

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 BRFY-115C(035)CO; State Job 21770(04) will have an adverse impact to the existing Works Progress Administration (WPA) concrete slab bridge over Keel Creek in Coal County, Oklahoma (Structure 1512 0723 X), a property determined eligible for inclusion in the National Register of Historic Places (NRHP), 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, 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
KEEL CREEK BRIDGE
BRIDGE 1512 0723 X

The Keel Creek Bridge, a concrete slab WPA bridge constructed in 1940, has been determined eligible for inclusion in the NRHP and is in the process of being nominated to the NRHP. Because the bridge has been researched and documented thoroughly as part of this nomination, the Oklahoma SHPO has determined that additional photographic documentation to mitigate the adverse effect caused by the proposed replacement project would be redundant and unnecessary.

FHWA will ensure that the following measures are carried out:

- I. The Oklahoma Department of Transportation Cultural Resources Program (ODOT) will prepare National Register Nomination materials for another WPA bridge in the same region, the Coal Creek Bridge (Structure #61N4097E1633000) in Pittsburg County. The nomination will be prepared in accordance with the Oklahoma State Historic Preservation Officer's "Oklahoma National Register of Historic Places Nomination and Request for Determination of Eligibility Manual." ODOT personnel preparing the nomination will meet with SHPO before initiating the nomination to ensure all appropriate available information regarding the property is incorporated in the document. A draft nomination form will be provided to SHPO within seven (7) months of the effective date of this MOA for a thirty (30) day review period. The final nomination will incorporate SHPO comments and be due one year from

the effective date of the MOA.

- 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:

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.

- III. 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.
- IV. 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 4, 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 Keel Creek WPA concrete slab bridge in Coal County (Bridge 1512 0723 X) 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: W. Z. Young DATE: 4/11/07

Oklahoma State Historic Preservation Officer

BY: Bob Stauffer DATE: 3-22-07

Oklahoma Department of Transportation

BY: D. Hall DATE: 4/02/2007