

MEMORANDUM OF AGREEMENT

By and Among
THE CITY OF LAWTON, OKLAHOMA
And
THE OKLAHOMA STATE PRESERVATION OFFICE
Regarding The
ARMED SERVICES YMCA RENOVATION PROJECT

WHEREAS, on December 7, 2021, the City of Lawton awarded a grant to Lawton Support Services for the Veterans Resource Center renovation project which entailed the rehabilitation of the Old Armed Services YMCA located at 402 SW B Avenue, Lawton, Oklahoma: and

WHEREAS, after the award of the grant and prior to construction, there was a finding of adverse effect based upon review by the Oklahoma State Historic Preservation Officer (SHPO) of the plans and specifications, in accordance with 36 C.F.R. § 800.5(b); and

WHEREAS, the Lawton Support Services and the City have consulted with the SHPO pursuant to 36 C.F.R. part 800, the Advisory Council on Historic Preservation (Council) regulations implementing Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470±) and have determined that the Undertaking will have an adverse effect on the building, a contributing resource to the Lawton Downtown Historic District and a property eligible for listing in the National Register of Historic Places; and

WHEREAS the Lawton Support Services and the City agree that there is a lack of prudent and feasible alternatives to the renovation, and the Undertaking cannot be completed without such adverse effect; and

WHEREAS, Lawton Support Services, the SHPO, and the City agree that any licenses or permits required by the State of Oklahoma will be obtained as required; and

WHEREAS, in accordance with 36 C.F.R. §.800.6(a)(I), the City has notified the Advisory Council on Historic Preservation of its adverse effect determination, and the Advisory Council on Historic Preservation has chosen not to participate in the consultation process pursuant to 36 C.F.R. § 800.6(a)(I)(iii); and

WHEREAS the SHPO and the City, pursuant to 36 C.F.R. § 800.13(b)(I) and 36 C.F.R. § 800.6, have agreed upon how the adverse effects shall be resolved in this memorandum of agreement ("MOA"); and

NOW, THEREFORE, the City, and the SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations to consider the effect on historic properties.

STIPULATIONS

The City shall ensure that the following stipulations are implemented:

A. The City shall document the Old ASYMCA Building, a contributing resource to the Lawton Downtown Historic District and a property eligible for listing in the National Register of Historic Places, in accordance with photo documentation specifications set forth in the Oklahoma National Register of Historic Places Nomination and Request for Determination of Eligibility Manual (Manual). The number of photographs taken to document the Old ASYMCA Building shall be sufficient to illustrate all exterior elevations of the building, as well as representative interior spaces and features. The City shall consult with the SHPO to determine the photographs that shall be included in the final documentation submission for the SHPO's permanent files. Renovation of the Old ASYMCA Building may not begin until the SHPO has accepted the final photographic documentation of the building.

B. The City shall consult with the SHPO to ensure that the Undertaking is in accordance with the Secretary of the Interior's Standards and Guidelines for Rehabilitation and that plans and specifications for the entire project are submitted to the SHPO. The SHPO shall have thirty (30) days to review the submitted plans and specifications. The City shall further ensure that the SHPO's comments are incorporated into the design documents as development of the Undertaking progresses.

C. DURATION If work on the Undertaking has not commenced within five (5) years from the date of the execution of this MOA, this MOA shall be reconsidered and continued for a specified period or terminated in accordance with 36 C.F.R. § 800.6(c)(5).

E. DISPUTE RESOLUTION Should any party to this MOA object at any time to any proposed actions covered by this MOA, the City shall consult with the objecting party or parties to attempt to resolve the objection(s). If the City cannot resolve the objection(s) within thirty (30) days, the City shall forward adequate documentation relevant to the dispute to the Council and the parties in accordance with 36 C.F.R. § 800.2(b)(2).

Pursuant to 36 C.F.R § 800.7(c)(2), the Advisory Council on Historic Preservation shall comment and advise the City on the resolution of the objection(s) within forty-five (45) days of the receipt of the request.

If the Advisory Council on Historic Preservation or the parties do not provide comments regarding the dispute within forty-five (45) days of referral, The City may proceed to render a decision regarding the dispute. The City will consider comments from the Advisory Council on Historic Preservation and the parties to this MOA in reaching a final decision regarding the dispute.

The City will notify all parties of its decision in writing. The decision of the City will be final.

F. AMENDMENTS AND NONCOMPLIANCE. The parties to this MOA may amend it. Any party proposing an amendment shall forward a copy of the proposed amendment to the other parties. Upon concurrence of the parties to the proposed amendment, the City will file the executed amended MOA with the Advisory Council on Historic Preservation and the Lawton City Clerk's Office. The amended MOA becomes effective when all original signatories have executed the amendment and the amended MOA is filed with the Advisory Council on Historic Preservation.

If any party to this MOA determines that its terms cannot be or are not being carried out, that party shall immediately consult with the other parties to develop an amendment to remedy the noncompliance pursuant to 36 C.F.R. § 800.6(c)(7) and § 800.6(c)(8).

If the parties cannot agree to appropriate terms to amend this MOA, any party may terminate this MOA in accordance with Stipulation G.

G. TERMINATION if this MOA is not amended within thirty (30) days following the conclusion of the consultation described in Stipulation H, any signatory may terminate it with written notification to the other parties.

Within thirty (30) days following termination, the City shall notify the parties if it will initiate consultation to execute a new memorandum of agreement under 36 C.F.R § 800.6(c)(1) or request the comments of the Advisory Council on Historic Preservation under 36 C.F.R. § 800.7(a) and proceed accordingly.

H. In the event the City is unable to carry out the terms of this MOA, no action shall be taken, or irreversible commitment be sanctioned by the City that would result in any adverse effects with respect to the National Register-eligible properties covered by this MOA. Moreover, the City agrees not to take or sanction any action that would foreclose the Advisory Council on Historic Preservation's considerations of modifications or alternatives that could avoid or mitigate the adverse effects until the completion of any review and comment process.

Execution of this MOA by the SHPO and the City and the submission of documentation and filing of this MOA with the Advisory Council on Historic Preservation pursuant to 36 C.F.R § 800.6(b)(1)(iv) constitutes evidence that the City has considered the effects of this Undertaking on the historic properties and afforded the Advisory Council on Historic Preservation an opportunity to comment.

IN WITNESS WHEREOF, the parties have hereunto their hands this date and year first above written.

CITY OF LAWTON, OKLAHOMA



Stanley Booker, MAYOR

ATTEST:



Traci Hushbeck, CITY CLERK

Approved as to Form and Legality on behalf of the City of Lawton this 9th day of December, 2021.



John M. Ratliff, CITY ATTORNEY

STATE HISTORIC PRESERVATION OFFICER



12/28/21

Trait Thompson, Executive Director