

**PROGRAMMATIC AGREEMENT
AMONG
FEDERAL HIGHWAY ADMINISTRATION
MISSOURI STATE HISTORIC PRESERVATION OFFICE
AND THE
MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
FOR THE MITIGATION OF ADVERSE EFFECTS
TO THE THREE BRIDGES HISTORIC DISTRICT,
THE SINKING CREEK BRIDGE (H0079),
THE CURRENT RIVER BRIDGE (G0804) AND THE
ROUND SPRING/SPRING VALLEY BRIDGE (J0420)
ROUTE 19, SHANNON COUNTY, MISSOURI**

Whereas, the Federal Highway Administration (FHWA) administers that Federal Aid Highway Program (FAHP) in Missouri authorized by 23 U.S.C. 101, et. seq., through the Missouri Highways and Transportation Commission (MHTC); and

Whereas, the MHTC acts through the Missouri Department of Transportation (MoDOT) to ensure compliance with federal environmental and historic preservation laws; and

Whereas, the Missouri Division of the FHWA and MoDOT propose to replace the Sinking Creek Bridge (H0079) on Route 19 in Shannon County, Missouri, with MoDOT Job Number J9P0438 (see Figure 1 of the attached Information to Accompany), and are preparing an Environmental Assessment (EA) under the National Environmental Policy Act (NEPA); and

Whereas, replacing the Sinking Creek Bridge would constitute an undertaking under Section 106 of the National Historic Preservation Act (36 CFR 800.3(a)); and

Whereas, the area of potential effects (APE) established for the EA encompassed the alternates under consideration and extended 200 feet beyond the outermost alternates for the consideration of direct effects and extended an additional 100 feet for the consideration of indirect effects as shown on Figure 2 in the attached Information to Accompany; and

Whereas, the APE for the survey of the cultural landscape extended along Route 19 from approximately 0.5 miles north of the Sinking Creek Bridge to approximately 0.5 miles south of the Round Spring/Spring Valley Bridge and extended 200 feet on either side of Route 19, as shown on Figure 3 of the attached Information to Accompany; and

Whereas, archaeological surveys have been conducted within the APE for the Sinking Creek Bridge and two potentially National Register of Historic Places (NRHP) eligible sites were identified within the APE, 23SH97 and 23SH1566, and may require Phase II testing after an alternative is selected. The Missouri State Historic Preservation Office (SHPO) has concurred with this finding; and

Whereas, the Three Bridges Historic District, has been identified as an NRHP eligible historic landscape, containing the Sinking Creek Bridge (H0079), the Current River Bridge (G0804) and

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at Round Spring/Spring Valley Bridge (J0420), Route 19 and the surrounding viewshed as contributing elements; and

Whereas, the Sinking Creek Bridge (H0079) the Current River Bridge (G0804) and the Round Spring/Spring Valley Bridge (J0420) are each individually eligible for listing on the NRHP; and

Whereas, the effects of these FAHP projects on the historic bridges and on the Three Bridges Historic District, are likely to be similar in nature and have the potential to be adverse; and

Whereas, the regulations implementing Section 106 of the National Historic Preservation Act allow for the development of Programmatic Agreements when project effects on historic properties are similar and repetitive in nature (36 CFR 800.14(b)(1)(i)); and

Whereas, the Advisory Council on Historic Preservation (Council) was notified of the potential adverse effect on the Three Bridges Historic District and the Sinking Creek Bridge (H0079) on June 29, 2015 and was invited to participate in consultation for the development of this Programmatic Agreement (PA) and declined to participate in consultation on July 31, 2015; and

Whereas, the Missouri SHPO has participated in consultation regarding the eligibility of the bridges and historic landscape and has consulted in the development of appropriate mitigation measures for project effects on them, and in the development of this PA; and

Whereas, the MoDOT has participated in consultation and has been invited to be a signatory to this PA; and

Whereas, the Absentee Shawnee Tribe of Indians of Oklahoma, the Cherokee Nation, the Delaware Nation, the Delaware Tribe of Indians of Oklahoma, the Eastern Shawnee Tribe of Oklahoma, the Osage Nation, the Quapaw Tribe of Oklahoma, the Shawnee Tribe and the United Keetoowah Band of Cherokee have been invited to participate in consultation for the Sinking Creek Bridge replacement, and will be invited to participate in the bridge specific projects in the future; and

Whereas, the Delaware Tribe of Indians of Oklahoma, the Osage Nation and the United Keetoowah Band of Cherokee have all responded indicating they have no objection to the Sinking Creek Bridge replacement. The Delaware Tribe of Indians of Oklahoma and the United Keetoowah Band of Cherokee asked to be contacted if human remains are encountered. The Delaware Tribe of Indians of Oklahoma and the Osage Nation requested to review the archaeological report; and

Whereas, the National Park Service Ozark National Scenic Riverways (ONSR), U. S. Army Corps of Engineers Little Rock Division (USACE), Missouri State Parks, Shannon County Commission, the Shannon County Historical Society, the Friends of the Current River, the LAD Foundation/Pioneer Forest, the Historic Bridge Foundation, and Nathan Holth have been invited to participate in consultation about the Sinking Creek Bridge replacement and the Three Bridges Historic District; and

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Whereas, the Ozark National Scenic Riverways, Missouri State Parks, Shannon County, Historic Bridge Foundation, LAD Foundation/Pioneer Forest, and Nathan Holth accepted consulting party status and have actively participated in consultation; and

Whereas, the consulting parties were asked if they wished to concur in the PA; and

Whereas, none of the consulting parties chose to concur in the PA; and

Whereas, the consulting parties provided substantial input into the evaluation of the Three Bridges Historic District, including identifying the boundaries of the historic property as well as identifying and developing appropriate mitigation measures for the District and the bridges; and

Whereas, MoDOT shall follow the guidance on public involvement contained in Category 129: Public Involvement of the MoDOT Engineering Policy Guide;

Now therefore, the FHWA, MHTC and the SHPO agree that the following stipulations will be implemented for FHWA undertakings involving the Sinking Creek Bridge (H0079), the Current River Bridge (G0804), the Round Spring/Spring Valley Bridge (J0420) and the Three Bridges Historic District in Shannon County, Missouri:

STIPULATIONS

The FHWA shall ensure that the following measures are carried out:

- I. The MHTC, acting by and through MoDOT, shall ensure that the following measures are carried out for each individual project occurring to one of the individually eligible bridges:
 - A. For any project affecting one of the individually eligible bridges, FHWA and MoDOT shall initiate consultation with the consulting parties. Consulting parties shall be offered the opportunity to consult about the project purpose and need, range of alternatives and project effects.
 - B. For any project adversely affecting an individually eligible bridge, the MoDOT shall:
 1. Prepare historical documentation to Level II standards of the *Levels of Bridge Documentation (State Level) For Section 106 Mitigation of Adverse Effect*.
 2. Prior to project letting, take archival photographs of the bridge.
 - a. Take archival photographs, consistent with the NRHP and SHPO standards, with sufficient coverage to provide overall views of the bridge and significant details of the bridge.
 - b. Consult with the SHPO regarding the adequacy of coverage for the bridge and the selection of images prior to the project letting.
 - c. Print and label the photographs consistent with NRHP standards.
 - d. Provide original photographs and digital images on archival discs to the SHPO; MoDOT will maintain original prints and digital images.
 3. Original construction plans shall be included in the historical documentation in paper and digital (.pdf) format.

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4. Copies of the documentation shall be put into report format and provided to the SHPO and to a local repository (library and/or historical society) in paper and digital (.pdf) formats. Copies will be made available on MoDOT's web-site.
- II. Laser Imaging Detection and Ranging (LiDAR) Documentation
 - A. The Sinking Creek Bridge (H0079) will be documented using LiDAR scanning. MoDOT will work with the consulting parties to find ways to use the LiDAR scans to interpret the Sinking Creek Bridge.
 - B. MoDOT will determine the feasibility of using LiDAR scanning to document the Current River Bridge (G0804) and the Spring Valley Bridge (J0420) if projects are developed for the rehabilitation or replacement of the bridge.
 - III. Three Bridges Historic District
 - A. MoDOT will conduct a feasibility study on the rehabilitation of the Current River Bridge (G0804) and the Round Spring/Spring Valley Bridge (J0420).
 - B. MoDOT will prepare a historic context of the development of Route 19 through the Three Bridges Historic District.
 - C. MoDOT will work with the ONSR to identify locations within the ONSR for placement of interpretive panels, which will focus on the history and significance of the Three Bridges Historic District and the individually eligible bridges.
 - D. MoDOT will work with ONSR to develop a workbook on the history and significance of the Three Bridges Historic District, which will focus on the bridge types, the decision making process for bridge projects, the history of the area and landscape characteristics of the Three Bridges Historic District. The workbook shall be available for distribution through the ONSR.
 - E. MoDOT will work with the consulting parties to determine the feasibility and practicality of implementing additional mitigation measures developed through the consultation process.
 - IV. Architectural Surveys for specific projects
 - A. During the environmental study for each project, when the range of alternates is being considered, an architectural survey will be conducted in accordance with MoDOT's *Built Environment Resource Methods*.
 - B. The SHPO and other consulting parties shall be consulted about the development of the APE (direct and indirect effects) for the project, the eligibility of resources within the APE, project effects on historic properties and appropriate mitigation measures, following the regulations implementing Section 106 of the National Historic Preservation Act, 36 CFR 800.
 - V. Archaeological Surveys for specific projects
 - A. If, during the preliminary design phase of an individual project, it is determined that new right of way or easements are necessary, archaeological investigation will be conducted to identify and evaluate archaeological sites, assess the effects of the proposed undertaking on National Register eligible archaeological sites, and mitigate the adverse effects of the project on NRHP eligible archaeological sites that cannot be avoided.

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1. The MHTC, acting by and through MoDOT shall apply the National Register Criteria (36 CFR part 63), in consultation with the SHPO, appropriate Indian Tribes, and other interested parties, and guided by the Secretary's Standards and Guidelines for Evaluation, to evaluate the NRHP eligibility of identified archaeological sites;
 2. FHWA shall consult with MHTC (acting by and through MoDOT), the SHPO, and appropriate Indian Tribes, and other interested parties, regarding evaluation of adverse effects on archaeological resources identified as eligible for the NRHP, and to develop and evaluate alternatives or modifications to the undertaking that could avoid, minimize or mitigate project adverse effects on archaeological sites eligible for the NRHP.
 3. If project activities are found to have adverse effects on archaeological sites eligible for the NRHP, the FHWA shall consult with MHTC (acting by and through MoDOT), the SHPO, and appropriate Indian Tribes and other interested parties to resolve the adverse effects, consistent with guidance provided in 36 CFR § 800.6, through the implementation of an Archaeological Data Recovery Plan(s) developed in accordance with the Council's "Recommended Approach for Consultation on the Recovery of Significant Information from Archaeological Sites" (64 FR 27085-87 published in the Federal Register on May 18, 1999), the Council's Handbook on Treatment of Archaeological Properties, and the Secretary of the Interior's Standards for Archaeological Documentation.
 4. The signatories recognize that any human remains (other than from a crime scene or from a documented cemetery, burial plot or grave) which may be discovered or excavated during data recovery operations are located on state land, and are subject to the immediate control, possession, custody, and jurisdiction of the SHPO, pursuant to the Missouri Unmarked Human Burial Sites Act, §§ 194.400 – 194.410, RSMo. The FHWA shall monitor MoDOT's excavation and handling of any such human remains and associated or unassociated funerary objects, sacred objects or objects of cultural patrimony, to assure itself that these are handled, excavated or processed in accordance with the SHPO's instructions, and that the SHPO has actual physical as well as legal custody, possession and jurisdiction of those remains and other objects, after MoDOT or any other persons or entities complete any analysis of the remains and objects authorized by the SHPO, and within twelve (12) months of their excavation, pursuant to §§ 194.400-194.410, RSMo, and pursuant to any provisions of the Native American Graves Protection and Repatriation Act (NAGPRA) applicable to such remains and artifacts found on non-federal lands
 5. The signatories recognize that Native American skeletal remains, associated or unassociated funerary objects, sacred objects, and objects of cultural patrimony that may be discovered during the archaeological survey, testing, or data recovery excavations on federal land are subject to NAGPRA. The land managing federal agency, the Corps, shall, with assistance from FHWA and MoDOT, assume responsibility for compliance with NAGPRA related to this undertaking.
- B. If appropriate and suitable for public education, methods to make this information available to the public will be explored by the signatories and any other interested consulting parties.

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- VI. Reporting
 - A. MoDOT shall report annually at the end of the state fiscal year (on or about June 30), to the SHPO and consulting parties, about the status of the bridge projects and the mitigation efforts.
- VII. Duration
 - A. This PA shall be in effect for twenty (20) years from the date of execution. Prior to the expiration of this PA, the FHWA, SHPO and MoDOT may consult with the other consulting parties to reconsider the terms of the PA and amend it in accordance with Stipulation IV below or extend it for a five (5) year period.
- VIII. Amendments
 - A. This PA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date the amendment is filed and signed by the Council.
- IX. Termination
 - A. If any signatory to this PA 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 VIII above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the PA upon written notification to the other signatories.

Execution of this Programmatic Agreement by the FHWA, the SHPO and the MHTC and implementation of its terms evidence that FHWA has taken into account the effects of this undertaking on historic properties and afforded the Council an opportunity to comment.


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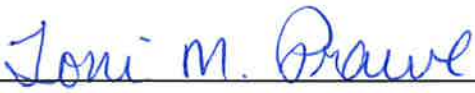
Execution of this PA by the FHWA, the Missouri SHPO and MHTC and implementation of its terms evidence that FHWA has taken into account the effects of undertakings on the Three Bridges Historic District, the Sinking Creek Bridge (H0079), the Current River Bridge (G0804), and the Round Spring/Spring Valley Bridge (J0420) in Shannon County, Missouri, and have afforded the Council an opportunity to comment.

Signed:


FEDERAL HIGHWAY ADMINISTRATION:

By:  Date: 8/9/16
Title: Program Development Team Leader


THE MISSOURI STATE HISTORIC PRESERVATION OFFICE:

By:  Date: 08/03/16
Title: Deputy SHPO

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION:

By:  Date: 7-29-16
Title: Assistant Chief Engineer

Attest: 
Commission Secretary

Approved as to form: 
Commission Counsel