design elements will be developed in coordination with SHPO and consulting parties to ensure compatibility with the surrounding area and be consistent with goals outlined in the *Route 66 Corridor Management Plan* and the *Route 66 Economic Impact Study*. The existing I-40B roadway corridor no longer retains historic integrity, however, new construction features on the bridge will consider the association with Route 66 and WPA. ODOT and FHWA shall consult with the consulting parties in the development of the bridge design.
- A. ODOT will review and consider design elements in the configuration of the new bridge and approaches will include measures to incorporate consistent design and feel of historic Route 66 while ensuring that the design elements are clearly modern and do not present a sense of false history. Such design elements may include:
- a. Incorporating Art Deco aesthetic treatments in the new bridge;
 - b. Including appropriate Route 66 and/or WPA signage or stamps on the endposts of the bridge;
 - c. Constructing an historic marker for placement on or near the bridge that provides the context of the bridge in regards to the WPA;
 - d. Construction of decorative metal picket railing similar to the galvanized silver color of the current rail;
 - e. Incorporate lighting to match the City of El Reno's current lighting;
- B. ODOT shall provide copies of plans, drawings, or other documentation regarding design elements that are proposed for the new bridge. Signatories will review these materials and provide comment within 30 days of receipt of such materials.
- C. ODOT shall not advertise this project for construction bids until all agreed-upon design and construction measures are incorporated into the final Plans, Specifications, and Estimates (PS&E) package.
- III. **Duration.** This MOA will be null and void if its stipulations are not carried out within ten (10) years from the date of its execution. At such time, and prior to work continuing on the undertaking, FHWA shall either (a) execute a MOA pursuant to 36 CFR § 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. Prior to such time, FHWA may consult with signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VII below. FHWA shall notify signatories as to the course of action it will pursue.
- IV. **Post-Review Discoveries.** If potential historic properties are discovered or

unanticipated effects on historic properties found, FHWA shall follow ODOT Spec 107.09, Protection of Archeological and Unmarked Human Burial Sites.

- V. **Dispute Resolution.** Should any signatory party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, FHWA shall consult with such party to resolve the objection. If FHWA determines that such objection cannot be resolved, FHWA will:
- A. Forward all documentation relevant to the dispute, including FHWA's proposed resolution, to the ACHP. The ACHP shall provide FHWA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, FHWA shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. FHWA will then proceed according to its final decision.
 - B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, FHWA may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, FHWA shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.
 - C. FHWA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.
- VI. **Amendments.** This MOA 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 signed by all of the signatories is filed with the ACHP.
- VII. **Termination.** If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation VII, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, FHWA must either (a) execute an MOA pursuant to 36 CFR § 800.6, or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. FHWA shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by FHWA and SHPO and implementation of its terms evidence that FHWA has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

Signatory

**MOA for NHPPI-4000-(014)SS; State Job 27004(04) I-40B over UPAC Railroad in
Canadian County, Oklahoma (Structure 0904 0690X [NBI 10566])**

Federal Highway Administration

BY:  DATE: April 14, 2015
John Hartley
Environmental Program Manager
Oklahoma Division

Signatory

MOA for NHPPI-4000-(014)SS; State Job 27004(04) I-40B over UPAC Railroad in
Canadian County, Oklahoma (Structure 0904 0690X [NBI 10566])

Oklahoma Department of Transportation

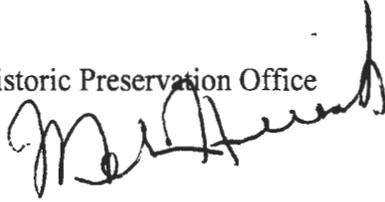
BY:  DATE: 6/02/2015
Dawn Sullivan
Environmental Programs Division Engineer

BY:  DATE: 4/13/15
Brian Taylor
Division IV Engineer

Signatory

**MOA for NHPPI-4000-(014)SS; State Job 27004(04) I-40B over UPAC Railroad in
Canadian County, Oklahoma (Structure 0904 0690X [NBI 10566])**

Oklahoma State Historic Preservation Office



BY: _____

DATE: _____

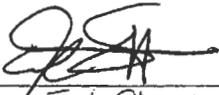
4/14/15

Melvena Heisch
Deputy State Historic Preservation Officer

Signatory

MOA for NHPPI-4000-(014)SS; State Job 27004(04) I-40B over UPAC Railroad in
Canadian County, Oklahoma (Structure 0904 0690X [NBI 10566])

City of El Reno

BY:  DATE: 5/12/15
~~Tony Rivera~~ Ed Stanton
~~El Reno City Manager~~ Assistant City Manager

Concurring Party

**MOA for NHPPI-4000-(014)SS; State Job 27004(04) I-40B over UPAC Railroad in
Canadian County, Oklahoma (Structure 0904 0690X [NBI 10566])**

Preservation El Reno

BY:

Astrid Lee

DATE:

5-19-15

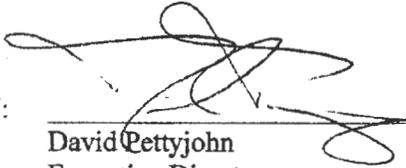
Astrid Lee
President

Concurring Party

**MOA for NHPPI-4000-(014)SS; State Job 27004(04) I-40B over UPAC Railroad in
Canadian County, Oklahoma (Structure 0904 0690X [NBI 10566])**

Preservation Oklahoma

BY:


David Pettyjohn
Executive Director

DATE:

04/16/15

Concurring Party

**MOA for NHPPI-4000-(014)SS; State Job 27004(04) I-40B over UPAC Railroad in
Canadian County, Oklahoma (Structure 0904 0690X [NBI 10566])**

El Reno Main Street

BY:



Debbie Harrison
Director

DATE:

4-14-15

Concurring Party

**MOA for NHPPI-4000-(014)SS; State Job 27004(04) I-40B over UPAC Railroad in
Canadian County, Oklahoma (Structure 0904 0690X [NBI 10566])**

Oklahoma Route 66 Association

BY:

Brad Nickson

DATE:

5-20-2015

Brad Nickson
President

Concurring Party

**MOA for NHPPI-4000-(014)SS; State Job 27004(04) I-40B over UPAC Railroad in
Canadian County, Oklahoma (Structure 0904 0690X [NBI 10566])**

Oklahoma Historic Bridge and Highway Group

BY:  DATE: 5-28-15
~~Westee Kinsler~~ Ken Parker
~~Administrator~~ Board Member