

**MEMORANDUM OF AGREEMENT
AMONG THE FEDERAL HIGHWAY ADMINISTRATION,
THE OKLAHOMA DEPARTMENT OF TRANSPORTATION, AND
THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICE,
REGARDING THE PURCELL DOWNTOWN STREETScape TRANSPORTATION
ALTERNATIVES PROGRAM PROJECT, PURCELL, OKLAHOMA**

WHEREAS, the Oklahoma Department of Transportation (ODOT) plans to make pedestrian improvements to the Purcell Streetscape on W Main Street and North 2nd Avenue in Purcell, McClain County, Oklahoma, by removing and constructing segments of sidewalk, curb and gutter, accessible parking spaces, and hand railings to meet Americans with Disabilities Act (ADA) standards. Additionally, the project also includes the addition retaining walls, decorative lighting, trash receptacles, benches, bollards, stamped concrete, tactical devices, and landscaping; and

WHEREAS, the Federal Highway Administration (FHWA) plans to fund Federal-Aid Project TAP-244D(083)TP, State Job Piece 32995(04), thereby making the Project an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA, 54 U.S.C § 300101 et seq), and its implementing regulations, 36 CFR part 800; and

WHEREAS, FHWA and ODOT have defined the undertaking's Area of Potential Effect (APE) as the existing right-of-way, as indicated in the Final Plans (available upon request) dated February 3, 2022; and

WHEREAS, The Purcell Commercial Historic District has been determined eligible for inclusion in the National Register of Historic Places (NRHP) under Criterion A in the area of Commerce and Government, as Purcell was a thriving and prosperous commercial settlement in the Indian Territory before statehood and is the county seat for McClain County; and

WHEREAS, FHWA and ODOT have determined that the undertaking will have an adverse effect on the NRHP-eligible Purcell Commercial Historic District and have consulted with the Oklahoma State Historic Preservation Officer (SHPO), pursuant to 36 CFR 800, and the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108); and

WHEREAS, FHWA has consulted with the City of Purcell regarding the effects of the undertaking on historic properties and has invited them to sign this MOA as a signatory; and

WHEREAS, FHWA has consulted with the McClain County Historical Society regarding the effects of the undertaking on historic properties and has invited them to sign this MOA as a concurring party; and

WHEREAS, FHWA has consulted with Chickasaw Nation, Osage Nation, and Wichita and Affiliated Tribes and determined that no properties of traditional religious and cultural significance will be affected by the undertaking, and invited them to sign this MOA as a concurring party; 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)(iii); and

NOW, THEREFORE, FHWA, ODOT, and the 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 shall ensure that the following measures are carried out. Measures will be met within the timeframes presented for each stipulation.

- I. **DOCUMENTATION.** ODOT shall ensure that a Secretary of the Interior qualified historic preservation professional completes a NRHP nomination form for the NRHP-eligible Purcell Commercial Historic District. The nomination will be submitted in accordance with SHPO's National Register of Historic Places Nomination and Submittal Requirements (June 1, 2021).
 - A. Prior to project construction, High Quality photographs will be submitted. The size of each image will be 1600x1200 pixels (minimum), 3000 x 2000 preferred, at 300 pixels per inch or larger. All photographs will be keyed to the sketch map. Each photograph will be numbered, and that number will correspond to the photograph number on the photo log documenting the present appearance of the NRHP-eligible Purcell Commercial Historic District. The photographs will be clearly labeled with the following information:
 - i. Name of property;
 - ii. Location (county, city, state, and street address);
 - iii. Name of photographer;
 - iv. Date of photograph;
 - v. Indication of direction camera is pointing;
 - vi. Number of the photographs in series.
 - B. Photographic reproduction of selected historic photographs if they exist.
 - C. ODOT shall review background information collected as part of the undertaking and conduct any additional archival and field research needed to produce a draft nomination form.
 - i. The draft nomination form will be sent to SHPO for review. The SHPO shall review the NRHP nomination form and provide ODOT with comments within 60 days of receipt of the draft. If the SHPO does not respond with comments by the end of the review period, ODOT can assume concurrence.
 - ii. If comments are received, ODOT shall address any comments and provide a Final nomination form including maps and photographs to SHPO.
 - iii. 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.

D. Following the completion of the project construction, photographs illustrating the post construction condition of the Purcell Commercial Historic District will be provided to the Oklahoma SHPO.

II. DURATION. This MOA will expire if its terms are not carried out within ten (10) years from the date of its execution. Prior to such time, FHWA and ODOT may consult with other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VI below

III. POST-REVIEW DISCOVERIES. If properties are discovered that may be historically significant or unanticipated effects on historic properties found, the FHWA shall follow ODOT Spec 107.09, Protection of Archaeological and Unmarked Human Burial Sites, which stipulates that all work near the area of the find shall be ceased and the area protected until ODOT and other parties, as appropriate are notified.

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 provides 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. AMENDMENTS. 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.

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 signatories to attempt to develop an amendment per Stipulation VI, 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 MOA by the FHWA, ODOT, 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 for TAP-244D(083)TP; State Job 32995(04) Purcell Downtown Streetscape

Federal Highway Administration

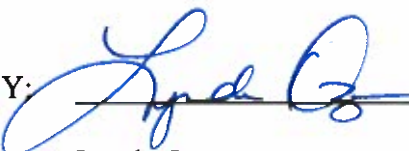
BY: _____ DATE: 6/7/2022

Karen Orton
Environmental Program Manager
Oklahoma Division

Signatory

MOA for TAP-244D(083)TP; State Job 32995(04) Purcell Downtown Streetscape

Oklahoma State Historic Preservation Office

BY:  _____ DATE: 06/03/2022 _____
Lynda Ozan
Deputy State Historic Preservation Officer

Signatory

MOA for TAP-244D(083)TP; State Job 32995(04) Purcell Downtown Streetscape

City of Purcell

BY: Dale Bunn DATE: 4.2.2022

Dale Bunn
City Manager

Invited Signatory

MOA for TAP-244D(083)TP; State Job 32995(04) Purcell Downtown Streetscape

Oklahoma Department of Transportation

BY: *Joe Brutsché* DATE: 06/02/2022

Joe Brutsché
Environmental Programs Division Manager

BY: *Shelly Williams* DATE: 06/02/2022

Shelly Williams
Local Government Division Engineer

Concurring Party

MOA for TAP-244D(083)TP; State Job 32995(04) Purcell Downtown Streetscape

City of Purcell

BY: Sherril Sheehy DATE: 4/3/22

Sherril Sheehy
Vice President
McClain County Historical Society

Concurring Party

MOA for TAP-244D(083)TP; State Job 32995(04) Purcell Downtown Streetscape

Chickasaw Nation

BY: _____ DATE: _____

Concurring Party

MOA for TAP-244D(083)TP; State Job 32995(04) Purcell Downtown Streetscape

Osage Nation

BY: _____ DATE: _____

Concurring Party

MOA for TAP-244D(083)TP; State Job 32995(04) Purcell Downtown Streetscape

Wichita and Affiliated Tribes

BY: _____ DATE: _____