

**PROGRAMMATIC AGREEMENT
AMONG
THE U.S. ARMY CORPS OF ENGINEERS, TULSA DISTRICT,
TULSA COUNTY DRAINAGE DISTRICT NUMBER 12,
THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICER,
THE MUSCOGEE (CREEK) NATION,
THE OSAGE NATION, AND
THE OKLAHOMA ARCHEOLOGICAL SURVEY
REGARDING COMPLIANCE WITH SECTION 106 OF THE NATIONAL
HISTORIC PRESERVATION ACT FOR
THE TULSA AND WEST TULSA LEVEES FEASIBILITY STUDY
IN
TULSA COUNTY, OKLAHOMA**

WHEREAS, the U.S. Army Corps of Engineers (USACE) has determined that the Tulsa and West Tulsa Levees require structural improvements in order to safely meet authorized purposes and to reduce risk to the public and property from performance deficiencies; and

WHEREAS, the Tulsa and West-Tulsa Levee System is comprised of three levees constructed between 1935 and 1945, which are known as Levees "A", "B", and "C", with Levees A and B running along the left bank and Levee C along the right bank of the Arkansas River in Tulsa County, Oklahoma. Levee A extends from 36°08'12" N, 96°07'30" W to 36°08'47" N, 96°04'04" W. Levee B extends from 36°09'29" N, 96°02'41" W to 36°08'46" N, 96°00'25" W. Levee C extends from 36°07'58" N, 96°03'08" W to 36°06'59" N to 96°00'51" W. The project area is depicted on 7.5 minute USGS topographic maps in Attachment A; and

WHEREAS, the USACE is conducting the Tulsa and West Tulsa Levees Feasibility Study (Study) to develop and analyze alternatives to reduce flood risk in accordance with the National Environmental Policy Act (NEPA), ER 1105-2-100, and ER 1110-2-1156; and

WHEREAS, the USACE, has determined that modifications to the Tulsa and West Tulsa Levees (hereinafter, "undertaking") may have an effect on historic properties eligible for listing in the National Register of Historic Places (NRHP) (hereinafter, "historic properties"), and has consulted with the Oklahoma State Historic Preservation Officer (SHPO) pursuant to Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108) (NHPA), as amended, and its implementing regulations (36 CFR § 800); and

WHEREAS, the Oklahoma State Historic Preservation Officer (SHPO) and Oklahoma Archeological Survey (OAS) have entered into a cooperative agreement under which the State Archaeologist at the OAS provides special services to the SHPO in the Section 106 review process. OAS maintains the inventory of Oklahoma's archaeological resources and provides professional services to the SHPO in pre-contact and post-contact archaeological resources. The State Archaeologist at the OAS reviews federal undertakings for possible

impacts on pre-contact archaeological resources and provides written comments as the SHPO's official representative; and

WHEREAS, Tulsa County Drainage District Number 12 is the non-Federal sponsor (NFS) with the USACE for construction and maintenance of this undertaking, and is providing the necessary lands, easements, relocations and rights-of-way; and

WHEREAS, the USACE has consulted with the NFS on this programmatic agreement (PA) pursuant to section 800.14 of the regulations (36 CFR 800) implementing Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA) and the NFS has elected to sign this PA as a Signatory; and

WHEREAS, the USACE has consulted with the SHPO on this PA pursuant to section 36 CFR 800.14 and the SHPO has elected to sign this PA as a Signatory; and

WHEREAS, the USACE has consulted with the OAS on the development of this PA pursuant to 36 CFR 800.14(b)(2)(ii) and the OAS has elected to sign the PA as an Invited Signatory; and

WHEREAS, in accordance with 36 CFR 800, the USACE has consulted with the Cherokee Nation, the Osage Nation, and the Muscogee (Creek) Nation, for which the undertaking was believed to be in these Tribal Nations' areas of interest, and for which historic properties within the focused study area of the undertaking are believed to have religious and cultural significance to these Tribal Nations; and

WHEREAS, the USACE has consulted with the City of Tulsa and the Mass Graves Investigation Public Oversight Committee, for which the undertaking was believed to be in close proximity to areas being investigated by the City for the potential to contain mass burials associated with the Massacre; and

WHEREAS, the Cherokee Nation stated that it does not foresee this undertaking imparting impacts to Cherokee cultural resources but wishes to be contacted for consultation in the event items of cultural significance are discovered during the course of the project; and

WHEREAS, the USACE has invited the Osage Nation and the Muscogee (Creek) Nation to participate in the PA as Invited Signatories in accordance with 36 CFR 800.6(c)(2) and these Tribes have elected to sign the PA as Invited Signatories; and

WHEREAS, the City of Tulsa and the Mass Graves Investigation Public Oversight Committee have elected not to participate in the development of this PA at this time, but may choose to participate in the future, as the USACE will continue to consult with these parties regarding potential impacts to historic properties associated with the undertaking; and

WHEREAS, the USACE, the NFS, the SHPO, the Osage Nation, the Muscogee (Creek) Nation, and the OAS have agreed that because effects on historic properties cannot be fully

determined or resolved prior to the approval of the undertaking, it is advisable to execute this PA for the purpose of identifying and evaluating potential effects on historic properties related to the undertaking in accordance with 36 CFR 800.6 and 36 CFR 800.14(b)(1)(ii); and

WHEREAS, the draft Area of Potential Effects (APE) is provided in Attachment A and includes the entire existing footprint of Levees A and B, the proposed detention pond at the intersection of Harlow Creek and Sand Springs Expressway, and existing pump stations 6 and 7 located within Levee C; and

WHEREAS, the USACE held a public meeting on February 13, 2019 in Sand Springs, Oklahoma and no comments regarding cultural resources were received from the general public; and

WHEREAS, the USACE has notified and invited the Advisory Council on Historic Preservation (ACHP) to participate as required by 36 CFR 800.6(a)(1)(i)(C) and the ACHP has declined to enter into the Section 106 process at this time.

NOW, THEREFORE, the USACE, the NFS, the SHPO, the OAS, the Muscogee (Creek) Nation, and the Osage Nation agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effects of the undertaking on historic properties:

Stipulations

I. Identification, Evaluation, Effect Determination, and Resolution

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

- A. Scope of Undertaking. This PA shall be applicable to all excavation, modification of existing flood risk management infrastructure, construction of temporary access routes and construction staging areas and any other ground disturbing activities proposed by the Tulsa and West Tulsa Levees Feasibility Study. The APE shall be established by the USACE in consultation with the Signatories and Invited Signatories of the PA, and shall include all areas to be directly and indirectly affected by the undertaking.
- B. Qualifications and Standards. The USACE shall ensure that all work conducted in conjunction with this PA is performed in a manner consistent with the Secretary of Interior's "Standards and Guidelines for Archeology and Historic Preservation" (48 FR 44716-44740; September 23, 1983), as amended, or the Secretary of the Interior's "Standards for the Treatment of Historic Properties" (36 CFR 68). Except where otherwise stipulated in this PA, the USACE shall ensure that all survey and reporting conducted in association with this PA shall adhere to the Osage Nation Historic Preservation Office Archaeological Survey Standards and the Archaeological Standards for the Muscogee (Creek) Nation, which are included herein as Attachment B.

- C. Definitions. The definitions set forth in 36 CFR § 800.16 are incorporated herein by reference and apply throughout this PA.
- D. Identification of Historic Properties. Prior to the initiation of construction, the USACE shall identify historic properties located within the APE. These steps may include, but are not limited to, background research, consultation, oral history interviews, sample field investigations, and field survey. The level of effort for these activities shall be determined in consultation with the SHPO, OAS, and Tribes. All draft scopes of work and reports of survey or site testing investigations shall be submitted to the SHPO, OAS, and Tribes for review and comment. If previously recorded archaeology sites are revisited during cultural resource investigations, USACE will provide updated site forms to SHPO and OAS for those sites. If comments are not received by the USACE within thirty (30) days of receipt, the reports and their recommendations shall be considered adequate and the reports may be finalized, unless a fifteen (15) day extension is approved by the USACE. If comments from the Osage Nation or the Muscogee (Creek) Nation are not received by the USACE within thirty (30) calendar days, the USACE will contact the Tribe(s) by phone to elicit their intent and comment. Comments received by the USACE from the SHPO, OAS, or Tribes shall be addressed in the final reports, which shall be provided to all consulting parties. If no historic properties are identified in the APE, the USACE shall document this finding pursuant to 36 CFR § 800.11(d), and provide this documentation to the SHPO and Tribes.
- E. Evaluation of National Register Eligibility. If historic resources are identified within the APE, the USACE shall determine their eligibility for the NRHP in accordance with the process described in 36 CFR § 800.4(c) and criteria established in 36 CFR 60. All draft reports of NRHP site testing or other NRHP investigations shall be submitted to the SHPO, OAS, and Tribes for review and comment. If comments are not received by the USACE within thirty (30) days of receipt, the reports or investigations and their recommendations shall be considered adequate and the reports may be finalized, unless a fifteen (15) day extension is approved by the USACE. If comments from the Osage Nation or the Muscogee (Creek) Nation are not received by the USACE within thirty (30) calendar days, the USACE will contact the Tribe(s) by phone to elicit their intent and comment. Comments received by the USACE from the SHPO, OAS, or Tribes shall be addressed in the final report, which shall be provided to all consulting parties. The determinations of significance shall be conducted in consultation with the SHPO, OAS, and Tribes. Should the USACE, SHPO, OAS, and Tribes agree that a property is or is not eligible, such consensus shall be deemed conclusive for the purpose of this PA. Should the USACE, SHPO, OAS, and Tribes not agree regarding the eligibility of a property, the USACE shall obtain a determination of eligibility from the Secretary of the Interior pursuant to 36 CFR 63. If the Osage Nation or the Muscogee (Creek) Nation does not agree with the determination of the Secretary of the Interior for sites not on tribal lands

to which they attach religious and cultural significance, the Tribe may ask the ACHP to request the agency official to obtain a determination of eligibility. For historic properties found not eligible for the NRHP, no further protection or consideration of the site will be afforded for compliance purposes.

F. Assessment of Adverse Effects.

1. No Historic Properties Affected. The USACE shall evaluate the effect of the undertaking on each historic property in the APE. The USACE may conclude that no historic properties are affected by an undertaking if no historic properties are present in the APE, or the undertaking will have no effect as defined in 36 CFR § 800.16(i). This finding shall be documented in compliance with 36 CFR § 800.11(d) and the documentation described in Stipulation I.D. shall be provided to the SHPO, the Tribes and OAS for review and comment. If comments from the OAS and SHPO are not received by the USACE within thirty (30) days, the reports or investigations and their recommendations shall be considered adequate and the reports may be finalized. If comments from the Osage Nation or the Muscogee (Creek) Nation have not been received within thirty (30) calendar days, the USACE will contact the Tribe(s) by phone to elicit their intent and comment. The USACE shall retain documentation of the findings for at least seven (7) years and shall provide information on the finding to the public upon request, consistent with the confidentiality requirements or 36 CFR § 800.11(c) and Section 304 of the NHPA.
2. Finding of No Adverse Effect. The USACE, in consultation with the SHPO, OAS, and Tribes shall apply the criteria of adverse effect to historic properties within the APE in accordance with 36 CFR § 800.5. The USACE may propose a finding of no adverse effect if the undertaking's effects do not meet the criteria of 36 CFR § 800.5(a)(1) or the undertaking is modified to avoid adverse effects in accordance with 36 CFR 68. The USACE shall provide to the SHPO, the Tribes and OAS documentation of this finding meeting the requirements of 36 CFR § 800.11(e). The SHPO, OAS and Tribes shall have thirty (30) days in which to review the findings and provide a written response to the USACE. If comments from the Osage Nation or the Muscogee (Creek) Nation have not been received within thirty (30) calendar days, the USACE will contact the Tribe(s) by phone to elicit their intent and comment. Failure of the SHPO, OAS, or Tribes to respond with 30 calendar days of receipt of the finding shall be considered agreement with the finding, unless a fifteen (15) day extension is approved by the USACE. The USACE shall maintain a record of the finding for at least seven (7) years and provide information on the finding to the public upon request, consistent with the confidentiality requirements of 36 CFR § 800.11(c) and Section 304 of the NHPA.
3. Resolution of Adverse Effect. If the USACE determines that the undertaking will have an adverse effect on historic properties as measured by criteria in 36

CFR § 800.5(a)(1), the USACE shall consult with the SHPO, OAS and Tribes to resolve adverse effects in accordance with 36 CFR § 800.6.

- a) For historic properties that the USACE, the Tribes, the OAS and the SHPO agree will be adversely affected, the USACE shall:
 - (1) Consult with the SHPO to identify other individuals or organizations to be invited to become consulting parties. If additional consulting parties are identified, the USACE shall provide them copies of documentation specified in 36 CFR § 800.11(e) subject to confidentiality provisions of 36 CFR § 800.11(c).
 - (2) Afford the public an opportunity to express their views on resolving adverse effects in a manner appropriate to the magnitude of the project and its likely effects on historic properties.
 - (3) Consult with the SHPO, OAS, Tribes, and any additional consulting parties to seek ways to avoid, minimize or mitigate adverse effects.
- b) If the USACE, the SHPO, the OAS, and the Tribes agree that mitigation of adverse effects to a historic property is required, the USACE shall prepare an appropriate mitigation plan, in consultation with the Signatories and Invited Signatories of the PA, which describes mitigation measures proposed by the USACE. Signatories and Invited Signatories shall have fifteen (15) calendar days to provide written response to the proposed mitigation plan. Upon fulfillment of the mitigation plan, the USACE shall notify the Signatories and Invited Signatories in writing.
- c) If the USACE, OAS, and the SHPO fail to agree on how adverse effects will be resolved, the USACE shall request that the ACHP join the consultation and shall provide the ACHP and all consulting parties with documentation pursuant to 36 CFR § 800.11(g).
- d) If the ACHP agrees to join the consultation, the USACE shall proceed in accordance with 36 CFR § 800.9.
- e) If, after consulting to resolve adverse effects, the ACHP, the USACE, OAS, the Tribes, or the SHPO determines that further consultation will not be productive, then any party may terminate consultation in accordance with the notification requirements and processes prescribed in 36 CFR § 800.7.

II. Post Review Changes and Discoveries

- A. Changes in the Undertaking. If construction on the undertaking has not commenced and the USACE determines that it will not conduct the undertaking

as originally coordinated, the USACE shall reopen consultation pursuant to Stipulation I. A-F of this PA.

B. Unanticipated Discoveries or Effects. Pursuant to 36 CFR § 800.13(b)(3), if historic properties are discovered or unanticipated effects on historic properties are found after construction on an undertaking has commenced, the USACE shall ensure the following steps are taken:

1. The Contractor will immediately notify the Lead Environmental Inspector ("EI") of an unanticipated discovery.
2. The Lead EI will immediately direct a *Stop Work* order within a ninety (90) meter radius of the discovery to the Contractor's Site Foreman to flag or fence off the archaeological discovery location and direct the Contractor to take measures to ensure site security. Any discovery made on a weekend or overnight hours will be protected until all appropriate parties are notified of the discovery. The Contractor will not restart work in the ninety (90) meter radius area of the find until USACE, in consultation and concurrence with the Signatories and Invited Signatories of this PA, has granted clearance.
3. The Lead EI will indicate the location and date of the discovery on the project plans and will provide the information to the USACE archaeologist.
4. Within twenty-four (24) hours of receipt of notification of the discovery, the USACE archaeologist shall:
 - a) Inspect the work site and determine the extent of the affected archaeological resource and ensure that construction activities have halted;
 - b) Ensure the area of the discovery is marked by means of flagging or fencing within the ninety (90) meter radius to protect the area from looting and vandalism; and
5. Notify by phone the SHPO and appropriate Tribes.
6. The USACE archaeologist will conduct a preliminary assessment of the find to determine if the find is of historic or less than fifty (50) years of age and whether the cultural material represents an archaeological site of unknown or potential significance.
 - a) If the find is determined to not be a potentially significant archaeological site or TCP and receives concurrence by the interested Tribes and SHPO, the Lead EI will notify the Contractor's Work Foreman to resume work.

- b) If the USACE archaeologist determines the find represents an archaeological site of unknown or potential significance, the USACE will notify all parties to the PA within twenty-four hours (24) hours. Work will not resume at this location until USACE has provided authorization.
7. The USACE archaeologist will begin a more detailed assessment of the find's significance and the potential project effects in a manner consistent with National Register Bulletin 15 "How to Apply the National Register Criteria for Evaluation" (NPS 1990). The USACE archaeologist will dispatch an archaeological team to the site to determine the nature and extent of the archaeological deposits; USACE will ensure that the team has full access to the required site area and be accommodated by the Contractor to complete this investigation within fourteen (14) calendar days. The USACE, interested Tribes, or SHPO may extend this fourteen (14) day calendar period one time, with the party requesting extension providing written notice to the other parties prior to the expiration date of the said fourteen (14) day calendar period. All parties must approve the requested extension and its duration in writing.
 8. The USACE archaeologist will notify all parties of the PA of the archaeological team's findings and recommendations.
 9. If the archaeological deposits are determined to be eligible for listing in the NRHP and is threatened by further project development, the USACE shall develop and execute a mitigation plan in accordance with Stipulation I. F(3)(b) of this PA.
 10. Teleconferences may be held with parties of the PA to discuss options and recommendations.
 11. Upon request, parties of the PA and their representatives shall be allowed to visit the site with the USACE archaeologist.
 12. A meeting, site visit, or teleconference may be held with parties of the PA to assess mitigation activities.
 13. Duration of any work stoppages will be contingent upon the significance, size, and depth of the identified archaeological resource(s). The USACE archaeologist, in consultation with parties to the PA, will determine the appropriate measures to avoid, minimize, or mitigate any adverse effects to historic properties.
 14. If the Signatories and Invited Signatories of the PA cannot reach agreement regarding the NRHP eligibility of a site or the resolution of adverse effects, the USACE shall seek and take into account the recommendations of the ACHP in accordance with Stipulations I.E. and I.F(3)(c-e) of this PA.

- C. Unanticipated Discoveries of Human Remains and/or Funerary Objects. The USACE will treat any human remains and/or funerary objects encountered during the undertaking in a manner guided by the ACHP's *Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects* (2007). In the event that human remains and/or funerary objects are discovered during historic properties investigations or during construction, the USACE will implement the following steps:
1. The Contractor will immediately notify the Lead EI of an unanticipated discovery of potential human remains and/or funerary objects.
 2. The Lead EI will immediately direct a *Stop Work* order within a ninety (90) meter radius of the discovery to the Contractor's Site Foreman to flag or fence off the discovery location and direct the Contractor to take measures to ensure site security. Any discovery made on a weekend or overnight hours will be protected until all appropriate parties are notified of the discovery. The Contractor will not restart work within the ninety (90) meter radius area of the find until USACE, in consultation and concurrence with the Signatories and Invited Signatories of the PA, has granted clearance.
 3. The Lead EI will indicate the location and date of the discovery on the Project plans by a notation of "sensitive avoidance area" and notify the USACE archaeologist.
 4. The USACE archaeologist will immediately notify local law enforcement and the office of the Chief Medical Examiner of the human remains and/or funerary objects. They shall be allowed access to the location of the discovery to conduct their investigation.
 5. Within twenty-four (24) hours of receipt of notification of the discovery, the USACE archaeologist shall:
 - a) Inspect the work site and determine the extent of the affected human remains and/or funerary objects and ensure that construction activities have halted;
 - b) Ensure the area of the discovery is marked by means of flagging or fencing within the ninety (90) meter radius to protect the area from looting and vandalism.
 - c) Notify all parties to the PA of the discovery.
 6. At all times human remains and/or funerary objects must be treated with the utmost dignity and respect. Human remains and/or associated artifacts will be left in place and not disturbed. No skeletal remains or materials

associated with the remains will be collected or removed until appropriate consultation has taken place and a plan of action has been developed. Photography of human remains shall not be allowed except as necessary for purposes of: 1) law enforcement investigations; and 2) archaeological investigations as part of an approved scope of work for survey, testing, or mitigation, which has been reviewed and received concurrence from Signatories and Invited Signatories to the PA, following Stipulations I.D-F of this PA.

7. If it is declared a criminal matter, the USACE archaeologist will have no further involvement and the decision to declare it a *Cleared Site* for construction will be made by the appropriate legal authorities.
8. If it is determined that the human remains and/or funerary objects are not Native American, USACE will consult with the Oklahoma State Archaeologist, the SHPO, and descendants or other interested parties regarding appropriate treatment measures. The State Archaeologist and the SHPO, with the Director of the Oklahoma Museum of Natural History may designate a repository for curation of skeletal remains and burial furniture in accordance with Oklahoma State Statutes § 21-1168.2 and § 21-1168.5.
9. If the find is more likely Native American, the USACE archaeologist, in consultation with Signatories and Invited Signatories of the PA, will comprehensively evaluate the potential to avoid and/or minimize the undertaking's effects to the human remains and/or funerary objects. If no feasible avoidance plan can be developed to allow the human remains and/or funerary objects to stay in place, in consultation with interested Tribes and SHPO, USACE will engage in the development of a site-specific disinterment/re-interment plan.
10. In order to ensure compliance with NAGPRA and until there is evidence to the contrary, all human remains will be treated as potentially Native American and shall be secured and protected pursuant to the requirements of NAGPRA and its regulation with notification and consultation with the appropriate Tribes.
11. Given the proximity of the undertaking to areas being investigated by the City of Tulsa for the presence of human remains associated with the Tulsa Race Massacre of 1921, until there is evidence to the contrary, all human remains will also be treated as potential victims of the Massacre, with notification and consultation of the City of Tulsa, the Mass Graves Investigation Public Oversight Committee, and other descendants as determined appropriate.
12. Human remains and/or funerary objects will be left in place and protected

from further disturbance until a site-specific work plan for their avoidance or removal can be generated. Please note that avoidance is the preferred choice of the Tribes.

15. Upon request, SHPO and the Tribes or descendants shall be able to visit the site with the USACE archaeologist.

III. Curation and Disposition of Recovered Materials, Records, and Reports

- A. Curation. The USACE shall ensure that all archaeological materials and associated records owned by the State of Oklahoma or the NFS, which result from identification, evaluation, and treatment efforts conducted under this PA, are accessioned into a curation facility and maintained in perpetuity in accordance with the standards of 36 CFR 79, except as specified in Stipulation IV for human remains. The USACE shall be responsible for the development and execution of any cost sharing, reimbursement, or other collections management agreement for materials and records owned by the State of Oklahoma or the NFS in accordance with 36 CFR 79. Archeological items and materials from privately owned lands shall be returned to their owners upon completion of analyses required for Section 106 compliance under this PA.
- B. Reports. Draft survey reports will be coordinated with parties of the PA in accordance with Stipulation I. D. Within 30 days of receiving the approved final, the USACE shall provide copies of final technical reports of investigations and mitigation to all parties of the PA, as well as additional copies for public distribution, with locations of archaeological sites redacted, as appropriate. All consulting parties shall withhold site location information or other data that may be of a confidential or sensitive nature pursuant to 36 CFR § 800.11(c).

IV. PA Amendments, Disputes and Termination

- A. Amendments. Any party to the PA may propose to the other parties that it be amended, whereupon the parties will consult in accordance with 36 CFR § 800.6(c)(7) to consider such an amendment. The amendment will be effective on the date a signed copy executed by the Signatories and Invited Signatories is filed with the ACHP.
- B. Disputes. Disputes regarding the completion of the terms of this PA shall be resolved by the Signatories and Invited Signatories. If the Signatories and Invited Signatories cannot agree regarding a dispute, they may request the participation of the ACHP in resolving the dispute in accordance with the procedures outlined in 36 CFR § 800.9. Within fifteen (15) calendar days of such a request, the USACE shall forward to the ACHP, and all Signatories and Invited Signatories all documentation relevant to the dispute, including the USACE's proposed resolution of the dispute. The ACHP will respond to the request within thirty (30)

calendar days of receiving all documentation. The USACE will take any recommendations or comments from the ACHP into account in resolving the dispute. In the event that the ACHP fails to respond to the request within thirty (30) calendar days of receiving all documentation, the USACE may assume the ACHP's concurrence with its proposed resolution and proceed with resolving the dispute.

- C. Termination of PA. Signatories and Invited Signatories to this PA may terminate it by providing a sixty (60) calendar day notice to the other parties, provided that the parties will consult during the period prior to the termination to seek agreement on amendments or other actions that will avoid termination. In the event of termination of this PA the USACE shall comply with the provisions of 36 CFR § 800, Subpart B.

V. Term and Status of this PA

- A. This PA remains in force for a period of ten (10) years from the date of its execution by all Signatories unless terminated pursuant to Stipulation I.V.C. Sixty (60) calendar days prior to the conclusion of the ten (10) year period, the USACE shall notify all parties in writing of the end of the ten year period to determine if they have any objections to extending the term of this PA. If there are no objections received prior to expiration, the PA will continue to remain in force for a new ten (10) year period.
- B. The USACE shall notify by email and/or make arrangements for a teleconference with all parties of this PA each year for the purposes of updating all parties on the current status of the PA.

Execution of this PA and implementation of its terms evidences that the USACE has afforded the ACHP an opportunity to comment on the undertaking and its effects on historic properties, and that the USACE has taken into account those effects and fulfilled Section 106 responsibilities regarding the undertaking.

Signature Page for the U.S. Army Corps of Engineers

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AMONG
THE U.S. ARMY CORPS OF ENGINEERS, TULSA DISTRICT,
TULSA COUNTY DRAINAGE DISTRICT NUMBER 12,
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THE MUSCOGEE (CREEK) NATION,
THE OSAGE NATION, AND
THE OKLAHOMA ARCHEOLOGICAL SURVEY
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THE TULSA AND WEST TULSA LEVEES FEASIBILITY STUDY
IN
TULSA COUNTY, OKLAHOMA**

Signatory:

U.S. ARMY CORPS OF ENGINEERS, TULSA DISTRICT



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PRESTON.SCOTT.STEVEN.1144166678
Date: 2020.01.31 17:45:17 -06'00'

31 January 2020

**Colonel Scott Preston
Commander and District Engineer, USACE Tulsa District**

Date

Signature Page for State Historic Preservation Officer

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Signatory:

OKLAHOMA STATE HISTORIC PRESERVATION OFFICER



**Dr. Bob Blackburn
Oklahoma State Historic Preservation Officer**

1-31-20

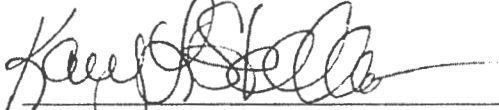
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Signature Page for Oklahoma Archeological Survey

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Invited Signatory:

OKLAHOMA ARCHEOLOGICAL SURVEY



Dr. Kary L. Stackelbeck
State Archaeologist, Oklahoma Archeological Survey

1/31/20

Date

Signature Page for Tulsa County, Oklahoma

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Signatory:

TULSA COUNTY DRAINAGE DISTRICT NUMBER 12



Todd Kilpatrick

Levee Commissioner, Tulsa County Drainage District 12




Date

Signature Page for the Muscogee (Creek) Nation

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Invited Signatory:

MUSCOGEE (CREEK) NATION



Chief David Hill

Principal Chief, Muscogee (Creek) Nation



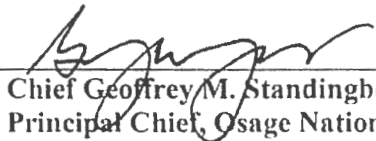
Date

Signature Page for the Osage Nation

**PROGRAMMATIC AGREEMENT
AMONG
THE U.S. ARMY CORPS OF ENGINEERS, TULSA DISTRICT,
TULSA COUNTY DRAINAGE DISTRICT NUMBER 12,
THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICER,
THE MUSCOGEE (CREEK) NATION,
THE OSAGE NATION, AND
THE OKLAHOMA ARCHEOLOGICAL SURVEY
REGARDING COMPLIANCE WITH SECTION 106 OF THE NATIONAL
HISTORIC PRESERVATION ACT FOR
THE TULSA AND WEST TULSA LEVEES FEASIBILITY STUDY
IN
TULSA COUNTY, OKLAHOMA**

Invited Signatory:

OSAGE NATION


Chief Geoffrey M. Standingbear
Principal Chief, Osage Nation

1 - 31 - 2020

Date