

**PROGRAMMATIC AGREEMENT (PA)  
AMONG  
THE UNITED STATES DEPARTMENT OF THE INTERIOR (NATIONAL PARK SERVICE)  
AND THE (List all signatories – this will be done when all are identified)....  
REGARDING  
IMPLEMENTATION OF THE WINNING DESIGN OF THE FRAMING A MODERN  
MASTERPIECE INTERNATIONAL DESIGN COMPETITION AND  
PROCEDURES FOR CONSULTATION AND INADVERTENT DISCOVERIES**

**WHEREAS**, the United States Department of the Interior, National Park Service, Jefferson National Expansion Memorial (NPS) and the CityArchRiver2015 Foundation propose to implement the winning design of the *Framing a Modern Masterpiece* International Design Competition (the Design Competition) by carrying out the physical and programmatic elements called for by that design in Appendix A (the Undertaking); and

**WHEREAS**, the Design Competition was undertaken after being identified as the preferred alternative of the October 2009 General Management Plan/Environmental Impact Statement (GMP/EIS) for Jefferson National Expansion Memorial (the Park); and

**WHEREAS**, the CityArchRiver2015 Foundation sponsored the Design Competition focusing on the Park, a National Historic Landmark (NHL), to result in the selection of a design “to integrate the park, the east and west sides of the Mississippi River, the surrounding attractions and the downtown into a single and vibrant dynamic destination;” and

**WHEREAS**, the development and execution of this **Programmatic Agreement (PA)** fulfills stipulation IV.H of the memorandum of agreement among the National Park Service, ACHP, Illinois and Missouri SHPOs and CityArchRiver 2015 Foundation executed July 13, 2010 to guide the design completion; and

**WHEREAS**, the NPS, **the lead federal agency for ensuring that all stipulations of the PA are fulfilled**, consulted with the Advisory Council on Historic Preservation (ACHP) **and the ACHP will be a signatory to this PA**; and

**WHEREAS**, **the NPS consulted with the** Missouri and Illinois State Historic Preservation Officers pursuant to 36 CFR part 800, the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f); and

**WHEREAS**, **by letter dated (????) the Illinois State Historic Preservation Officer declined to participate in negotiations to develop the PA or be a signatory to the PA**; and

**WHEREAS**, the Missouri State Historic Preservation Officer (SHPO) will be a signatory to the this PA; and

**WHEREAS**, the NPS, ACHP, and SHPO concur that the Undertaking will affect historic properties **(still need to make a statement regarding the known historic properties within the proposed APE – an APE map with known properties identified is Appendix 2)**, as defined at 36 CFR §800.16(l)(1), the NPS shall defer, pursuant to 36 CFR §800.4(b)(2), the agency’s final identification and evaluation of historic properties, as well as assessment of effects, pending completion of the schematic design development phase of the design process (36 CFR §800.14(b)(1)(ii)); and

**WHEREAS**, the NPS has and continues to provide the public with information about the Undertaking and shall continue to seek and consider the views of the public regarding the Undertaking through both the context of complying with the National Environmental Policy Act of 1969 (NEPA) and public meetings to be held during the schematic and design development phases of the design process; and

**WHEREAS**, the NPS consulted with the following tribes concerning the Undertaking and historic properties of cultural significance to them: Absentee-Shawnee Tribe of Indians of Oklahoma, Delaware Nation of Oklahoma, Eastern Shawnee Tribe of Oklahoma, Iowa Tribe of Kansas and Nebraska, Iowa Tribe of Oklahoma, Kaw Nation, Kickapoo Tribe in Kansas, Miami Tribe of Oklahoma, Muscogee Creek Nation, Osage Nation of Oklahoma, Ponca Tribe of Nebraska, Peoria Tribe of Oklahoma, Quapaw Tribe of Indians, Sac and Fox Tribe of the Missouri in Kansas and Nebraska, Sac and Fox Tribe of the Mississippi in Iowa, Sac and Fox Nation of Oklahoma; and

**WHEREAS**, the Osage Nation ~~of Oklahoma~~ desires to continue participating in consultations and has been invited to execute this agreement; and

**WHEREAS**, by letter dated September 30, 2011 the SHPO concurred with a no adverse effect determination for the proposed construction of a 300-foot wide landscaped 'lid' over the sunken lanes of I-70 between Market and Chestnut streets, and the Missouri Department of Transportation (MoDOT) and the Federal Highway Administration (FHWA) will proceed with construction of the lid independent of the stipulations required by this PA; and

**WHEREAS**, Missouri Preservation, Great Rivers Greenway, (others ?) have participated in the consultations and been invited to concur in this agreement;

**NOW, THEREFORE**, the signatories (need to state the names of all signatories – NPS suggests not including the names of all signatories here, as the names will be listed on page 1 and will also be listed where signed on the signature pages of the PA) executing this PA 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, and further agree that these stipulations shall govern the Undertaking and all of its parts until this PA expires or is terminated.

## **STIPULATIONS**

### **I) THE UNDERTAKING**

The Programmatic Agreement (PA) applies to the design and construction of the Undertaking defined in Appendix A. The NPS is the lead federal agency for fulfilling the Section 106 requirements in accordance with this PA. The PA does not apply to the components of the Design Competition design where the Federal Highway Administration, United States Coast Guard, and the United States Army Corp of Engineers are the lead federal agency.

The Federal Highway Administration, in partnership with the Missouri Department of Transportation, is the lead federal agency for compliance with Section 106 of the National Historic Preservation Act, the National Environmental Policy Act (NEPA), and Section 4F of the Department of Transportation Act of 1966, as amended, for the design and construction of the closing of Memorial Drive through Jefferson National Expansion Memorial to Washington Avenue, of a lid over the existing Interstate 70 connecting Eli Smith Square and the Memorial's national historic landscape, and of the redesign of the Interstate ramps at Washington Avenue. The NPS shall cooperate with the transportation agencies as provided in an existing Memorandum of Understanding, dated August 25, 2011, as a consulting party for Section 106 and NEPA consultation.

The Federal Highway Administration shall prepare a determination of eligibility for listing in the National Register of Historic Places for the Poplar Street Bridge and submit the DOE to the Missouri and Illinois SHPO's for review and comment as part of complying with Section 106.

Riverfront components of the Design Competition are mostly outside the boundary of Jefferson National Expansion Memorial but will directly impact the Memorial. United States Coast Guard and United States Army Corps of Engineers permitting are required. The permit needs and source of funding requires collaboration between the Coast Guard, Corps of Engineers, the NPS and any other federal agency that might have a funding role in the project. The Great Rivers Greenway is coordinating fund raising, contracting work along the riverfront and is a signatory to this PA. The Riverfront redevelopment has the potential for an adverse effect on the historic properties of the Memorial, and the NPS ~~and the Osage Nation (for protohistoric and prehistoric sites)~~ shall be a signatory in any memorandum of agreement to mitigate such an effect.

### **II) PROFESSIONAL QUALIFICATIONS AND STANDARDS**

(A) All stipulations implemented pursuant to this PA shall be carried out by or under the direct supervision of a person or persons meeting at a minimum the Secretary of Interior's Professional Qualifications Standards (48 FR 44738-39) for the discipline appropriate to the historic property in question. Nothing in this stipulation may be interpreted to preclude NPS or any agent or contractor thereof from using the properly supervised services of persons who do not meet the professional qualification standards.

(B) Any inventory or documentation of historic properties pursuant to implementation of the PA shall conform to the provisions of the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (48 FR. 44716-44740) and applicable standards and guidelines for historic preservation established by the SHPO's.

(C) The signatories executing this PA acknowledge that historic properties covered by this PA are subject to the provisions of section 304 of the National Historic Preservation Act, relating to the disclosure of archeological site information and, having so acknowledged, shall ensure that all actions and documentation prescribed by this PA are consistent with said sections.

### III) AREA OF POTENTIAL EFFECTS

The area of potential effects (APE) is depicted in the graphic in Appendix B.

### IV) IDENTIFICATION AND EVALUATION OF HISTORIC PROPERTIES

#### (A) Identification, Evaluation, and Treatment of Archeological Resources

Given the nature and variety of activities related to this undertaking, and the ongoing development of project planning and design, archeological investigations need to be considered across the APE. Highly significant pre-Contact resources are known to exist just north and east of the APE, so it is reasonable to anticipate such materials within the project area as well. In addition, significant early historic and 19<sup>th</sup> century deposits are expected to occur within the APE. Although it is assumed that construction of the Arch resulted in large-scale disturbance of sediments, the actual distribution and degree of this disturbance is currently unknown. No systematic park-wide archeological investigations have been conducted to date, so the distribution of intact significant archeological deposits is also unknown. These factors make identification and evaluation of subsurface historic resources an especially critical step for this project.

Because of the large spatial extent of the project area, a nested approach to identification is recommended. Continuous, solid soil cores, taken at intervals across the APE, will provide information on the potential for and locations of intact buried landscape components. Geophysical survey, conducted between core sample points, will provide a means to test hypotheses regarding buried surfaces and refine understanding of potential for significant archeology in portions of the APE. Archeological excavation will then be used to evaluate specific deposits for significance, or their potential to bear unique information about the past. This information, and specific project plans as developed, will feed into treatment recommendations for any significant resources found.

#### (B) Tribal Monitoring

The NPS is committed to working with the Osage Nation and interested Tribes to assist in identifying and minimizing project impacts on important cultural resources, graves, and isolated human remains and recognizes that tribal monitoring is a vital contributing element in this effort. Tribal monitoring will follow protocols and procedures established through consultation (Appendix C) and will be conducted in areas identified by the Osage Nation and interested Tribes as having significance.

#### (C) Preparation of Determination of Eligibility for St. Louis Mississippi River Levee

The NPS shall prepare a determination of eligibility for listing in the National Register of Historic Places (DOE) for the St. Louis Mississippi River Levee. The NPS shall ensure that the DOE is fully compliant with the following National Register Bulletin: *How to Apply the National Register Criteria for Evaluation*. The format used for DOE shall either be the *State of Missouri, Department of the Natural Resources, Preliminary National Register of Historic Places Eligibility Assessment* (<http://www.dnr.mo.gov/forms/780-1878-f.pdf>) or another format mutually agreed upon by the NPS and Missouri SHPO.

The NPS shall submit the DOE to the SHPO and the Osage Nation for review and concurrence no later than <<date>>. The SHPO shall have thirty (30) calendar days from the date of receipt to provide comments to the NPS. If the SHPO fails to respond within this time period, the NPS shall assume the SHPO concurs with the determination of eligibility.

### V) DEVELOPMENT OF DESIGN STANDARDS

(A) CityArchRiver 2015 Foundation, Great River Greenways and NPS shall agree in writing to a set of deliverables and standards that all design contractors shall adhere to in the development of design documents. CityArchRiver 2015 Foundation shall ensure that the design contractors receive these standards and adhere to them in the development of all design documents. NPS shall distribute the agreement to all parties who will review the documents.

(B) Standards: at a minimum, design standards shall include

- (1) Application of the Secretary of the Interior's Standards for the Rehabilitation of Cultural Landscapes to applicable design;
- (2) Formatting and content consistent with the NPS Denver Service Center Design Workflows guidelines for schematic, design, and construction documents  
<http://www.nps.gov/dscw/designbidbuild.htm>;

(C) Deliverables: at a minimum the design contractors shall be required to

- (1) Provide responses to all design comments that outline how the comment will be dealt with in subsequent design documents;
- (2) Provide meeting notes that summarize discussions about design issues.

## **VI) REVIEW OF DRAFT SCHEMATIC DESIGN DOCUMENTS AND ASSESSMENT OF EFFECTS**

(A) The NPS shall submit to the signatories executing this PA draft schematic design documents (100%) for review and comment, and an assessment of effect (*no adverse effect* or *adverse effect*), after applying the criteria of adverse effect at 36 CFR § 800.5(a)(1), for historic properties in the area of potential effects. The signatories executing this PA shall have thirty (30) calendar days from the date of receipt to review the draft schematic design documents and assessment of effect, and provide comments to the NPS. If any of the signatories executing this PA fail to respond within this time period, NPS shall assume the signatory has no comments and concurs with the NPS assessment of effect.

(B) During the thirty (30) day review period for the draft schematic design documents the NPS shall post the documents to the Jefferson National Expansion Memorial and NPS Planning, Environment, and Public Comment (PEPC) websites, for public review and comment regarding how the proposed design may affect historic properties and possible ways to avoid, minimize, or mitigate adverse effects. The NPS shall notify the public of the availability of the schematic design documents for review and comment through issuance of a press release.

(C) Within thirty (30) calendar days of receiving comments from the signatories executing this PA and the public, the NPS shall provide the signatories a point-by-point response to comments including, as necessary, how the design will be revised to address comments.

(D) If the NPS and signatories executing this PA determine that the Undertaking will result in adverse effects to historic properties, the NPS and signatories shall consult to avoid, minimize, or mitigate such effects. The Historic American Buildings Survey (HABS)/Historic American Engineering Record (HAER)/Historic American Landscapes Survey (HALS) coordinator in the NPS Midwest Regional Office shall participate in the consultations to develop appropriate mitigation. The mutually agreed upon mitigation shall be agreed upon prior to the commencement of any construction activities.

## **VII) REVIEW OF 90% DRAFT DESIGN DEVELOPMENT DOCUMENTS**

(A) The NPS shall submit to the signatories executing this PA 50% draft design development documents for review and comment. The signatories executing this PA shall have thirty (30) calendar days from the date of receipt to review the 50% draft design development documents, and provide comments to the NPS. If any of the signatories executing this PA fail to respond within this time period, NPS shall assume the signatory has no comments.

(B) During the thirty (30) day review period for the draft design development design documents the NPS shall post the documents to the Jefferson National Expansion Memorial and NPS Planning, Environment, and Public Comment (PEPC) websites, for public review and comment regarding how the proposed design may affect historic properties and possible ways to avoid, minimize, or mitigate adverse effects. The NPS shall notify the public of the availability of the draft design development documents for review and comment through issuance of a press release.

(C) Within thirty (30) calendar days of receiving comments from the signatories executing this PA and the public, the NPS shall provide the signatories a point-by-point response to comments including, as necessary, how the design will be revised to address comments.

### VIII) MITIGATION OF ADVERSE EFFECTS

<<The below is subject to negotiation by all consulting parties.>>

NPS commits to the following actions to mitigate potential adverse effects on the NHL and other historic properties within the APE:

(A) The NPS shall prepare Historic American Landscape Survey (HALS) recordation of the NHL prior to alterations in the Competition Design's rehabilitation of or introduction of new features into the historic landscape. HALS documentation must be complete prior to the commencement of any construction activities.

(B) The NPS shall update the NHL documentation to include more information about the significance of the historic landscape to the overall NHL designation.

(C) The NPS and CityArchRiver 2015 Foundation and will oversee development of a public interpretation display explaining the Design Competition and resulting changes to the appearance and character of the JNEM, using models, documents, etc. from the competition.

(D) After each and public comment period, NPS will develop a list of adverse effects identified and potential mitigations to share with the signatories of this PA for comment. NPS, Great River Greenways, and CityArchRiver 2015 will take this feedback into account in determining what additional mitigation, avoidance, or minimization measures may be feasible to include in the next set of design documents or implement separately and will post these decisions on the PEPC web site and solicit feedback during the next public comment period. .

### IX) INADVERTANT DISCOVERIES AND UNANTICIPATED EFFECTS

(A) Objectives: The following procedures shall be used in the event that previously unreported and unanticipated historic properties are found during activities conducted by or on behalf of the NPS.

(B) The cultural resource investigator or construction contractor must immediately stop all work activity within a ninety (90) meter radius buffer zone, notify the NPS of the discovery, and implement interim measures to protect the discovery from looting and vandalism. Construction may continue outside the buffer zone. Within forty-eight (48) hours of receipt of this notification of the discovery, the NPS shall:

- (1) inspect the work site to determine the extent of the discovery and ensure that work activities have halted within the ninety (90) meter radius buffer zone;
- (2) clearly mark the area of the discovery;
- (3) implement additional measures, as appropriate, to protect the discovery from looting and vandalism; and
- (4) notify the ~~respective~~ SHPO, **Osage Nation**, and **interested Tribes** of the discovery.

(C) The NPS, in consultation and concurrence with the ~~respective~~ SHPO, **Osage Nation**, and interested Tribes (**need to identify in whereas clauses which tribes want to be notified and note that they are referred to as "Tribes" in the agreement**), shall have seven (7) business days following notification to determine the National Register of Historic Places eligibility of the discovery. The NPS may assume the newly discovered property to be eligible for the National Register for the purposes of Section 106 pursuant to 36 CFR §800.13(c).

(D) If the find is National Register eligible, the NPS shall consult with the ~~respective~~ SHPO, **Osage Nation**, and **interested tribes** regarding appropriate measures for site treatment pursuant to 36 CFR §800.6(a). The SHPO, **Osage Nation**, and **interested Tribes** shall have seven (7) business days to provide their objections or concurrence on the proposed actions. Concurrence on the part of the ~~respective~~ SHPO, **Osage Nation**, and **interested Tribes** is required for all adverse effect resolution measures. These measures may include:

- (1) formal archeological evaluation of the site;
- (2) visits to the site by the **respective SHPO, Osage Nation, and interested Tribes**;
- (3) exploration of potential alternatives to avoid the site;
- (4) preparation of a mitigation plan by the NPS in consultation and concurrence with the **Osage Nation and interested Tribes** for approval by the respective SHPO; and
- (5) implementation of a mitigation plan.

(E) If the find is determined to be either isolated or completely disturbed by construction activities, the NPS shall consult with the **respective SHPO, Osage Nation, and interested Tribes** prior to resuming construction within the ninety (90) meter radius buffer zone.

## **X) UNANTICIPATED DISCOVERY OF HUMAN REMAINS OR GRAVES**

In the case of an unanticipated discovery of human remains or graves on Federal land, the NPS shall follow the procedures outlined by the Native American Graves Protection and Repatriation Act, as amended (43 C.F.R. 10, Subpart B), and pursuant to the Archeological Resources Protection Act of 1979 (43 C.F.R. 7).

Any human remains (other than from a crime scene or covered under RSMo 214 - Cemeteries) that may be discovered or excavated during archaeological investigations on state land in Missouri are subject to the immediate control, possession, custody and jurisdiction of the Missouri SHPO, pursuant to the Missouri Unmarked Human Burials Sites Act (RSMo. 194.400-194.410). ~~and Human Skeletal Remains Protection Act (Illinois Comp. Stat. Ann. 20 ILCS 3440/0-01, et seq.)~~. The excavation of human remains shall follow guidance obtained through the NPS, SHPO, **Osage Nation, and interested Tribes** consulted, depending under which Missouri Revised Statue applies. The NPS shall ensure that the excavation and handling of any such human remains and associated funerary objects, sacred objects, or objects of cultural patrimony are excavated, handled, and processed in accordance with the SHPO, **Osage Nation, and interested Tribes**' instructions 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.

## **XI) DISPUTE RESOLUTION**

(A) The signatories executing this PA agree that this PA shall guide the implementation of the Undertaking for addressing its effects to and treatment of historic properties until this PA expires or is terminated. Should the signatories executing this PA at any time object in writing to the manner in which the terms of this PA are implemented, to any action carried out or proposed with respect to implementation of this PA, or to any document prepared in accordance with and subject to the terms of this PA, the objecting party shall notify the other signatories, and the signatories shall consult within seven (7) calendar days to resolve the objection.

(B) If the objection is resolved through consultation, the NPS may proceed with the disputed action in accordance with the terms of such resolution.

(C) If after initiating consultation the NPS determines that the objection cannot be resolved through consultation, or if the duration of the consultation has exceeded fifteen (15) days from the commencement of consultation to resolve the dispute, the NPS shall forward all documentation relevant to the objection to the ACHP, including the NPS's proposed resolution of the objection, with the expectation that the ACHP shall within thirty (30) days after receipt of such documentation:

- (1) Advise the NPS that the ACHP concurs in the NPS's proposed resolution of the objection, whereupon the NPS shall notify the signatories executing this PA, and NPS shall resolve the objection accordingly; or
- (2) Provide the NPS with recommendations, which the NPS shall take into account in reaching a final decision to resolve the objection. The NPS shall notify the signatories executing this PA of its final decision.

If any of the signatories executing this PA object to the final decision, the objecting party shall notify the other signatories, and the ACHP shall follow the procedures at 36 CFR 800.7(c).

(D) The procedures outlined in Stipulations XI.A to XI.C, above, shall apply only to the subject of the objection. The NPS's responsibility to carry out all actions under this PA that are not the subjects of the objection, and which do not foreclose the consideration of alternatives to resolve the objection, shall remain unchanged.

(E) At any time during implementation of the terms of this PA, should a member of the public object to the manner of such implementation, the NPS shall consult with the objecting party and inform the signatories executing this PA in writing of the objection, the results of the consultation, and the NPS's proposed resolution of the objection. The NPS shall implement its decision should the signatories executing this PA fail to comment within fifteen (15) days of receipt of the NPS decision, or NPS shall consult further with the signatories executing this PA, as necessary, and the objecting party to resolve the objection.

## **XII) AMENDMENTS**

Any signatory executing this PA may propose that this PA be amended, whereupon the NPS and other executing signatories shall consult to consider such amendment. This PA may be amended only upon the written agreement of the executing signatories. The amendment shall be effective on the date a copy signed by all of the signatories is filed with the ACHP by the NPS.

## **XIII) TERMINATION**

(A) If any signatory executing this PA proposes termination of the PA, the party proposing termination shall, in writing, notify the other signatories executing this PA, explain the reasons for proposing termination, and consult to seek alternatives to termination.

(B) Should such consultation fail, the signatory proposing termination may terminate this PA by promptly notifying in writing the other executing signatories. Termination shall render this PA without further force or effect.

(C) Should this PA be terminated, the NPS shall consult regarding the Undertaking with the executing signatories in accordance with 36 CFR §800.

## **XIV) DURATION OF THE PA**

Unless terminated pursuant to stipulation XV, the duration of this PA is five (5) years from the date of its execution. NPS may initiate consultation with the signatories executing this PA approximately one (1) year prior to the expiration date of this PA to reconsider its terms. Reconsideration may include the continuation or revision of this PA by amendment or termination.

## **XV) EFFECTIVE DATE OF THE PA**

This PA shall take effect on the date that it has been signed by the last executing signatory.

## **XVI) ANTI-DEFICIENCY ACT**

Any requirement for the payment or obligation of funds by the Government established by the terms of this PA shall be subject to availability of appropriated funds. No provision in this PA shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 USC Section 1341. If the availability of funds and compliance with the Anti-Deficiency Act impair the NPS' ability to perform under this PA, then the NPS shall consult in accordance with Stipulation VIX of this PA.

**EXECUTION** of this PA, its subsequent filing with the ACHP, and implementation of its terms evidence that the NPS has taken into account the effects of this Undertaking on historic properties and has afforded the ACHP, SHPO's, and associated Tribes an opportunity to comment on the Undertaking and its effect on historic properties.

## **SIGNATORIES**

NATIONAL PARK SERVICE

\_\_\_\_\_  
Thomas A. Bradley  
Superintendent, Jefferson National Expansion Memorial

Date: \_\_\_\_\_

MISSOURI STATE HISTORIC PRESERVATION OFFICER

\_\_\_\_\_  
Sara Parker Pauley  
Director, Department of Natural Resources and State Historic Preservation Officer

Date: \_\_\_\_\_

ADVISORY COUNCIL ON HISTORIC PRESERVATION

\_\_\_\_\_  
John M. Fowler  
Executive Director

Date: \_\_\_\_\_

OSAGE NATION

\_\_\_\_\_  
John D. Red Eagle  
Principal Chief

Date: \_\_\_\_\_

CITYARCHRIVER2015 FOUNDATION

\_\_\_\_\_  
Walter L. Metcalfe, Jr

Date: \_\_\_\_\_

FEDERAL HIGHWAY ADMINISTRATION

\_\_\_\_\_  
<<NAME>>

Date: \_\_\_\_\_

MISSOURI DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
<<NAME>>

Date: \_\_\_\_\_

Concur:

MISSOURI PRESERVATION

\_\_\_\_\_  
Barbara L. Fitzgerald  
Executive Director

Date: \_\_\_\_\_

## APPENDIX A

### THE UNDERTAKING

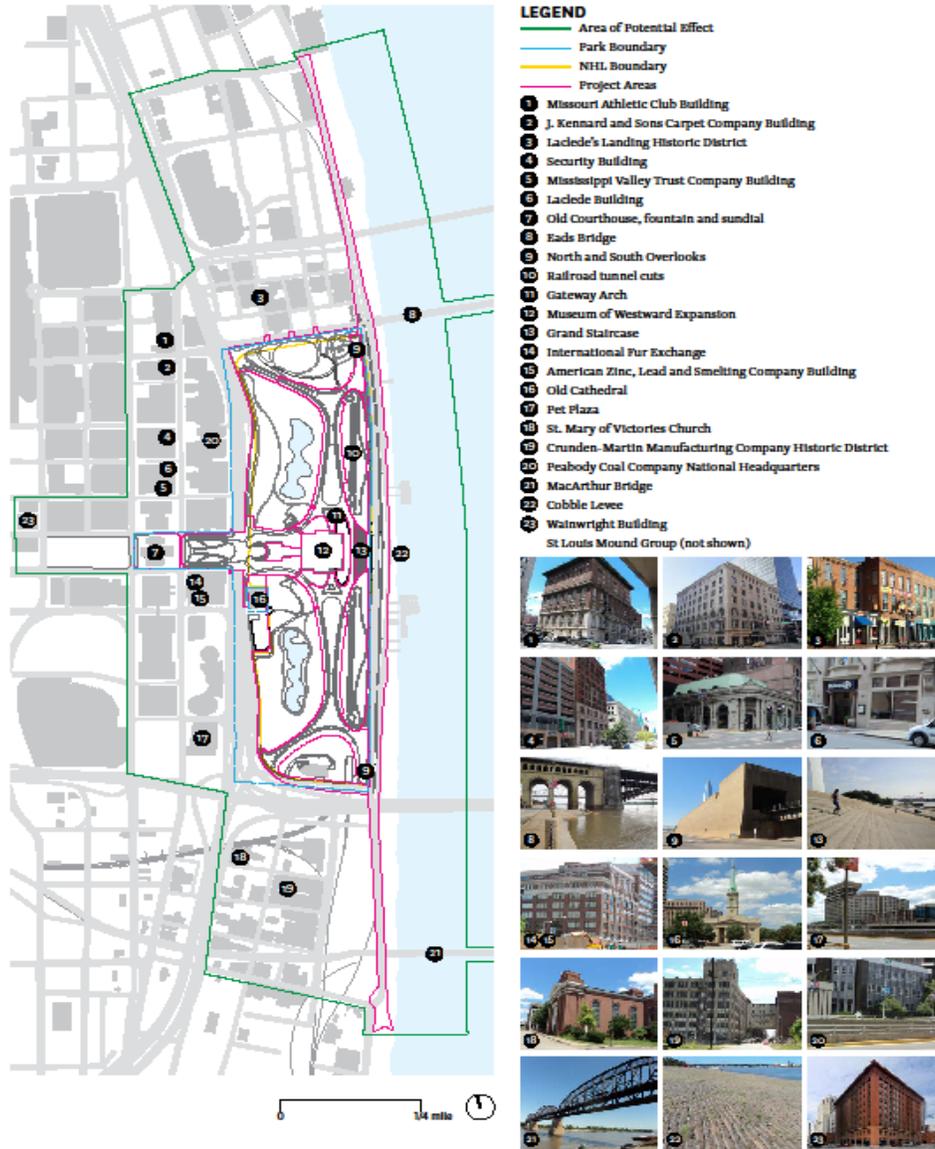
The overall concept of the undertaking is informed by the goals established in Framing a Modern Masterpiece: The City + The Arch + The River competition, as well as extensive stakeholder and public input. The overall design approach of the undertaking was guided by the 2009 Final Jefferson National Expansion Memorial General Management Plan/Environmental Impact Statement (GMP) and the analysis and treatment recommendations included in the Jefferson National Expansion Memorial Cultural Landscape Report (CLR). The undertaking addresses three essential needs identified in the GMP: improving visitor accessibility both to and within the Arch Grounds; creating new and enhancing existing programming opportunities; and improving plantings by implementing key unrealized parts of Dan Kiley's 1966 Final Concept Planting Plan. The findings and recommendations of NPS Value Analysis workshops undertaken during the summer of 2011 further refine and develop concepts outlined in the 2009 GMP. The undertaking includes the following project areas:

- The West Gateway project includes a new park landscape at Luther Ely Smith Square, a new park landscape spanning the depressed lanes of I-70, and new landscaping associated with the Museum of Westward Expansion.
- The Museum of Westward Expansion project renovates existing facilities and exhibits at the visitor center and museum, as well as provides a new universally accessible entrance and lobby facility.
- The North Gateway project includes the removal and replacement of the existing parking garage with an open landscape, and construction of a shared pedestrian/bicycle path between the Arch grounds, city, and riverfront.
- The East Slopes project comprises the east side slopes that surround the railroad open cut walls and tunnels. An accessible connection would be created between the Arch Grounds and the Mississippi riverfront via new pedestrian pathways, and a more sustainable planting strategy will be implemented.
- The Reflecting Ponds project comprises the areas surrounding and including the Reflecting Ponds located between I-70 and the Processional Walks. New, accessible pedestrian pathways through these areas will be created, and new planting, grading, and drainage strategies to improve the water quality of the Reflecting Ponds implemented.
- The Processional Walks project area includes the existing system of pedestrian walkways and allées of trees. Existing ash trees, currently threatened by the invasive emerald ash borer, will be replaced with a more suitable but compatible species. The soil, irrigation and drainage network that support the allées will be improved. The walks will be resurfaced or replaced as required with exposed aggregate concrete.
- The Old Courthouse project will renovate selected gallery spaces and develop new exhibits. ADA access improvements will be provided to the first and second floors through ramp and elevator improvements.
- Great Rivers Greenway and the City of St. Louis will be undertaking street improvements along Leonor K. Sullivan Boulevard to promote economic development along the riverfront.

Additional projects identified by the winning design will be undertaken by local and state agencies and private entities at the perimeter of the Memorial. Section 106 compliance for these projects will be completed by the lead agencies. For example, MoDOT will be undertaking transportation projects along the western edge of the Arch grounds and the City of St. Louis will be upgrading landscaping and providing new amenities at Kiener Plaza.

Further explanation of the undertaking's project elements can be found in the environmental assessment prepared for the project at (*web links*). Design is expected to evolve through the life of the project and elements may be added or deleted due to design considerations. As described in the programmatic agreement, Section 106 consulting parties will have the opportunity to review and comment on site-specific design detail at the 100% draft schematic design and 100% draft design development stages of project development.

## APPENDIX B AREA OF POTENTIAL EFFECTS



2 JULY 2012

## APPENDIX C

### TRIBAL MONITORING PLAN

- A. The NPS is committed to working with the Tribes to assist in identifying and minimizing the Undertaking's impacts on important cultural resources, graves, and isolated human remains.
- B. In general, tribal monitors are hired by the Tribe to monitor areas during the historic property identification and evaluation process and ground disturbing activities related to construction. The NPS will reimburse the Tribe at an agreed upon daily rate. The areas to be monitored have cultural significance and may have been identified as a result of Cultural Resource Surveys and Inventories and the Section 106 Consultation process. The monitors are required to have adequate training and must follow strict protocols while in the field. The tribal monitors shall be selected by the individual Tribes. There will be clear lines of communication among the tribal monitors, the Tribes, and the NPS representatives and their consultants and contractors. Reports may be shared with the NPS, other tribes, and other consulting parties that will be identified through the consultation process.
- C. The objective of the tribal monitoring program is to develop a reasonable monitoring process while minimizing the potential for adverse effects from identification and project activities to historic properties and sites of religious and cultural significance. This plan provides guidelines to assist in the decision-making process when consulting with the Tribe and to implement an effective communication system.
- D. Tribal Monitors Position Description
  - 1. During ground-disturbing activities the tribal monitor will provide assistance with the identification of traditional cultural resources of significance to the Tribe.
  - 2. Tribal monitors may not direct construction personnel or equipment.
  - 3. It is the responsibility of the tribal monitor to actively observe and report any cultural artifact or human remains found either on the surface or subsurface within the project boundaries to the NPS representative.
  - 4. The tribal monitor is required to adhere to the PA and report to the NPS if an archaeological or cultural resource is discovered.
  - 5. Monitors must abide by all safety rules and wear protective equipment at all times while on site.
  - 6. NPS representatives will seek the advice and input of tribal monitors when unanticipated discoveries are encountered.
  - 7. Only if the tribal monitor feels that extremely sensitive materials, such as human remains, are in immediate danger of being damaged or destroyed, they may notify the operator and request that they cease operations in that area until their respective Tribe and the NPS representative can be notified.
- E. Credentials and qualifications of the tribal monitors shall be within the purview of the individual Tribes. The individuals selected will be officially recognized by the Tribe as having the capabilities to perform the duties as described in the job description. The NPS will coordinate the activities of the monitors according to the survey, evaluation, or construction schedule. It is anticipated that the Tribe will administer the activities of the monitors from a tribal perspective. Indian Tribes can also contract out monitoring work to other Native American Tribes who have qualified staff provided that each Tribe officially delegates such authority in writing, stating that they endorse the candidate.
- F. The NPS and the Tribe will agree, through the consultation process, upon the extent of and locations of tribal monitoring. Tribal monitoring will be conducted on areas identified by the Tribes as having significance to that Tribe and areas identified by Tribes during the Section 106 process.

- G. Tribal monitors will work together with the NPS representative to assist in cultural resource identification and perform monitoring activities in areas targeted for survey, evaluation, or construction. If a cultural resource is discovered, NPS representatives will follow the terms of the PA, as well as all local, state, and federal laws governing the protection and discovery of archaeological and cultural resources. Tribal monitors will communicate with the NPS representative and will not direct construction personnel or equipment. The authority to stop work will rest on the NPS representative except as is outlined in IV.7.
- H. It will be the responsibility of the NPS representative to contact, in person, or via email, text, or telephone, the tribal monitor(s) and notify them of emergencies or potential emergencies affecting the entire project areas, such as inclement or violent weather.
- I. The tribal monitor will not remove cultural material unless directly instructed to do so by the NPS representative. Should they be instructed to move the cultural material, they will place the material in an appropriate container and properly label the container to preserve the provenience of the material and deliver it directly to the NPS representative. Transfer of the cultural material to the NPS representative's custody will be documented within a report provided by the monitor or their represented Tribe.
- J. Disputes arising out of this agreement will be resolved in the most efficient manner appropriate to the dispute. If an agreement cannot be reached in this manner, the parties shall engage a mutually agreed-upon mediator. The mediator's decision shall be binding upon the parties. The parties shall share the cost of mediation.