

**MEMORANDUM OF AGREEMENT
AMONG
FEDERAL HIGHWAY ADMINISTRATION,
OKLAHOMA DEPARTMENT OF TRANSPORTATION,
AND THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICE,
REGARDING
ADVERSE EFFECT TO SH-66B BRIDGE OVER CAPTAIN CREEK**

WHEREAS, the Oklahoma Department of Transportation (ODOT) plans to address functional and structural deficiencies in the SH-66B over Captain Creek pony truss bridge in Lincoln County, Oklahoma, a property listed on the National Register of Historic Places (NRHP) (NR ID 4000134); and

WHEREAS, ODOT plans to eliminate the fracture-critical status of the structure by removing fracture-critical pier beams and adding a new multi-beam steel superstructure with a concrete deck to which the existing trusses would be attached; and

WHEREAS, the Federal Highway Administration (FHWA) plans to fund the Federal-Aid Project STP-241C(059)PM, State Job J/P 28034(04), 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, the Federal Highway Administration (FHWA) has approved Alternative 2(d) as described in Infrastructure Engineers, Inc. and TransSystems' report entitled *Design Support for Section 4(f) Analysis for Historic Bridges Structure No. 4124 0157 X (NBI No. 3800) SH-66B over Captain Creek*; and

WHEREAS, FHWA and ODOT, in consultation with SHPO, have concluded that the subject alternative will have an adverse effect to the subject bridge by constructing a new multi-beam steel superstructure with a concrete deck, to which the existing trusses would be re-attached using diaphragms at the lower chord panel points; and

WHEREAS, in accordance with 36 CFR § 800.3(f), ODOT and FHWA, in consultation with the Oklahoma SHPO, identified the Historic Bridge Foundation, the National Park Service Route 66 Corridor Preservation Program, the Oklahoma Route 66 Association, Route 66 Historian Jim Ross, the Oklahoma Historic Bridge and Highway Group, and Preservation Oklahoma, as consulting parties and has invited them to sign this MOA as a concurring party; and

WHEREAS, FHWA has consulted with the Iowa Tribe of Oklahoma, Kickapoo Tribe of Oklahoma, Osage Nation, Sac and Fox 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 § 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, 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.** The subject bridge was listed on the NRHP in 2004. 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 color 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 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. The Oklahoma SHPO 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.
- II. **Public Interpretation.** ODOT will implement three interpretation measures in order to engage and educate the public on the history of Route 66 and the Captain Creek Bridge.

- A. In consultation with Oklahoma SHPO, ODOT has recognized an absence of public interpretation activities addressing the experience of African-American motorists on Route 66. Using resources such as *The Negro Motorist Green Book*, ODOT will develop a Google Earth and GIS layer of contemporary businesses that were known to provide products and services such as fuel, food, and lodging to African-American customers along Oklahoma's highways, including Route 66. The Google Earth and GIS layers will be made available on ODOT's Route 66 web page: <http://www.odotculturalresources.info/route-66.html> and will be prepared as a pamphlet that can be distributed at other ODOT public meetings and events. Pamphlets will be placed in the kiosk in the lobby of the ODOT central office.
- B. ODOT will develop a historic context addressing the experience of African-American motorists on Oklahoma highways during the twentieth century. The context will explore themes including the availability of merchants willing to provide products and services to African-American travelers, the necessity of identifying and adapting to local and regional behavioral customs, and travel risks such as "sundown towns." The context will be made available on ODOT's web page: <http://www.odotculturalresources.info/route-66.html> and will be prepared as a pamphlet or other document that can be distributed at other ODOT events if ODOT determines the context to be of appropriate length. If pamphlets are produced, they will be placed in the kiosk in the lobby of the ODOT central office.
- III. **Mitigation.** In 2014, ODOT completed the *Historic Bridge Railing Study for Route 66 Bridges* study. The study was undertaken in accordance with goals outlined in the *Route 66 Corridor Management Plan* and the *Route 66 Economic Impact Study* (the study) to maintain the intrinsic qualities of Route 66 and identify the historic route to tourists and the travelling public. The study was also conducted to identify context-sensitive crash-tested railings for Route 66 bridge replacement projects. The report documented 32 historic-age Route 66 bridges that still retained their original railings and identified nine distinct railing types among those structures, which have already been implemented on other Route 66 bridges that were not eligible for or listed on the NRHP. The original railings on the Captain Bridge have been removed, however upon review of the as-built plans, it is clear that the railings were an example of a concrete post and beam within set panels (Railing Type A from the study). The crash-tested replacement recommendation is the Texas T66 railing. ODOT will incorporate the Texas T66 railing in the new bridge carrying SH-66B over Captain Creek.
- 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 28034(04) SH-66B over Captain Creek in Lincoln County, Oklahoma
(Structure 4124 0157 X; NBI 3800)**

FEDERAL HIGHWAY ADMINISTRATION

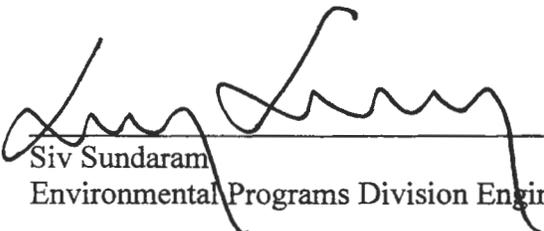
BY:  _____ DATE: 10-16-19

Elizabeth Romero
Environmental Program Manager
Oklahoma Division

Signatory

MOA Job/Piece 28034(04) SH-66B over Captain Creek in Lincoln County, Oklahoma
(Structure 4124 0157 X; NBI 3800)

OKLAHOMA DEPARTMENT OF TRANSPORTATION

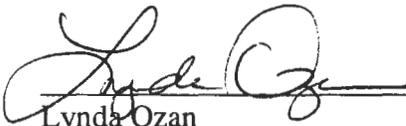
BY:  DATE: 10/3/18
Siv Sundaram
Environmental Programs Division Engineer

BY:  DATE: 10-4-18
Kevin Bloss
Division III Engineer

Signatory

**MOA Job/Piece 28034(04) SH-66B over Captain Creek in Lincoln County, Oklahoma
(Structure 4124 0157 X; NBI 3800)**

OKLAHOMA STATE HISTORIC PRESERVATION OFFICER

BY:  _____ DATE: 9/26/18 _____
Lynda Ozan
Deputy State Historic Preservation Officer

Concurring Party

**MOA Job/Piece 28034(04) SH-66B over Captain Creek in Lincoln County, Oklahoma
(Structure 4124 0157 X; NBI 3800)**

NATIONAL PARK SERVICE ROUTE 66 CORRIDOR PRESERVATION PROGRAM

BY:  DATE: 10/17/2018
Kaisa Barthuli
Program Manager

Concurring Party

**MOA Job/Piece 28034(04) SH-66B over Captain Creek in Lincoln County, Oklahoma
(Structure 4124 0157 X; NBI 3800)**

OKLAHOMA ROUTE 66 ASSOCIATION

BY: Brad Nickson DATE: 9-27-2018
Brad Nickson
President

Concurring Party

**MOA Job/Piece 28034(04) SH-66B over Captain Creek in Lincoln County, Oklahoma
(Structure 4124 0157 X; NBI 3800)**

HISTORIC BRIDGE FOUNDATION

BY: _____ DATE: _____

Kitty Henderson
Executive Director

Concurring Party

**MOA Job/Piece 28034(04) SH-66B over Captain Creek in Lincoln County, Oklahoma
(Structure 4124 0157 X; NBI 3800)**

JIM ROSS, ROUTE 66 HISTORIAN

BY: _____ DATE: _____
Jim Ross

Concurring Party

**MOA Job/Piece 28034(04) SH-66B over Captain Creek in Lincoln County, Oklahoma
(Structure 4124 0157 X; NBI 3800)**

OKLAHOMA HISTORIC BRIDGE AND HIGHWAY GROUP

BY: _____ DATE: _____
Weslee Kinsler
Administrator

Concurring Party

**MOA Job/Piece 28034(04) SH-66B over Captain Creek in Lincoln County, Oklahoma
(Structure 4124 0157 X; NBI 3800)**

PRESERVATION OKLAHOMA

BY: _____ DATE: _____
Cayla Lewis
Executive Director