

MEMORANDUM OF AGREEMENT
AMONG THE
FEDERAL HIGHWAY ADMINISTRATION, CITY OF JONESBORO,
ARKANSAS, ARKANSAS STATE HIGHWAY AND TRANSPORTATION
DEPARTMENT AND THE
ARKANSAS STATE HISTORIC PRESERVATION OFFICER
REGARDING

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT
JOB NUMBER 100412
HWY. 67 – HWY. 49 P. E.
HIGHWAY 226, CRAIGHEAD COUNTY, ARKANSAS
AHTD BRIDGE NUMBERS M2403 AND M2407

WHEREAS, the Cache River Bridge (M2403) and Bayou DeView Bridge (M2407) located on Highway 226 over the Cache River and Bayou DeView in Craighead County, Arkansas are properties eligible for inclusion in the National Register of Historic Places (NRHP); and

WHEREAS, the Federal Highway Administration (FHWA) and the City of Jonesboro, Arkansas (hereafter the City, the Arkansas State Highway and Transportation Department (AHTD) and the Arkansas State Historic Preservation Officer (SHPO) all desire that the Cache River Bridge and Bayou DeView Bridge be preserved and protected for the benefit of present and future generations, retaining their historically and architecturally significant features; and

WHEREAS, the City has committed to reuse the Cache River Bridge and Bayou DeView Bridge on a greenway trail in Jonesboro; and

WHEREAS, the FHWA and SHPO have determined that the relocation of the Cache River Bridge and Bayou DeView Bridge will have an adverse effect on these historic properties; and

WHEREAS, the FHWA must fulfill its responsibilities under Section 106 of the National Historic Preservation Act of 1966, as amended and the implementing regulations of the Advisory Council on Historic Preservation set forth in 36 CFR Part 800; and

WHEREAS, the Section 106 regulations and definitions set forth in 36 CFR Part 800 shall be followed in this Memorandum of Agreement (MOA) and historic preservation covenant; and

NOW THEREFORE, the signatories agree that in order to mitigate the adverse effect on the Cache River Bridge and Bayou DeView Bridge the project shall be implemented with the following stipulations in the historic preservation covenant in order to take into account the effect of this undertaking on historic properties.

HISTORIC PRESERVATION COVENANT

The City, by acceptance of this deed, covenants and agrees, for itself, its successors and assigns, and for every successor in interest to the property herein described, or any part thereof, it shall abide by each of the following covenants, each of which will be covenants running with the property. In addition, the United States of America, or its designee, shall be deemed a beneficiary of each of the following covenants without regard to whether it remains the owner of the Cache River Bridge and the Bayou DeView Bridge hereby conveyed and shall have a right to enforce each of the following covenants in any court of competent jurisdiction; provided, however, the United States, or its designee, shall have no affirmative duty to any successor in title to this conveyance to enforce any of the following covenants herein agreed:

1. The City must remove the bridges from the storage area within a year of their delivery for storage at the site.
2. The Cache River Bridge and the Bayou DeView Bridge will be preserved and maintained in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties.
3. No structural changes or changes of color may be made to the Cache River Bridge and the Bayou DeView Bridge once the bridges are placed in their new locations, without first notifying the FHWA and the AHTD in writing and SHPO for written approval.
4. The City must provide public access to the Cache River Bridge and the Bayou DeView Bridge or upon removal of public access must notify the FHWA, the AHTD, and SHPO in writing as to the disposition of these historic properties.
5. If the City does not reassemble the Cache River Bridge and the Bayou DeView Bridge any demolition funds used to reimburse the City for relocating the Bridges will be returned to FHWA.

6. The FHWA, the AHTD and SHPO reserve the right to visit the relocation sites to confirm that the bridges have been reassembled.
7. If the City is unable to fulfill its preservation responsibilities to the Cache River Bridge and the Bayou DeView Bridge, which would dictate the abandonment or removal of the historic properties from their new location, the City must notify the FHWA, the AHTD and the SHPO in writing and produce and submit documentation on the bridges to the signatories that meets the standards put forth by the Historic American Engineering Record of the National Park Service.
8. In the event of violation of the above restriction, the FHWA, the AHTD or SHPO may institute an injunction or suit to enjoin such violation or for damages by reason of any breach thereof.
9. These restrictions shall be binding on the FHWA, SHPO and the City hereto, their successors, and assigns in perpetuity; however, the SHPO may, for good cause, and with the concurrence of FHWA, modify or cancel any or all of the foregoing restrictions upon written application of the City, its successors or assigns.
10. The acceptance of the delivery of this ratified MOA and historic preservation covenant shall constitute conclusive evidence of the agreement of the City to be bound by the obligations herein set forth.
11. Any proposed changes or modification of the Cache River Bridge and Bayou DeView Bridge shall be in compliance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. The FHWA, the AHTD and SHPO shall provide guidance in the planning and change of the properties according to those Standards. If the signatories are unable to agree on proposed changes, the FHWA shall forward all documentation relevant to the dispute to the Advisory Council on Historic Preservation (Council) pursuant to 36 CFR Part 800. The FHWA will consider any such comments from the Council and , if necessary, take action in accordance with the terms and conditions of these covenants.

Execution and implementation of this MOA and historic preservation covenant evidences that the FHWA has afforded the Council a reasonable opportunity to comment on this undertaking pursuant to 36 CFR Part 800, and the FHWA has taken into account the effect on this project on historic properties

2009-016

WHEREAS, IN CRAIGHEAD COUNTY, Job 100412, Hwy. 67 – Hwy. 49 on Highway 226 calls for the removal of Bridges M2403 and M2407, commonly known as the Cache River Bridge and the Bayou DeView Bridge; and

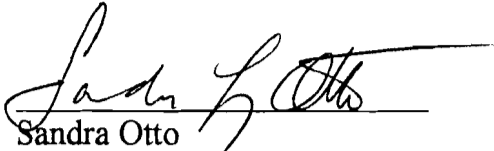
WHEREAS, the Mayor of Jonesboro has requested that the Department transfer Bridges M2403 and M2407 to the City of Jonesboro for transportation uses as pedestrian bridges; and

WHEREAS, the City of Jonesboro shall agree to adopt a release of title holding the Department, its officers, and employees harmless from any action of any kind; to prohibit vehicular traffic on the bridges in perpetuity; and to assume responsibility for maintenance and inspection of the bridges in consideration for the transfer of the bridges to the City of Jonesboro.

NOW THEREFORE, the Director is authorized to release the bridges commonly known as the Cache River Bridge and the Bayou DeView Bridge (Bridges M2403 and M2407) to the City of Jonesboro upon completion of Job 100412.


Signatories

FEDERAL HIGHWAY ADMINISTRATION


Sandra Otto
Division Administrator

4/1/09
Date

ARKANSAS STATE HISTORIC PRESERVATION OFFICER


Cathie Matthews
Arkansas SHPO

3/31/09
Date

CITY OF JONESBORO, ARKANSAS

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

Dan Flowers
Director

Date