

**MEMORANDUM OF AGREEMENT
AMONG
FEDERAL HIGHWAY ADMINISTRATION, OKLAHOMA
DEPARTMENT OF TRANSPORTATION, AND THE
OKLAHOMA STATE HISTORIC PRESERVATION OFFICE
REGARDING
PROPOSED REPLACEMENT OF COUNTY ROAD NS-363
BRIDGE OVER DRY CREEK**

WHEREAS, the Federal Highway Administration (FHWA) has determined that Federal-Aid Project BRO-119D(193)CO; State Job 26553(04) will have an adverse effect to the existing Pratt, half-hip, pony truss bridge over Dry Creek in Creek County, Oklahoma (Structure 19N3630E0640009), 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 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and

WHEREAS, the FHWA has consulted with the Alabama Quassarte Tribal Town, Muscogee (Creek) Nation, Kialegee Tribal Town, Thlopthlocco Tribal Town, Wichita and Affiliated Tribes of Oklahoma, and Osage Nation 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 Part 800.6(a)(1), the 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 Part 800.6(a)(1)(iii) and

WHEREAS, in accordance with 36 CFR 800.6(b)(1)(iv), this Agreement will become final upon submitting a copy of the executed Agreement, along with the documentation specified in 36 CFR 800.11(f), to the ACHP prior to approving any undertaking in order to meet the requirements of Section 106 and 36 CFR 800.6(b)(1);

NOW, THEREFORE, FHWA shall ensure that the following terms and conditions will be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

STIPULATIONS
DRY CREEK PRATT, HALF-HIP, PONY TRUSS
BRIDGE 19N3630E0640009

I. Stipulations. FHWA will ensure that the following measures are carried out:

1. Prior to the construction of the new bridge, the existing bridge will be recorded at the equivalent of Level II documentation as specified by the Historic American Engineering Record (HAER) and incorporated into the 1993 *Oklahoma Historic Bridge Project Preservation and Management Plan*, as approved by the Oklahoma SHPO. This will include the following:

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 or archival gold CD containing 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;
- g. Number of photograph 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 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.

2. The Oklahoma Department of Transportation (ODOT) shall develop a statewide marketing plan for the bridge including the following features:

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

B. ODOT will advertise the availability of the truss for relocation on the Department's Historic Bridge marketing website (www.okladot.state.ok.us/env-programs/bridges/index.php). In addition, a press release advertising the bridge will be submitted for dissemination by regional news outlets.

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. 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 30 days will be allowed for the receipt of written statements of interest, with an additional 30 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, ODOT 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.

G. If no written statements of interest are received by ODOT within the 45-day advertisement period stipulated in Item 1(e), above, the bridge structure may be disposed of as the Creek County Commissioners see fit.

II. 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:

1. 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.

2. 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.

3. 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.

- III. Amendment. 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.
- IV. Termination. If any signatory to this MOA determines that its terms will or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per stipulation IV, 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.
- V. Duration. This MOA shall be in effect for ten (10) years from the date of its execution. Within six (6) months of the expiration date, any signatory party may consult with other signatories to consider renewal of the MOA, or reconsider the terms of the MOA and amend it in accordance with Stipulation V above. No extension or amendments shall be effective unless all signatory parties to the MOA have agreed in writing.

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 Dry Creek Pratt, half-hip, pony truss bridge in Creek County (Bridge 19N3630E0640009) and its effects on historic properties, and that FHWA has taken into account the effects of the undertaking on historic properties.

MOA for BRO-119D(193)CO; State Job 26553(04) Pratt, half-hip, pony truss bridge over
Dry Creek in Creek County, Oklahoma (Structure 19N3630E0640009)


Federal Highway Administration

BY:  DATE: April 2, 2012

Oklahoma State Historic Preservation Officer

BY:  DATE: March 22, 2012

Oklahoma Department of Transportation

BY:  DATE: March 23, 2012