

**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 STPY-19A(314); J/P10157(04), the reconstruction of State Highway 66 in Creek County, Oklahoma, will have an adverse impact to the West Sapulpa Route 66 Historic Roadbed District, a property listed on 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 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(1)(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
WEST SAPULPA ROUTE 66 HISTORIC ROADBED DISTRICT
NR#04000128**

The West Sapulpa Route 66 Historic Roadbed District consists of a roughly 3 mile long section of the 1925 alignment of US Highway 66 which was bypassed and turned over to local ownership when the existing route of US (now State) Highway 66 was constructed in 1952. In addition to the 3 mile section of Portland Cement road surface itself, the West Sapulpa Route 66 Historic Roadbed District includes the Rock Creek Bridge, which is also individually listed in the NRHP, and three additional structures. The reconstruction of SH66 will require relocation and realignment of the turnoff to the West Sapulpa Route 66 Historic Roadbed District, resulting in the abandonment of approximately 400 feet of the historic roadbed at the eastern end of the district. The abandoned stretch of roadway will no longer be maintained, which constitutes an adverse effect to the NRHP-district. Because the West Sapulpa Route 66 Historic Roadbed District was thoroughly documented and researched as part of its nomination to the NRHP, the Oklahoma SHPO has determined that additional photographic documentation to mitigate the adverse effect caused by the loss of the 400-foot segment 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 two NRHP-eligible sections of historic Route 66 which were identified in the 2002 "Oklahoma Route 66 Roadbed Documentation Project" undertaken by the Oklahoma SHPO and the Oklahoma Route 66 Association, but which have not yet been formally listed on the NRHP. These nominations 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 nominations will meet with SHPO before initiating the nominations to ensure all appropriate available information regarding the properties is incorporated in the documents. ODOT will prepare National Register nomination forms for the following two resources: Bridge 66E0320N4260002 (Resource #12), spanning Pryor Creek on the 1926 alignment of Route 66 in Rogers County, and Resource 31, a section of the 1926 paved alignment bypassed by modern SH66 in 1938 in Creek County. Draft nomination forms 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 nominations will incorporate SHPO comments and be due one year from the effective date of the MOA.
- II. ODOT will make all reasonable efforts to avoid unnecessary construction-related disturbance to the 400-foot abandoned section of historic pavement and will retain the pavement in place following completion of the construction project. This abandoned section will be closed off to vehicular traffic by a barricade and earthen berm.
- III. 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.

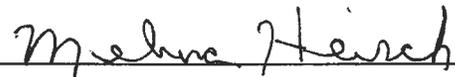
- IV. Amendment. This MOA may be amended when such amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all the signatories is filed with the ACHP.
- V. Termination. If any signatory to this MOA determines that its terms will or cannot be 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.

Execution of this Memorandum of Agreement and implementation of its terms evidence that FHWA has afforded the Council an opportunity to comment on the reconstruction of State Highway 66 in Creek County 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:  DATE: 8-4-05

Oklahoma State Historic Preservation Officer

BY:  DATE: 7-18-05

Oklahoma Department of Transportation

BY:  DATE: 7-21-05