



**US Army Corps  
of Engineers ®**

Tulsa District

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# **APPENDIX I: Cultural Resources Tulsa and West-Tulsa Levees Feasibility Study**

**September 2019**

## APPENDIX I CULTURAL RESOURCES

The U.S. Army Corps of Engineers (USACE), in cooperation with the Tulsa County Drainage District Number 12, proposes to improve the aging and degraded Tulsa and West Tulsa Levees in order to reduce flood risk in the surrounding communities. Located in Tulsa County, Oklahoma, the levee system is comprised of three trapezoidal earthen levees constructed between 1935 and 1945, which have a combined length of approximately 20 miles and protect an estimated 10,000 community members. Proposed levee improvements include installing a filter berm on the land side of Levees A and B, construction of an approximately 2,000-foot cutoff wall adjacent to Levee A in the vicinity of the Sand Springs Petrochemical Complex, excavating two dry detention areas near the intersection of N. 49<sup>th</sup> West Avenue and the Sand Springs Expressway, and replacement of several existing pump facilities (Figure 1).

Under Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA), the USACE must consider potential impacts to cultural resources associated with the proposed undertaking. Because potential impacts to cultural resources cannot be fully determined prior to completion of the Tulsa-West Tulsa Levees Feasibility Study, USACE is developing a programmatic agreement (PA), in accordance with 36 CFR 800.14. A copy of the Draft PA, which stipulates the responsibilities of all signatories under Section 106 of the NHPA, is included herein. The executed Final PA will be included in Appendix I of the Final Feasibility Report.

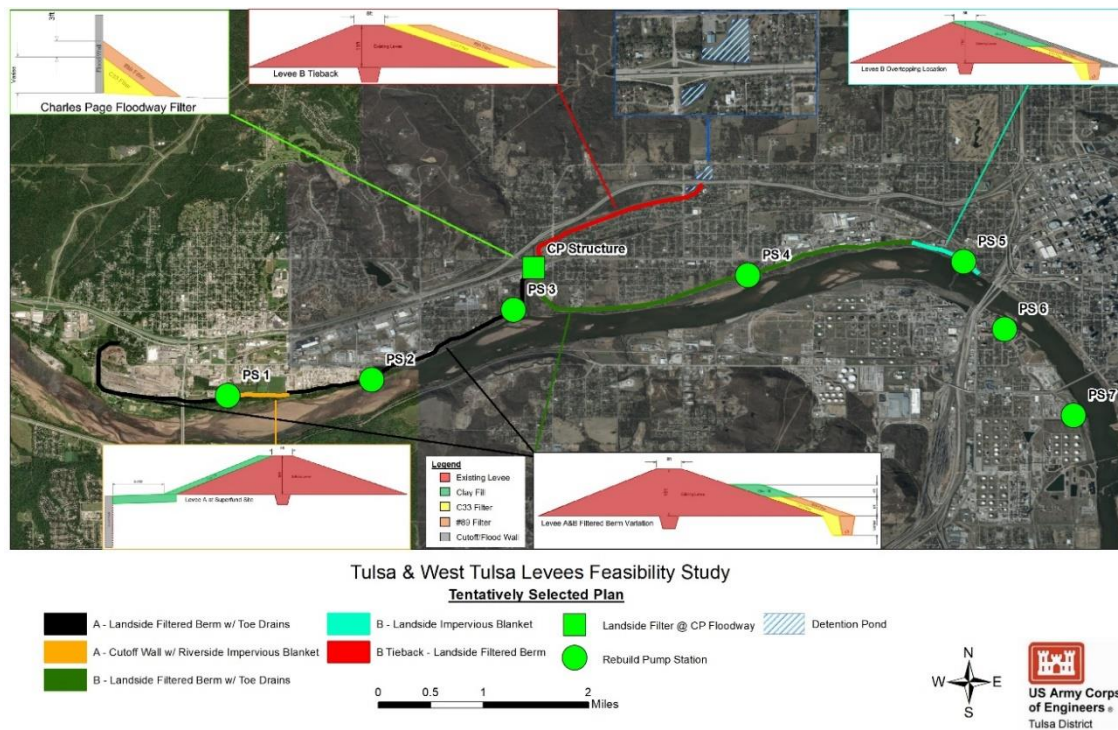


Figure I- 1: Proposed Tulsa-West Tulsa Levee improvement measures

### **Area of Potential Effects**

The area of potential effect (APE) for the proposed undertaking will be determined in consultation with the Oklahoma State Historic Preservation Officer (SHPO) and other parties to the PA. The APE will include all areas directly and indirectly impacted by proposed levee improvements, including staging areas, haul routes, and borrow material locations which have not been identified during the feasibility study. In accordance with 36 CFR 800.4 and Stipulation I(D) of the PA, USACE will identify historic properties within the APE prior to construction. A research design for field investigations will be coordinated with PA signatories and concurring parties prior to conducting field survey, with draft and final survey reports to be provided upon completion.

During the feasibility phase, USACE has worked to avoid and minimize potential impacts to historic properties through background research and desktop survey. Data gathered from the Oklahoma Historical Society, Archaeological Survey, U.S. Geological Survey, Natural Resource Conservation Service Soil Survey, Google Earth aerial imagery, peer-reviewed literature, and information provided by local historical societies have been used to inform the initial design of proposed flood risk management measures. Results of this research are summarized below.

### **Environmental Setting**

The project study area is located in the Northern Cross Timbers region of Oklahoma, which consists of low rolling hills covered by a mixture of oak savanna, oak scrub forest, eastern red cedar, and tall grass prairie (USGS 2005). Holocene terrace deposits consisting of fine- to very fine-grained quartz sand, silt, and wind-blown loess are extensive along the north bank of the Arkansas River and can range from 0 to 100 feet in thickness. Within the levee-protected areas of Sand Springs and West Tulsa, Holocene alluvium consisting of clay, silt, and sand derived from adjacent terraces range from 0 to 30 feet thick (Chang and Stanley 2010).

Flood control structures, including the Tulsa-West Tulsa Levee system and the upstream Keystone Dam have constrained the flow of the Arkansas River in Tulsa since the mid-1940s, allowing industrial and urban development to expand across the area. Current land use within the Tulsa-West Tulsa Levee study area includes industries such as oil refining and metalworking, residential neighborhoods, and commercial businesses.

### **Cultural Background**

Several sites across the Americas, suggest that the earliest human inhabitants arrived as early as 30,000 years before present (BP). Included among these early Paleoindian sites are the Cooperton and Burnham sites located in Kiowa and Woods Counties, which are radiocarbon dated to between twenty-eight and thirty-two thousand years BP (Brooks 2009). Beginning around 12,000 years BP, a distinct tools style, consisting of large lanceolate projectile points with fluted stems,

emerged. Referred to by archaeologists as the Clovis style, these carefully crafted, exceptionally styled tools reflect a high degree of specialization and time invested in hunting now-extinct megafauna and other large game.

Some of the most remarkable archaeological features associated with later pre-contact cultures (1200-500 BP) are large earthen mounds, built in some cases as elements of ceremonial architecture, and in other cases as cemetery mounds, or platform foundations. Eastern Oklahoma has the greatest number of earthwork complexes surrounded by smaller mound centers and settlements, which are also numerous in Missouri and Arkansas (Vogel, 2005). The people who built and lived around these eastern Oklahoma mound complexes are thought to be ancestral Caddoans. Mound sites have yielded copper originating from around the Great Lakes, marine shell from the Gulf Coast, and a tool made of obsidian from a source in central Mexico.

The ProtoHistoric Period (500 BP-1800 AD) brought rapid and far-reaching change, with envoys from competing European interests arriving to establish colonial outposts in the form of forts and missions. In response to pressure from increasing European settlement, Tribes from northern and eastern North America also moved increasingly into the area. While the adoption of many types of European goods was both early and gradual (such as glass beads and metal tools), the total replacement of native stone, clay, and bone technologies was not common until the 1800s. The Lasley Vore site, which is situated on the east bank of the Arkansas River south of Levee C, is one of the most intensely studied protohistoric sites in the region, and has yielded a wealth of information about labor organization, tool maintenance, spatial organization, woodworking technologies, and other lifeways (Odell, 1999).

Tulsa and its vicinity has its roots in the many Native-American tribes who settled in the region following the passage of the Indian Removal Act of 1830. In the 1830s and 1840s the Creek people were relocated to the Tulsa area (Hunt, 2004). From 1836 to 1840 the Lochapokas and Talasee Creeks settled the community that became present-day Tulsa. The relocation of the Native Americans living in the American southeast forced them to follow the "Trail of Tears" that terminated at Fort Gibson, east of Tulsa. With the conclusion of the Civil War, the Five Civilized Tribes in the area signed treaties transferring their western lands to the U.S. government to allow railroad right of way. After the Civil War, the Creeks reoccupied the area around Tulsa and rebuilt their settlement and the cattle trade returned to the area.

By the 1870s, Tulsa County consisted of dispersed small farms and ranches, mostly occupied by a mix of Creek Indians, newly arrived Anglo-American pioneers, or people of mixed race. Tulsa grew slowly until the first discoveries of oil occurred at Red Fork in 1901 and Glenn Pool in 1905 (Nardone, 1967). In 1909, the Sand Springs industrial community was incorporated by local oilman Charles Page. Glass manufacturing, canning, rock mining, textile production, zinc smelting, and other industrial facilities soon populated the shores of the Arkansas River,

along with civic amenities like schools, libraries, churches, and hospitals. Throughout the 1900s, Sand Springs remained an industrial city. The oil boom led to rapid population growth and Tulsa quickly became a place of prosperity. On the north side of town, the community of Greenwood was known across the country as the “Black Wall Street of America” because of its thriving economy, accomplished civic leaders, and vibrant social scene (Madigan 2001). In one of the most horrific events of the Jim Crow era of terrorism, an assault accusation against a young black man ignited the anger of resentful whites, who killed an unknown number of men, women, and children, and burned the 35-block community to the ground (Madigan 2001; Gates, 2004). Through the 1997 Oklahoma Commission to Study the Tulsa Race Riot of 1921 and extensive ethnographic research, details of the event and subsequent cover up have become more widely known. Currently, the City of Tulsa has undertaken an effort to relocate mass graves where the massacre victims are buried. Two areas being investigated as part of this effort are located within the project study area.

### **Previously Recorded Surveys and Historic Properties**

A review of the Oklahoma Archaeological Survey (OAS) maps and existing information indicates numerous previous cultural resource surveys have been conducted within 1 km of the Tulsa-West Tulsa Levee system. Although some investigations included sub-surface testing, the review and subsequent discussions with the Oklahoma State Historic Preservation Office (SHPO), indicated that significant tracts of land within the study area remain un-surveyed.

Two previously recorded archaeology sites, eighteen previously recorded historic properties, and six historic districts are located within 1 km of the Tulsa-West Tulsa Levees (Table1). Site 34TU200 is a historic artifact scatter, which has been determined ineligible for listing in the National Register of Historic Places (NRHP). Site 34TU197 is a bison skull with an embedded Calf Creek spear point; radiocarbon dates indicate the age of the skull is 5,100 BP. The artifact was recorded on a sand bar near the south shore of the Arkansas River, immediately downstream of the Highway 97 Bridge. No other features or artifacts were recorded and it is believed that the skull may have washed downstream from its original location. Water wear and damage are minor, and it is possible that associated intact deposits are located nearby. The site’s NRHP eligibility is undetermined.

Of the eighteen previously recorded historic properties within 1 km of the Tulsa-West Tulsa Levees, two are located in levee-protected areas. Located behind Levee A, the Sand Springs Power Plant was built in 1933 and was determined eligible for listing in the NRHP in 1998 under Criterion A for its association with community planning and development. Located behind Levee C, Cities Service Station #8 was built ca. 1940 and was determined eligible in 2011 under Criteria A and C for its association with the historic Route 66.

A formal determination of eligibility has not been made for the Tulsa-West Tulsa Levees. Constructed between 1935 and 1945, the trapezoidal earthen levees

provided the first significant protection from flooding along the Arkansas River in this region. Intensive cultural resource surveys, which will be conducted during the preconstruction, engineering, and design phase per the programmatic agreement, will include an assessment of the Tulsa-West Tulsa Levees to determine their NRHP eligibility.

Table 1. Previously recorded cultural resources within 1 km of the Tulsa-West Tulsa Levees

Resource Name/ Number	NRHP Eligibility	Temporal Components	Year Recorded
34TU200	Ineligible	Historic	2014
34TU197	Undetermined	Pre-contact	2003
Sand Springs Power Plant	Eligible	Historic	1998
Cities Service Station #8	Eligible	Historic	2011
Owen Park Historic District	Eligible	Historic	1999
Riverview Historic District	Eligible	Historic	2007
Carlton Place Historic District	Eligible	Historic	2007
Stonebraker Heights Historic District	Eligible	Historic	2007
Buena Vista Historic District	Eligible	Historic	2007
Riverside Residential Historic District	Eligible	Historic	2004
Eleventh Street Arkansas River Bridge	Eligible	Historic	1996
Sally Ann Apartments	Eligible	Historic	2015
Riverside Studio	Eligible	Historic	1990
James H. McBirney House	Eligible	Historic	1976
Clinton-Hardy House	Eligible	Historic	1979
Sophian Plaza	Eligible	Historic	2011
Belmont Apartments	Eligible	Historic	2015
Robert M. McFarlin House	Eligible	Historic	1979
Carl K. Dresser House	Eligible	Historic	1990
Moore Manor	Eligible	Historic	1982
Creek Council Tree Site	Eligible	Historic	1976
James Alexander Veasey House	Eligible	Historic	1989
Boulder-on-the-Park	Eligible	Historic	2003
Elizabeth Manor	Eligible	Historic	2015
66 Motel	Eligible	Historic	1996
Harwelden	Eligible	Historic	1978

### **Potential Impacts to Cultural Resources**

In the event the Tulsa-West Tulsa Levees are determined eligible for listing in the NRHP, proposed modifications may constitute an adverse effect as defined by 36 CFR 800.5(a)(1). Other potential impacts include disturbance of previously unknown archaeological resources in areas where excavation is proposed, and changes to the viewshed of any historic properties determined present.

### **Consultation and Compliance**

A PA among the USACE, Tulsa County Drainage District Number 12, the Oklahoma State Historic Preservation Officer (SHPO), and the Oklahoma Archaeological Survey (OAS) is being developed in accordance with 36 CFR 800.14. The Draft PA, which is included herein, defines the responsibilities of all parties under Section 106 of the NHPA. These stipulations include, but are not limited to, determination of the final APE in consultation with PA signatories, intensive cultural resources surveys to determine the presence of historic properties within the APE, and avoidance, minimization, and mitigation of adverse effects associated with the undertaking in accordance with 36 CFR 800.6.

In addition to notifying the Advisory Council on Historic Preservation (ACHP) of the intent to develop a PA as required by 36 CFR 800.6(1), USACE has initiated consultation with three federally recognized Native American tribes, including the Cherokee Nation, the Muscogee (Creek) Nation, and the Osage Nation. The Muscogee (Creek) Nation and the Osage Nation have stated that they have important cultural resources in the vicinity of the project and thus have been invited to participate in the PA as concurring parties. USACE has also initiated consultation with the City of Tulsa to maintain awareness and to collaborate wherever possible on their effort to relocate burials associated with the 1921 massacre. Consultation with all parties is ongoing and will continue throughout the feasibility, design, and construction phases of the project.

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**PROGRAMMATIC AGREEMENT  
AMONG  
THE U.S. ARMY CORPS OF ENGINEERS, TULSA DISTRICT,  
TULSA COUNTY DRAINAGE DISTRICT NUMBER 12,  
THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICER, 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 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, 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, 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 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 archaeology. 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. Accordingly, the OAS has been invited to sign this Programmatic Agreement (PA); and

WHEREAS, the USACE, the NFS, the SHPO, 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 Area of Potential Effects (APE) includes all areas of direct and indirect impacts; 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 contacted three Federally-recognized Native American tribes during the feasibility study, resulting in two tribes, the Osage Nation and the Muscogee (Creek) Nation, expressing interest and thereby being invited to participate as concurring parties; and

WHEREAS, the USACE has invited the Advisory Council on Historic Preservation (ACHP) to participate and on XXX the ACHP accepted/declined to enter into the Section 106 process.

NOW, THEREFORE, the USACE, Tulsa County Drainage District Number 12, OAS, and the SHPO concur that the USACE will ensure that the following stipulations are implemented in order to account for the effects of the undertaking on historic properties, and to satisfy the USACE's Section 106 responsibilities for all individual aspects of the undertaking:

## **STIPULATIONS**

### **I. Identification, Evaluation, Effect Determination, and Resolution**

- 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 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), as appropriate.
- 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 any Native American Indian Tribe or Tribes (Tribes) that attach religious and cultural significance to identified properties. 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. 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 30 days of receipt, the reports or investigations and their recommendations shall be considered adequate and the reports may be finalized. 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, and OAS agree that a property is or is not eligible, then such consensus shall be deemed conclusive for the purpose of this PA. Should the USACE, SHPO, and OAS not agree regarding the eligibility of a property, the USACE shall obtain a determination of eligibility from the Keeper of the National Register pursuant to 36 CFR 63. 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 shall be provided to the SHPO, the Tribes and OAS and retained by the USACE for at least seven (7) years. The USACE shall provide information on the finding to the public upon request, consistent with the confidentiality requirements or 36 CFR § 800.11(c).
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 30 days in which to review the findings and provide a written response to the USACE. 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. The USACE shall maintain a record of the finding and provide information on the finding to the public upon request, consistent with the confidentiality requirements of 36 CFR § 800.11(c).
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 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, OAS, and the SHPO fail to agree on how adverse effects will be resolved, the USACE shall request that the Advisory Council on Historic Preservation (the Council) join the consultation and provide the Council and all consulting parties with documentation pursuant to 36 CFR § 800.11(g).
  - c) If the Council agrees to join the consultation, the USACE shall proceed in accordance with 36 CFR § 800.9.
  - d) If, after consulting to resolve adverse effects, the Council, the USACE, OAS, 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. D-F.
- 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 immediately halt work in the affected area and notify the SHPO, OAS, and Tribes of the discovery. Comments received from the SHPO and Tribes within 48 hours of the notification shall be taken into account by the USACE in the assessment of NRHP eligibility of affected properties, and in the development and implementation of a mitigation strategy to resolve any adverse effects. The USACE may assume SHPO concurrence in its eligibility assessment and treatment plan unless otherwise notified by the SHPO, OAS, or Tribes within 48 hours of notification. USACE shall provide the SHPO and Tribes a report of the USACE actions when they are completed.

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

- A. Curation. The USACE shall ensure that all archeological 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 in accordance with the standards of 36 CFR 79, except as specified in Stipulation IV for human remains. The curation of items owned by the State of Oklahoma or the NFS shall be maintained in perpetuity by the NFS. 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. The USACE shall provide copies of final technical reports of investigations and mitigation to the consulting parties and the SHPO, as well as additional copies for public distribution 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. Treatment of Native American Human Remains**

- A. Prior Consultation. If the USACE's investigations, conducted pursuant to Stipulation I of this PA, indicate a high likelihood that Native American Indian human remains may be encountered, the USACE shall develop a treatment plan for these remains in consultation with the SHPO, OAS, and Tribes. The USACE shall ensure that Tribes indicating an interest in the undertaking are afforded a reasonable opportunity to identify concerns, provide advice on identification and evaluation, and participation in the resolution of adverse effects in compliance with the terms of this PA.
- B. Inadvertent Discovery. In accordance with the NHPA, the ACHP policy statement regarding treatment of burial sites, human remains, and funerary objects, and State of Oklahoma statutes protecting human skeletal remains, procedures for inadvertent discovery of human remains during historic properties investigations or construction activities conducted pursuant to this PA are as follows:
  - a. Prior to construction, USACE shall provide a communication plan identifying points of contact and procedures to follow in the event of an inadvertent discovery to the contractor and to the USACE construction field representative.
  - b. If human skeletal remains, funerary objects, or items of cultural patrimony are encountered during construction, the USACE shall ensure that all ground disturbing activities cease in the vicinity of the discovery. A buffer zone shall be established and reasonable

effort shall be made to ensure that the site is secured from further disturbance or vandalism.

- c. The USACE shall immediately notify local law enforcement officials via telephone, and within 48 hours of the discovery, shall initiate consultation with the SHPO, OAS, and appropriate tribal personnel to develop a strategy to resolve adverse effects.
- C. Dispute Resolution. If, during consultation conducted under paragraphs A and B of Stipulation IV, all consulting parties cannot agree upon a consensus plan for resolving adverse effects, the matter shall be referred to the Council for resolution in accordance with the procedures outlines in 36 CFR § 800.9.

#### **V. 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.
- B. Disputes. Disputes regarding the completion of the terms of this agreement shall be resolved by the signatories. If the signatories cannot agree regarding a dispute, any one of the signatories may request the participation of the Council in resolving the dispute in accordance with the procedures outlined in 36 CFR § 800.9. The USACE shall forward to the Council and all consulting parties within fifteen (15) days of such a request all documentation relevant to the dispute, including the USACE's proposed resolution of the dispute. The Council will respond to the request within thirty (30) days of receiving all documentation. The USACE will take any recommendations or comments from the Council into account in resolving the dispute. In the event that the Council fails to respond to the request within thirty (30) days of receiving all documentation, the USACE may assume the Council's concurrence with its proposed resolution and proceed with resolving the dispute.
- C. Termination of PA. Any party to this PA may terminate it by providing a sixty (60) 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.

#### **VI. Term of this Agreement**

- 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 V.C. Sixty (60) 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.

Execution of this PA and implementation of its terms evidences that the USACE has afforded the Council 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*

**PROGRAMMATIC AGREEMENT  
AMONG  
THE U.S. ARMY CORPS OF ENGINEERS, TULSA DISTRICT,  
TULSA COUNTY DRAINAGE DISTRICT NUMBER 12,  
THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICER, 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**

**Signatory:**

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

**Date**

*Signature Page for State Historic Preservation Officer*

**PROGRAMMATIC AGREEMENT  
AMONG  
THE U.S. ARMY CORPS OF ENGINEERS, TULSA DISTRICT,  
TULSA COUNTY DRAINAGE DISTRICT NUMBER 12,  
THE OKLAHOMA STATE HISTORIC PRESERVATION OFFICER, 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**

**Signatory:**

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

**Date**

*Signature Page for Oklahoma Archeological Survey*

**PROGRAMMATIC AGREEMENT  
AMONG  
THE U.S. ARMY CORPS OF ENGINEERS, TULSA DISTRICT,  
TULSA COUNTY DRAINAGE DISTRICT NUMBER 12,  
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**Signatory:**

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

**Date**

*Signature Page for Tulsa County, Oklahoma*

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**Signatory:**

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**Todd Kilpatrick**

**Date**

**Levee Commissioner, Tulsa County Board of Commissioners**