

## MEMORANDUM OF AGREEMENT

by and among

the U.S. ECONOMIC DEVELOPMENT ADMINISTRATION;

the CITY OF MIAMI, OKLAHOMA;

and

the OKLAHOMA STATE HISTORIC PRESERVATION OFFICE

regarding the

COLEMAN THEATRE COMPLEX AND CONFERENCE CENTER RENOVATION  
PROJECT

WHEREAS, on October 17, 2005, the U.S. Department of Commerce, Economic Development Administration (EDA) awarded a grant to the City of Miami, Oklahoma (City) for the Coleman Theatre Complex and Conference Center renovation project (EDA Project Number 08-01-04031) which entailed the rehabilitation of the Coleman Theatre Complex and the rehabilitation of the 1<sup>st</sup> Street and Main Street intersection (Historic Route 66) (Undertaking); and

WHEREAS, the EDA grant included a conditional finding of no adverse effect based upon subsequent review and approval by the Oklahoma State Historic Preservation Officer (SHPO) of the plans and specifications, in accordance with 36 C.F.R. § 800.5(b); and

WHEREAS, subsequent to the award of the grant and prior to construction, the City discovered that the Fox Building, which is located at 113 N. Main Street, is directly adjacent to the Coleman Theatre, and is part of the Coleman Theatre Complex, must be demolished in order to complete the Undertaking; and

WHEREAS, EDA and the City have consulted with the SHPO pursuant to 36 C.F.R. part 800, the Advisory Council on Historic Preservation (Council) regulations implementing Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470f) and have determined that the Undertaking will have an adverse effect on the Coleman Theatre Complex, a contributing resource to the Miami Downtown Historic District and a property eligible for listing in the National Register of Historic Places; and

WHEREAS, EDA and the City agree that there is a lack of prudent and feasible alternatives to the demolition of the Fox Building, and the Undertaking cannot be completed without such adverse effect; and

WHEREAS, EDA, the SHPO, and the City agree that any licenses or permits required by the State of Oklahoma will be obtained as required; and

WHEREAS, in accordance with 36 C.F.R. §.800.6(a)(1), EDA has notified the Council of its adverse effect determination, and the Council has chosen not to participate in the consultation process pursuant to 36 C.F.R. § 800.6(a)(1)(iii); and

WHEREAS, EDA, the SHPO, and the City, pursuant to 36 C.F.R. § 800.13(b)(1) and 36 C.F.R. § 800.6, have agreed upon how the adverse effects shall be resolved in this memorandum of agreement (“MOA”); and

NOW, THEREFORE, EDA, the City, and the SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect on historic properties.

### STIPULATIONS

EDA shall ensure that the following stipulations are implemented:

- A. The City shall document the Fox Building, a contributing resource to the Miami Downtown Historic District and a property eligible for listing in the National Register of Historic Places, in accordance with photo documentation specifications set forth in the Oklahoma National Register of Historic Places Nomination and Request for Determination of Eligibility Manual (Manual). The number of photographs taken to document the Fox Building shall be sufficient to illustrate all exterior elevations of the building, as well as representative interior spaces and features. The City shall consult with the SHPO to determine the photographs that shall be included in the final documentation submission for the SHPO's permanent files. Demolition of the Fox Building may not begin until the SHPO has accepted the final photographic documentation of the building.
- B. The City shall prepare a National Register of Historic Places Nomination Form and the necessary supplemental materials as stipulated in the Miami Downtown Historic District Manual to nominate the Coleman Theatre Complex to the National Register of Historic Places as a historic district. An appropriately qualified professional shall be retained to prepare the nomination package and shall consult with the SHPO to establish district boundaries. The boundaries are considered to include roughly 3rd Street North, 2nd Street South, “A” Street East, and “A” Street West. A complete draft of the National Register nomination shall be submitted to the SHPO for a forty-five (45) day review and comment period, and the SHPO's comments shall be incorporated into the final version of the nomination. The complete and final nomination package shall be submitted to the SHPO within nine (9) months of the effective date of this MOA.
- C. The City shall consult with the SHPO to ensure that the Undertaking, including construction of the new addition to the Coleman Theatre Complex, and rehabilitation of the intersection of First and Main Streets are designed in accordance with the Secretary of the Interior's Standards and Guidelines for Rehabilitation and that plans and specifications for the entire project (including the new construction) are submitted to the SHPO at the 30%, 60%, and 90% stages of completeness. The SHPO shall have thirty (30) days to review the submitted plans and specifications. The City shall further ensure that the SHPO's comments are

incorporated into the design documents as development of the Undertaking progresses.

D. DURATION

If work on the Undertaking has not commenced within five (5) years from the date of the execution of this MOA, this MOA shall be reconsidered and continued for a specified period or terminated in accordance with 36 C.F.R. § 800.6(c)(5).

E. DISPUTE RESOLUTION

Should any party to this MOA object at any time to any proposed actions covered by this MOA, EDA shall consult with the objecting party or parties to attempt to resolve the objection(s). If EDA cannot resolve the objection(s) within thirty (30) days, EDA shall forward adequate documentation relevant to the dispute to the Council and the parties in accordance with 36 C.F.R. § 800.2(b)(2).

Pursuant to 36 C.F.R § 800.7(c)(2), the Council shall comment and advise EDA on the resolution of the objection(s) within forty-five (45) days of the receipt of the request.

If the Council or the parties do not provide comments regarding the dispute within forty-five (45) days of referral, EDA may proceed to render a decision regarding the dispute. EDA will consider comments from the Council and the parties to this MOA in reaching a final decision regarding the dispute.

EDA will notify all parties of its decision in writing. The decision of EDA will be final.

F. AMENDMENTS AND NONCOMPLIANCE

The parties to this MOA may amend it. Any party proposing an amendment shall forward a copy of the proposed amendment to the other parties. Upon concurrence of the parties to the proposed amendment, EDA will file the executed amended MOA with the Council. The amended MOA becomes effective when all original signatories have executed the amendment and the amended MOA is filed with the Council.

If any party to this MOA determines that its terms cannot be or are not being carried out, that party shall immediately consult with the other parties to develop an amendment to remedy the noncompliance pursuant to 36 C.F.R. § 800.6(c)(7) and § 800.6(c)(8).

If the parties cannot agree to appropriate terms to amend this MOA, any party may terminate this MOA in accordance with Stipulation G.

G. TERMINATION


If this MOA is not amended within thirty (30) days following the conclusion of the consultation described in Stipulation H, any signatory may terminate it with written notification to the other parties.

Within thirty (30) days following termination, EDA shall notify the parties if it will initiate consultation to execute a new memorandum of agreement under 36 C.F.R § 800.6(c)(1) or request the comments of the Council under 36 C.F.R. § 800.7(a) and proceed accordingly.


- H. In the event the City is unable to carry out the terms of this MOA, no action shall be taken or irreversible commitment be sanctioned by the City that would result in any adverse effects with respect to the National Register-eligible properties covered by this MOA. Moreover, the City agrees not to take or sanction any action that would foreclose the Council's considerations of modifications or alternatives that could avoid or mitigate the adverse effects until the completion of any review and comment process.

Execution of this MOA by EDA, the SHPO, and the City and the submission of documentation and filing of this MOA with the Council pursuant to 36 C.F.R § 800.6(b)(1)(iv) constitutes evidence that EDA has taken into account the effects of this Undertaking on the historic properties and afforded the Council an opportunity to comment.

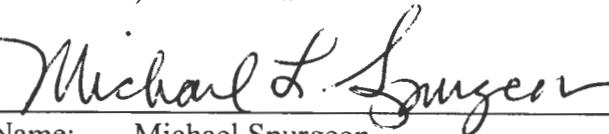
**U.S. Department of Commerce, Economic Development Administration**

By:  Date: 6/8/07  
Name: Frank J. Monteferrante, Ph.D.  
Title: EDA Federal Historic Preservation Officer

**Oklahoma State Historic Preservation Office**

By:  Date: 6/12/07  
Name: Bob L. Blackburn  
Title: State Historic Preservation Officer of the State of Oklahoma

**City of Miami, Oklahoma**

By:  Date: 6/1/07  
Name: Michael Spurgeon  
Title: City Manager of the City of Miami, Oklahoma