

**MEMORANDUM OF AGREEMENT
AMONG
FEDERAL HIGHWAY ADMINISTRATION,
OKLAHOMA DEPARTMENT OF TRANSPORTATION,
OKLAHOMA STATE HISTORIC PRESERVATION OFFICE,
AND TEXAS HISTORICAL COMMISSION,
REGARDING
THE REPLACEMENT OF SH-79 BRIDGE OVER THE RED RIVER**

WHEREAS, the Oklahoma Department of Transportation (ODOT) plans to replace the existing bridge carrying SH-79 over the Red River in Jefferson County, Oklahoma, and Clay County, Texas, a property listed on the National Register of Historic Places (NRHP) (NR ID 96001518), by constructing a new bridge on a slight offset alignment to the south/east; 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, 16 U.S.C. § 470 et seq.), and its implementing regulations, 36 CFR Part 800; and

WHEREAS, FHWA has determined that the Federal-Aid Project SSP-234B(014)SS, State Job J/P 27977(04) will have an adverse effect to the existing 21-span Camelback pony truss over the Red River (ODOT Structure 3416 0050X; Texas Structure ID 030390028201005; NBI 07350), a property listed on the National Register of Historic Places (NRID 96001518) and owned by both Oklahoma and Texas, and has consulted with the Oklahoma State Historic Preservation Officer (SHPO) and Texas Historical Commission (THC), pursuant to 36 CFR Part 800; and

WHEREAS, in accordance with 36 CFR § 800.3(f), ODOT and FHWA, in consultation with the Oklahoma SHPO and THC, identified Preservation Oklahoma and the Historic Bridge Foundation as consulting parties; and

WHEREAS, FHWA has consulted with the Preservation Oklahoma and the Historic Bridge Foundation regarding the effects of the undertaking on historic properties and has invited them to sign this MOA as a concurring party; and

WHEREAS, FHWA has consulted with the Apache Tribe, Chickasaw Nation, Comanche Nation, Kiowa Tribe, 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 23 USC § 144(n), ODOT made the bridge available for donation via a press release on January 17, 2014 and, receiving no requests from interested parties, will continue to consider requests from State, locality, or responsible private entities who wish to adopt the bridge; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), 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 pursuant to 36 CFR § 800.6(a)(1)(iv) as a signatory to this MOA; and

NOW, THEREFORE, FHWA, Oklahoma Department of Transportation, the Oklahoma SHPO, and THC 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.** The subject bridge was listed on the NRHP 1996. While substantial information was collected to compile the NRHP nomination form, additional research is warranted to complete the documentation of the bridge. 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.

Photographs are to be submitted by ODOT and approved by SHPO and THC as meeting the conditions outlined above before any work takes place that will affect the property.

 - B. Photographic reproduction of selected original (as-built) construction plans and historic photographs, if they exist.
 - C. Preparation of a brief written technical description of the bridge and historical summary.
 - D. All documentation will be edited, catalogued and packaged in a manner acceptable to the Oklahoma SHPO and THC. The Oklahoma SHPO and THC will be the repository for the documentation.
 - E. Within three years of the execution of this MOA, ODOT will provide all research documentation, research materials, copies of photographs, and HAER documentation of the bridge to the Oklahoma SHPO and the THC.
- II. **Historical Report.** Within three (3) years of the execution of this MOA, ODOT will

produce a report documenting this structure and all other known Red River bridges within a broader context of transportation between the two states and the shared resources between the two states, focusing specifically on transportation, such as bridges and other crossings of the Red River. The study will review and compile information starting with 19th century cattle trails, ferry crossings, including those operated by Native Americans, military and trade roads. The study will culminate in a detailed examination of 19th and 20th century bridge construction projects, such as early rail bridges, toll bridges, Depression-era projects, and modern highway and interstate structures.

A. ODOT will produce, or cause to produce, the draft report within two years of execution of this MOA. Upon review and comment of the draft report, ODOT will produce a final report.

- i. ODOT will submit the draft report to TxDOT, THC, and Oklahoma SHPO for review and comment. ODOT will submit the draft report in a hardcopy or pdf format, per each party's convenience. ODOT will assume two hard copies of the draft for each reviewing party. Reviewing parties will have 60 days to provide comments.
- ii. ODOT will incorporate comments into a final report. One hundred hard copies of the final report will be produced. Each hard copy will contain a CD with a pdf of the document attached to the back cover of the bound report. A pdf of the document will also be placed on ODOT-CRP's website (www.odotculturalresources.info).
 1. ODOT will distribute one hard copy of each report to the consulting parties and signatories.
 2. TxDOT will receive an additional 20 copies of the report.

III. **Mitigation.** ODOT will install an interpretive kiosk or panel presenting the history of transportation between Oklahoma and Texas, focusing on crossings of the Red River. ODOT will consult with the Oklahoma SHPO and THC regarding the location of construction, design of the kiosk or panel, and the content of the information presented on the interpretive kiosk or panel.

A. Once a construction schedule of the project is known, ODOT will submit the construction schedule along with a proposed design and location of the interpretive kiosk or panel to the Oklahoma SHPO and THC.

- i. The Oklahoma SHPO and THC will have 60 days to review the design and proposed location of the kiosk or panel and provide comments via email or in writing through a formal letter. During the 60-day review, ODOT, the Oklahoma SHPO, and THC may meet in person or via conference call to discuss the specifics of the design and location and construction schedule.

- B. ODOT will incorporate comments from Oklahoma SHPO and THC into the design of the kiosk or panel and will install the interpretive kiosk or panel within two (2) years of removal of the SH-79 Red River bridge.
- IV. **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 the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VII below. FHWA shall notify the signatories as to the course of action it will pursue.
- V. **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.
- VI. **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.
- VII. **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.

VIII. **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 Job/Piece 27977(04) SH-79 over Red River in Jefferson County, Oklahoma and Clay County, Texas (Structure 3416 0050X; Texas Structure ID 030390028201005; NBI 07350)


OKLAHOMA DEPARTMENT OF TRANSPORTATION

Reviewed and Recommended for Approval:

BY:  DATE: 2/09/2015
Dawn Sullivan
Environmental Programs Division Engineer

Approved as to Form and Legality

BY:  DATE: 2/10/2015
David A. Miley
General Counsel

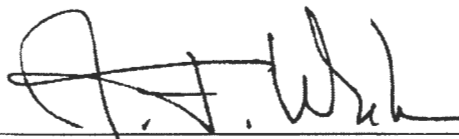
BY:  DATE: 2/11/15
Mike Patterson
Director

Signatory

MOA Job/Piece 27977(04) SH-79 over Red River in Jefferson County, Oklahoma and Clay County, Texas (Structure 3416 0050X; Texas Structure ID 030390028201005; NBI 07350)

TEXAS DEPARTMENT OF TRANSPORTATION

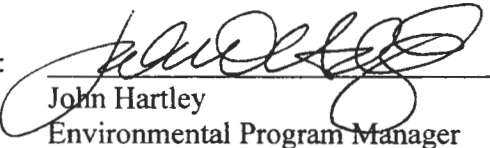
Recommended by:

 DATE: 12/18/2014
LtGen J.F. Weber, USMC (Ret)
Executive Director
Texas Department of Transportation

Signatory

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FEDERAL HIGHWAY ADMINISTRATION

BY:  DATE: Dec 9, 2014
John Hartley
Environmental Program Manager
Oklahoma Division

Signatory

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OKLAHOMA STATE HISTORIC PRESERVATION OFFICER

BY: Bob Blackburn DATE: 2/9/2015
Bob Blackburn
State Historic Preservation Officer

Signatory

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TEXAS HISTORICAL COMMISSION

BY: Mark Wolfe DATE: 2/9/2015
Mark Wolfe
State Historic Preservation Officer

Concurring Party

MOA Job/Piece 27977(04) SH-79 over Red River in Jefferson County, Oklahoma and Clay County, Texas (Structure 3416 0050X; Texas Structure ID 030390028201005; NBI 07350)

HISTORIC BRIDGE FOUNDATION

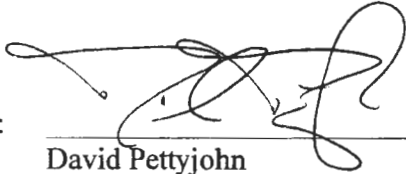
BY:  DATE: 1/9/15
Kitty Henderson
Executive Director

Concurring Party

MOA Job/Piece 27977(04) SH-79 over Red River in Jefferson County, Oklahoma and Clay County, Texas (Structure 3416 0050X; Texas Structure ID 030390028201005; NBI 07350)

PRESERVATION OKLAHOMA

BY:



David Pettyjohn
Executive Director

DATE:

01/20/15