

**MEMORANDUM OF AGREEMENT  
AMONG THE FEDERAL HIGHWAY ADMINISTRATION,  
THE OKLAHOMA DEPARTMENT OF TRANSPORTATION, AND  
THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICE,  
REGARDING THE GUTHRIE ADA STREETScape PROJECT, GUTHRIE, OKLAHOMA**

**WHEREAS**, the Oklahoma Department of Transportation (ODOT) plans to make improvements to meet American with Disabilities Act (ADA) to sidewalks at several locations along US-77 and SH-33 in Guthrie, Logan County, Oklahoma, by replacing concrete and brick sidewalk segments, adding concrete sidewalks where none exist, adding ADA ramps, limited curb and gutter replacements, reconstructing street returns at intersecting streets, limited retaining wall and handrail construction, crosswalk and stop bar pavement markings, and relocating existing signage; and

**WHEREAS**, the Federal Highway Administration (FHWA) plans to fund Federal-Aid Project STP-242B(073)AD, State Job Piece 32953(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**, on behalf of FHWA, ODOT will prepare a Categorical Exclusion (CE) document under the National Environmental Policy Act (NEPA) containing all environmental documentation and project plans, and will make this document available to the public upon request from ODOT; and

**WHEREAS**, The Guthrie Historic District (NR# 74001664) was determined eligible for inclusion in the NRHP under Criterion A in the area of Commerce and Politics/Government and Criterion A for its significance in Architecture. The Guthrie Brick Sidewalks fall within the district boundaries and contribute to the setting of the Guthrie Historic District; 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, dated January 20, 2020; and

**WHEREAS**, ODOT and FHWA desire to implement safe and maintainable pedestrian improvements throughout the APE; and

**WHEREAS**, the pedestrian brick sidewalk proposed for replacement at sections 3-7 and 9-10, are within the NRHP District; and

**WHEREAS**, Oklahoma SHPO has provided comment that these sidewalks are a characteristic of the district's integrity of setting; and

**WHEREAS**, FHWA and ODOT have determined that the undertaking will have an adverse effect on the Guthrie Brick Sidewalks, which are a character-defining feature of the NRHP-listed Guthrie 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 Guthrie 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 Cheyenne and Arapaho Tribes, Iowa Tribe, United Keetoowah Band of Cherokee, 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

**WHEREAS**, FHWA has invited Preservation Oklahoma, Logan County Historical Society, Guthrie Historic Preservation Commission, Save Our Depot Foundation, Susan Dunham to participate in the Section 106 process and has received no comments on the undertaking; 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.** Prior to project construction, the existing Guthrie Brick Sidewalks will be recorded at the equivalent of Level II documentation as specified by the Historic American Engineering Record (HAER). This will include the following:

- A. Large format, black and white prints of the existing Guthrie Brick Sidewalks, a minimum of 4" by 6" and no larger than 8" by 10," documenting the present appearance of the Guthrie Brick Sidewalks. 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. Location of photographic negative;
  - vi. Indication of direction camera is pointing;
  - vii. Number of the photographs 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 Guthrie Brick Sidewalks 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.

**II. CONSERVATION OF BRICK.** During construction of the project, the historic bricks will be salvaged from the sidewalks and made available to the City of Guthrie.

- A. The sidewalks will be disassembled in a controlled manner to minimize loss of historic bricks.
- B. A good faith effort will be made to retain as many whole historic bricks.
- C. The historic bricks will become the property of the City of Guthrie and shall be delivered to the Guthrie Maintenance Yard.

**III. 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

- IV. 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.
- V. 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.
- VI. 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.
- VII. 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 a 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 STP-242B(073)AD; State Job 32953(04) 33769(04) Guthrie ADA Streetscape Project**

Federal Highway Administration

BY: \_\_\_\_\_ DATE: \_\_\_\_\_

Karen Orton  
Environmental Program Manager  
Oklahoma Division

Signatory

MOA for STP-242B(073)AD; State Job 32953(04) 33769(04) Guthrie ADA Streetscape Project

Oklahoma Department of Transportation

BY: Sivanuja Sundaram Digitally signed by Sivanuja Sundaram  
DATE: 2020.08.17 17:11:34 -05'00'  
Siv Sundaram  
Environmental Programs Division Engineer

BY: Trenton January DATE: 8-18-2020  
Trent January  
District IV Division Engineer

Signatory

MOA for STP-242B(073)AD; State Job 32953(04) 33769(04) Guthrie ADA Streetscape Project

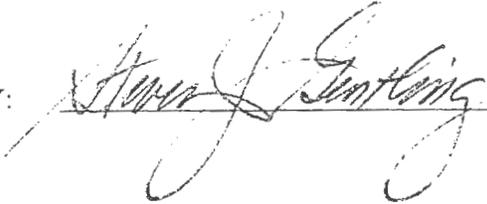
Oklahoma State Historic Preservation Office

BY:  DATE: 10 September 2008  
Lynda Ozan  
Deputy State Historic Preservation Officer

Signatory

MOA for STP-242B(073)AD; State Job 32953(04) 33769(04) Guthrie ADA Streetscape Project

City of Guthrie

BY:  DATE: 8-18-2020