

**MEMORANDUM OF AGREEMENT
SUBMITTED TO THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
PURSUANT TO CFR 800.6(A)**

WHEREAS, the Federal Highway Administration (FHWA) has determined that Federal-Aid Project BRO-159D(049)CO; State Job 21557(04) will have an adverse impact to the existing truss leg bedstead pony truss over Coal Creek in Pawnee County, Oklahoma (Structure 59N3500E0390003), 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 26 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f);

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

NOW, THEREFORE, FHWA 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
COAL CREEK TRUSS LEG BEDSTEAD PONY TRUSS
BRIDGE 59N3500E0390003**

FHWA will ensure that the following measures are carried out:

- I. Prior to its removal, the existing bridge will be recorded at the equivalent of Level II documentation as specified by the Historic American Engineering Record (HAER) and incorporated in the 1993 *Oklahoma Historic Bridge Project Preservation and Management Plan*, as approved by the Oklahoma SHPO. This will include the following:
 - A. High-quality 35mm or large format, archival-quality photographs of the bridge documenting its present appearance and major structural or decorative details, together with all negatives.
 - B. Photographic reproduction of selected original construction plans and historic photographs, if they exist.
 - C. Preparation of a brief written technical description of the bridge 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. Pawnee County will market the bridge to a local community or other entity. If a recipient is not found by the time the project goes to bid, the bridge will be relocated to the County yard for secure storage while the marketing proceeds.

III. In the event a local donation does not materialize within 60 days following relocation of the bridge to the County yard for secure storage, the Oklahoma Department of Transportation (ODOT) shall develop a statewide marketing plan for the bridge including the following features:

A. An information packet will be prepared containing a description of the bridge, photographs, a location map, information regarding its historic significance, requirements regarding relocation, rehabilitation, and maintenance.

B. The availability of the truss for relocation will be advertised in the Tulsa, Pawnee, and Oklahoma City newspapers. In addition, a press release advertising the bridge will be submitted for dissemination by regional news outlets. A copy of this release will also be provided to the Oklahoma Historical Society for dissemination to local historical societies in central and north-central Oklahoma. All advertisements will clearly indicate that the bridge structure will be donated to the recipient.

C. All respondents to the above advertisement process must provide a written statement of interest to ODOT that clearly indicates their willingness and ability to relocate, rebuild, and maintain the bridge at a new site, as well as provide an estimated time-frame for the undertaking. Information packets will be provided to all respondents whose written statement of interest meets the above requirements.

D. Respondents must then submit to ODOT a detailed written proposal for moving, relocating, and maintaining the bridge. These proposals must also identify the new site for the bridge and discuss any proposed alterations to its design and general appearance. The Oklahoma SHPO and FHWA will be afforded the opportunity to review and comment upon all proposals. Preference will be given to proposals that indicate (1) the recipient's ability to relocate the bridge in a reasonable period of time, and (2) the recipient's willingness to maintain the historic design and integrity of the bridge.

E. A period of 45 days will be allowed for the receipt of written statements of interest, with an additional 45 days for the review of any detailed written proposals received by ODOT during the advertising period.

F. If a new owner is found to relocate the bridge, the FHWA shall evaluate any possible cultural resource impacts caused by construction at the new site, and confer with SHPO regarding the structure's continued eligibility to the National Register of Historic Places. If requested by SHPO, FHWA shall create a preservation agreement which will apply to the subsequent protection of the bridge.

G. If no written statements of interest are received by ODOT within the 45-day advertisement period stipulated in Item III (E), above, the bridge may be disposed of as the Pawnee County Commissioners see fit.

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 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.

V. Amendment. 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.

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 parties to attempt to develop an amendment per stipulation 5, 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 Memorandum of Agreement and implementation of its terms evidence that FHWA has afforded the Council an opportunity to comment on the replacement of the Coal Creek truss leg bedstead pony truss bridge in Pawnee County (Bridge 59N3500E0390003) and its effects on historic properties, and that FHWA has taken into account the effects of the undertaking on historic properties.

Federal Highway Administration

BY: *H. E. M. [Signature]* DATE: *10/26/06*

Oklahoma State Historic Preservation Officer

BY: *[Signature]* DATE: *8-28-06*

Oklahoma Department of Transportation

BY: *[Signature]* DATE: *10-17-06*