

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-118B(038); State Job 20868(04) will have an adverse impact to the existing camelback pony truss over Little Cabin Creek in Craig County, Oklahoma (Structure 1806 0724 X), 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, 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, the 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
LITTLE CABIN CREEK CAMELBACK PONY TRUSS
BRIDGE 1806 0724 X

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

1. The Oklahoma Department of Transportation Cultural Resources Program (ODOTCRP) will prepare National Register of Historic Places nomination materials for the existing bridge (Structure 1806 0724 X). 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." Prior to preparation of the nomination form, ODOTCRP will meet with SHPO to ensure that all appropriate information regarding the property is incorporated in the document. A draft 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 (1) year from the effective date of the MOA.
2. The Oklahoma Department of Transportation Cultural Resources Program (ODOTCRP) will prepare National Register of Historic Places nomination materials for the Opossum Creek Bridge (Structure 53N4130E0040000), a stone arch bridge in Nowata 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." Prior to preparation of the nomination form,

ODOTCRP will meet with SHPO to ensure that all appropriate information regarding the property is incorporated in the document. A draft 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 (1) 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 CFR800.6 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 Little Cabin Creek camelback pony truss bridge in Craig County (Bridge 1806 0724 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: *[Signature]* DATE: 3/25/08
Gary Corino

Oklahoma State Historic Preservation Officer

BY: *[Signature]* DATE: 3-3-08

Oklahoma Department of Transportation

BY: *[Signature]* DATE: 3/13/2008