

**MEMORANDUM OF AGREEMENT
AMONG THE FEDERAL HIGHWAY ADMINISTRATION,
THE OKLAHOMA DEPARTMENT OF TRANSPORTATION, AND
THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICE,
REGARDING THE TEXHOMA DOWNTOWN STREETScape TRANSPORTATION
ALTERNATIVES PROGRAM PROJECT, TEXHOMA, OKLAHOMA**

WHEREAS, the Oklahoma Department of Transportation (ODOT) plans to make improvements to the Texhoma Streetscape at the intersection of Main Street (US-95) and 2nd Street (US-90) in Texhoma, Texas County, Oklahoma, by replacing a portion of brick streets with concrete pavement for curbside angled parking, sidewalk and driveway reconstruction, ADA curb ramps, and landscaped bulb-outs at intersections; and

WHEREAS, the Federal Highway Administration (FHWA) plans to fund Federal-Aid Project TAP-270E(040)TP, State Job Piece 32998(04), 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, on behalf of FHWA, ODOT has prepared a Categorical Exclusion (CE) document under the National Environmental Policy Act (NEPA) containing all environmental documentation and project plans, and is available to the public upon request from ODOT; and

WHEREAS, the Federal Highway Administration (FHWA) has approved Alternative 4 as described in the Section 4(f) Evaluation of Downtown Texhoma Brick Streets: TAP3-2998(004)TP, and the Section 4(f) analysis has been incorporated into the CE;and

WHEREAS, Alternative 4 would remove the 15-foot concrete sidewalk and 19-foot brick parking space, including the existing curb and gutter on each side of the street; and

WHEREAS, the 32-foot interior roadbed would remain intact, however the brick parking area would be replaced with standard seven-inch reinforced concrete, and the 15-foot pedestrian sidewalk would be replaced with 10-foot concrete sidewalk and five-foot width of brick that has been salvaged from the street; and

WHEREAS, FHWA and ODOT have defined the undertaking's Area of Potential Effect (APE) as the existing right-of-way, as indicated in the Final Plans, dated November 14, 2017; and

WHEREAS, The Texhoma Downtown Brick Streets have been determined eligible for inclusion in the NRHP under Criterion A in the area of Transportation, as they represent the efforts of Texhoma citizens to keep pace with the transportation improvements in surrounding towns to draw in commerce from the recently-designated US Highway 54, as well as to retain the position of the City of Texhoma as an important trade center on the Chicago, Rock Island, and Pacific rail line; and

WHEREAS, FHWA and ODOT have determined that the undertaking will have an adverse effect on the Texhoma Brick Streets (historic property), which is eligible for listing on the National Register of Historic Places (NRHP), and have consulted with the Oklahoma State Historic Preservation Officer

(SHPO), pursuant to 36 CFR 800, and the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108); and

WHEREAS, FHWA has consulted with the City of Texhoma regarding the effects of the undertaking on historic properties and has invited them to sign this MOA as a signatory; and

WHEREAS, FHWA has consulted with Cheyenne and Arapaho Tribes, Comanche Nation, Osage Nation, and Wichita and Affiliated Tribes and determined that no properties of traditional religious and cultural significance will be affected by the undertaking; 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)(iii); and

NOW, THEREFORE, FHWA, ODOT, 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

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

- I. DOCUMENTATION.** Prior to project construction, the existing Texhoma Downtown Brick Streets facility will be recorded at the equivalent of Level II documentation as specified by the Historic American Engineering Record (HAER). This will include the following:

- A. High Quality 35 mm or large format, black and white prints of the existing Texhoma Downtown Brick Streets, a minimum of 4" by 6" and no larger than 8" by 10," documenting the present appearance of the Texhoma Downtown Brick Streets facility, together with all negatives. The photographs will be clearly labeled with the following information:

- i. Name of property;
- ii. Location (county, city, state, and street address);
- iii. Name of photographer;
- iv. Date of photograph;
- v. Location of photographic negative;
- vi. Indication of direction camera is pointing;
- vii. Number of the photographs in series.

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

- B. Photographic reproduction of selected original construction plans and historic photographs, if they exist.
- C. Preparation of a brief written technical description of the Texhoma Downtown Brick Streets and historical summary.

All documentation will be edited, catalogued, and packaged in a manner acceptable to the Oklahoma SHPO. The Oklahoma SHPO will be the repository for the documentation.

- II. DURATION.** This MOA will expire if its terms are not carried out within ten (10) years from the date of its execution. Prior to such time, FHWA and ODOT may consult with other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VI below

- III. POST-REVIEW DISCOVERIES.** If properties are discovered that may be historically significant or unanticipated effects on historic properties found, the FHWA shall follow ODOT Spec 107.09, Protection of Archaeological and Unmarked Human Burial Sites, which stipulates that all work near the area of the find shall be ceased and the area protected until ODOT and other parties, as appropriate are notified.

IV. DISPUTE RESOLUTION. Should any signatory party to this MOA object at any time to the 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 provides 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.

V. AMENDMENTS. This MOA may be amended when such amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all the signatories is filed with the ACHP.

VI. 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 signatories to attempt to develop an amendment per Stipulation VI, above. If within thirty (30) days 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 the FHWA, ODOT, 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 TAP-270E(040)TP; State Job 32998(04) Texhoma Downtown Streetscape

Federal Highway Administration

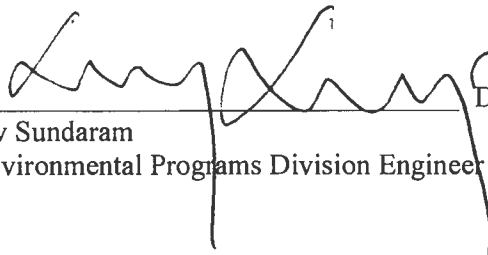
BY: Karen W. Orton DATE: 1/07/2020
Karen Orton
Environmental Program Manager
Oklahoma Division

Signatory

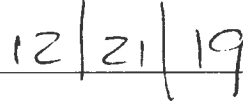
MOA for TAP-270E(040)TP; State Job 32998(04) Texhoma Downtown Streetscape

Oklahoma Department of Transportation

BY:


Siv Sundaram
Environmental Programs Division Engineer

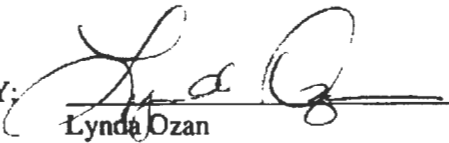
DATE:


12/21/19

Signatory

MOA for TAP-270E(040)TP; State Job 32998(04) Texhoma Downtown Streetscape

Oklahoma State Historic Preservation Office

BY:  DATE: 20 December 19
Lynda Ozan
Deputy State Historic Preservation Officer

Concurring Party

MOA for TAP-270E(040)TP; State Job 32998(04) Texhoma Downtown Streetscape

City of Texhoma

BY:  DATE: 12/20/19
Jamey B. Mitchell
Mayor