

1
2
3
4
5
6
7
8
9
10
11

**MEMORANDUM OF AGREEMENT
BETWEEN
THE NATIONAL CEMETERY ADMINISTRATION
OF THE U.S. DEPARTMENT OF VETERANS AFFAIRS
AND
THE MISSOURI STATE HISTORIC PRESERVATION OFFICER
FOR
THE EXPANSION OF THE JEFFERSON BARRACKS NATIONAL CEMETERY AT
2900 SHERIDAN ROAD, ST. LOUIS, ST. LOUIS COUNTY, MISSOURI**

12 **WHEREAS**, the National Cemetery Administration (NCA) of the U.S. Department of Veterans Affairs
13 (VA) proposes a major construction project at the federally-owned 37.7-acre parcel called the Sylvan
14 Springs expansion located at 2900 Sheridan Road, St. Louis, Missouri (MO). The proposed project will
15 convert the Sylvan Springs Park into burial plots and associated infrastructure for an extension of the
16 Jefferson Barracks National Cemetery (JBNC) north of Sheridan Road. In addition, columbaria will be
17 constructed within the boundaries of the current JBNC as part of the same project (the Undertaking;
18 Attachment A); and
19

20 **WHEREAS**, in accordance with 36 CFR § 800.3(a), NCA has determined that the Project is a federal
21 action that meets the definition of an undertaking per 36 CFR § 800.16(y), and is the type of activity that
22 has the potential to cause effects on historic properties, and therefore subject to review under Section 106
23 of the National Historic Preservation Act (NHPA), as amended, (54 USC Section 306108), and its
24 implementing regulations (36 CFR Part 800 – Protection of Historic Properties); and
25

26 **WHEREAS**, a park structure located within the proposed Sylvan Springs expansion of the Jefferson
27 Barracks National Cemetery (JBNC), historically known as the Ordnance Shelter, constructed in 1952, and
28 determined eligible for inclusion on the National Register of Historic Places (NRHP), is proposed for
29 demolition; and
30

31 **WHEREAS**, in accordance with 36 CFR § 800.2(c)(1), NCA has consulted with the MO State Historic
32 Preservation Officer (MO SHPO), an office of the MO Department of Natural Resources, MO State Parks
33 Division; and
34

35 **WHEREAS**, NCA invited the following federally recognized Indian tribes (Tribes) that might attach
36 religious and cultural significance to historic properties in the city of St. Louis and St. Louis County,
37 pursuant to 36 CFR § 800.4(c)(2), to participate in consultation: Apache Tribe of Oklahoma, Miami Tribe
38 of Oklahoma, Osage Nation, Peoria Tribe of Indians of Oklahoma, Quapaw Tribe of Indians, and the
39 Seneca-Cayuga Nation; and,
40

41 **WHEREAS**, the Osage Nation and the Miami Tribe of Oklahoma have elected to participate and are
42 consulting parties, and they are invited signatories to this MOA; and,

1 **WHEREAS**, in accordance with 36 CFR § 800.2(c)(2 through 5), NCA has invited the following to be
2 consulting parties (CPs): the Landmarks Association of St. Louis and the City of St. Louis Cultural
3 Resource Office and none have elected to participate; and,
4

5 **WHEREAS**, in accordance with 36 CFR § 800.2(d), NCA provided the public with information about the
6 Undertaking and its effects on historic properties and sought comment and public input through postings
7 February 10-12, 2023, in the local newspaper, the St. Louis Post-Dispatch, and online at STLToday.com
8 and received no public comments regarding effects to historic properties; and,
9

10 **WHEREAS**, in accordance with 36 CFR § 800.4(a)(1), NCA, in consultation with the MO SHPO, has
11 determined the undertaking’s area of potential effects (APE) to include the current boundaries of JBNC and
12 the area of the proposed Sylvan Springs expansion, which is identified in Attachment A; and
13

14 **WHEREAS**, in accordance with 36 CFR § 800.5(a), NCA has found, and the MO SHPO has concurred,
15 that the undertaking will have an adverse effect on the Ordnance Shelter, a historic property located within
16 the project’s APE; and,
17

18 **WHEREAS**, in accordance with 36 CFR § 800.6, NCA has consulted to evaluate alternatives or
19 modifications to the undertaking that could avoid, minimize, or mitigate adverse effects on historic
20 properties and has chosen to resolve the adverse effect through mitigation; and,
21

22 **WHEREAS**, on April 27, 2023, via notification using the Electronic Section 106 Documentation Submittal
23 System (e106), NCA invited the Advisory Council on Historic Preservation (ACHP) to participate in the
24 development and execution of this Agreement and the ACHP declined to participate on May 5, 2023; and,
25

26 **WHEREAS**, NCA, MO SHPO, the Osage Nation, and the Miami Tribe of Oklahoma agree that NCA shall
27 fulfill its Section 106 responsibilities for the undertaking through the development and implementation of
28 this memorandum of agreement (MOA) pursuant to 36 CFR § 800.6(b)(2); and,
29

30 **NOW, THEREFORE**, NCA, MO SHPO, the Osage Nation, and the Miami Tribe of Oklahoma agree that
31 the undertaking shall be implemented in accordance with the following stipulations in order to take into
32 account the effect of the undertaking on historic properties.
33

34 **STIPULATIONS**

35
36 To the extent of its legal authority, NCA will ensure that the following terms are carried out:
37

38 **I. Applicability**

39 A. NCA is responsible for ensuring implementation of the stipulations in this MOA associated
40 with the undertaking.

41 B. The Anti-Deficiency Act, 31 U.S.C. 1341, prohibits federal agencies from incurring an
42 obligation of funds in advance of or in excess of available appropriations. Accordingly, the
43 parties agree that any requirement for the obligation of funds arising from the terms of this
44 MOA shall be subject to the availability of appropriated funds for that purpose, and that this

1 agreement shall not be interpreted to require the obligation of funds in violation of the Anti-
2 Deficiency Act.

3 **II. General**

- 4 A. For the purposes of this MOA, the definitions provided in 36 CFR § 800.16(a) through (z) shall
5 apply.
- 6 B. To the extent required under applicable federal laws and regulations, NCA will make available
7 to the public documents developed pursuant to this Agreement; provided, however, that to the
8 extent permitted by applicable law, proprietary information pertaining to the Project shall
9 remain confidential.
- 10 C. Electronic mail (email) will serve as the official correspondence method for all
11 communications regarding this Agreement and its provisions. See Attachment B for a list of
12 contacts and email addresses. Contact information in Attachment B may be updated as needed
13 without an amendment to this Agreement. It is the responsibility of each signatory to
14 immediately inform NCA of any change in name, address, email address, or phone number of
15 any point-of-contact. NCA will forward this information to all signatories by email. Failure of
16 any party to this Agreement to notify NCA of any change to a point-of-contact's information
17 shall not be grounds for asserting that notice of a proposed action was not received.
- 18 D. All standard response timeframes established by 36 CFR Part 800 will apply to this Agreement,
19 unless an alternative response timeframe is agreed to by the Signatory parties and/or MO SHPO
20 on a case-by-case basis, as applicable.
- 21 E. All time designations will be in calendar days. If any party does not comment within the agreed
22 upon timeframes, NCA may assume that party's concurrence with NCA's determination, and
23 will notify all consulting parties of the action and proceed in accordance with this Agreement.

24
25 **III. Standards**

26
27 NCA shall ensure that federal or contractor staff who meet the applicable Secretary of the
28 Interior's *Professional Qualification Standards* for architectural history, history, archeology,
29 architecture, and historic architecture (36 CFR § 61), participate in the review and
30 implementation of the measures required as part of this MOA. In addition, where individual
31 reviews are performed and require adherence to the *Professional Qualifications Standards*, NCA
32 shall ensure that a staff member or contractor who meets the appropriate standard is included in
33 the demolition process.

34
35
36 **IV. Resolution of Adverse Effects**

37
38 NCA shall ensure that the following measures are carried out prior to demolition of the Ordnance
39 Shelter:

- 40
41 A. HABS LEVEL II DOCUMENTATION: Prior to its demolition, NCA will document the
42 Ordnance Shelter at JBNC, in accordance with HABS Level II Documentation. The HABS

1 Documents shall be prepared by personnel whose qualifications satisfy the applicable standards
2 set forth in Stipulation II above. HABS documentation is intended to adequately illustrate what
3 is significant or valuable about the historic building and is produced in archivally stable format,
4 to be made available to future researchers. Within a period of 120 days after this Agreement is
5 fully executed, NCA will complete the HABS Level II documentation package “HABS
6 Documents” which includes:

- 7 1. Historical Report - following the updated Guidelines for Historical Reports found at
8 <https://www.nps.gov/hdp/standards/HABS/HABSHistoryGuidelines.pdf>
- 9 2. Drawings - reproduction of existing architectural drawings on archival bond (instead of
10 mylar).
- 11 3. Photographs – according to the HABS/HAER/HALS Photography guidelines, November
12 2011 and updated June 2015 found at
13 <https://www.nps.gov/hdp/standards/PhotoGuidelines.pdf>.

- 14
- 15 B. REVIEW AND APPROVAL: Prior to demolition of the Ordnance Shelter, NCA will submit
16 the HABS Level II documentation in draft form to the MO SHPO for review. NCA will take
17 any timely comments into consideration in preparation of the final documentation. NCA will
18 distribute final and approved HABS Level II documentation in paper and digital form to the
19 MO SHPO.

20 V. **Unanticipated Discoveries and Effects**

- 21 A. The following language shall be included in demolition plans and specifications related to the
22 removal of the Ordnance Shelter:

23 *When a previously unidentified cultural resource, including but not limited to archeological*
24 *sites, standing structures, and properties of traditional religious and cultural significance to*
25 *Tribes, is discovered during the execution of an Undertaking, NCA shall immediately secure*
26 *the vicinity, make a reasonable effort to avoid or minimize harm to the resource, and notify*
27 *consulting parties of the discovery as applicable. All activities shall cease within a minimum*
28 *of 50 feet from the inadvertent discovery (50-foot radius "no work" buffer) until restart is*
29 *authorized by NCA.*

- 30 B. During demolition activities, should inadvertent or unknown archaeological resources be
31 discovered, or unanticipated effects identified, work in the impacted area shall cease and an
32 archaeologist meeting the SOI *Professional Qualification Standards* (Federal Register
33 Volume 61, No. 119, pg. 33713, 33719, 1977) (SOI qualified archaeologist) will evaluate the
34 finding.
- 35
- 36 1. If the archeologist recommends the cultural resource is not eligible for the NRHP, nor is
37 it significant as a traditional religious and cultural property, then the suspension of work
38 will end.

39

1 2. If the archeologist recommends the cultural resource is potentially eligible or eligible to
2 the NRHP, or it is significant as a traditional religious and cultural property, NCA will
3 consult with tribes and the MO SHPO per Stipulation IV.D below.
4

5 C. NCA shall implement any additional reasonable measures necessary to avoid or minimize
6 effects to the resource. Any previously unidentified cultural resource will be treated as though
7 it is eligible for the NRHP until such other determination may be made.
8

9 D. NCA shall immediately notify the MO SHPO and Consulting Tribes, if applicable, within 24
10 hours of the finding and request consultation to resolve potential adverse effects.

11 1. If MO SHPO and Consulting Tribes, if applicable, agree that the cultural resource is not
12 eligible for the NRHP, then the suspension of work will end.

13 2. If MO SHPO and Consulting Tribes, if applicable, agree that the cultural resource is
14 eligible for the NRHP, then the suspension of work will continue, and the NCA, in
15 consultation with MO SHPO and Consulting Tribes, will determine actions to avoid,
16 minimize, or mitigate adverse effects to the historic property and will ensure that the
17 appropriate actions are carried out.

18 E. If NCA, the MO SHPO, and Consulting Tribes cannot agree on an appropriate course of action
19 to address an unanticipated discovery or effects situation, then NCA shall initiate the dispute
20 resolution process set forth in Stipulation IX.

21 **VI. Discovery of Human Remains**

22 A. If human remains are discovered, NCA will contact the local police department and coroner
23 to determine if the location is a crime scene or of modern forensic context. If the local police
24 department determines the discovery is a crime scene or of modern forensic context,
25 investigation of the discovery as such will supersede its treatment as a historic property, but
26 such treatment will resume, if applicable once police investigation has been completed.

27 B. If the local police department determines that the discovery is not a crime scene and NCA, in
28 consultation with VA's FPO and the MO SHPO, determines the human remains, funerary
29 objects, sacred objects, or objects of cultural patrimony are Native American or based on the
30 preponderance of evidence are likely to be Native American, NCA will comply with the
31 Native American Graves Protection and Repatriation Act (NAGPRA) and its implementing
32 regulations.
33

34 **VII. Duration**

35
36 This MOA will expire if its terms are not carried out within ten (10) years from the date of its
37 execution. Prior to such time, NCA may consult with the other signatories to reconsider the terms
38 of the MOA and amend it in accordance with Stipulation X below.
39

40 **VIII. Monitoring and Reporting**
41

1 Each year following the execution of this MOA, until it expires or is terminated, NCA shall provide
2 all parties to this MOA a summary report detailing work undertaken pursuant to its terms. Such
3 report shall include any scheduling changes proposed, any problems encountered, and any disputes
4 and objections received in the NCA's efforts to carry out the terms of this MOA.
5

6 **IX. Dispute Resolution**
7

8 Should any signatory or invited signatory to this MOA object at any time to any actions proposed
9 or the manner in which the terms of this MOA are implemented, NCA shall consult with such party
10 to resolve the objection. If NCA determines that such objection cannot be resolved, NCA will:
11

12 A. Forward all documentation relevant to the dispute, including NCA's proposed resolution, to
13 the ACHP. The ACHP shall provide NCA with its advice on the resolution of the objection
14 within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision
15 on the dispute, NCA shall prepare a written response that takes into account any timely advice
16 or comments regarding the dispute from the ACHP, signatories and invited signatories and
17 provide them with a copy of this written response. NCA will then proceed according to its final
18 decision.
19

20 B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day period,
21 NCA may make a final decision on the dispute and proceed accordingly. Prior to reaching such
22 a final decision, NCA shall prepare a written response that takes into account any timely
23 comments regarding the dispute from the signatories and invited signatories to the MOA and
24 provide them and the ACHP with a copy of such written response.
25

26 C. NCA's responsibility to carry out all other actions subject to the terms of this MOA that are
27 not the subject of the dispute remain unchanged.
28

29 **X. Amendments**
30

31 This MOA may be amended when such an amendment is agreed to in writing by all signatories.
32 The amendment will be effective on the date a copy signed by all of the signatories is filed with the
33 ACHP.
34

35 **XI. Termination**
36

37 A. If NCA determines that it cannot implement the terms of this MOA, or if the MO SHPO or
38 invited signatories determine that this MOA is not being properly implemented, a signatory
39 or invited signatory may propose to the other parties that this MOA be terminated
40

41 B. The party proposing termination shall so notify the other signatory or invited signatories to
42 this MOA explaining the reasons for termination and affording at least thirty (30) days to
43 consult and seek an alternative to termination.
44

1 C. Should such consultation fail, and the MOA is terminated, NCA shall notify all consulting
2 parties and shall either consult to develop a new agreement, in accordance with 36 CFR §
3 800.6 or request the comments of ACHP under 36 CFR § 800.7(a).

4
5 **EXECUTION AND IMPLEMENTATION** of this MOA and implementation of its terms evidence
6 NCA has taken into account the effects of this undertaking on historic properties and afforded the ACHP
7 an opportunity to comment. NCA will submit a copy of the executed MOA to the ACHP prior to
8 approving the undertaking in accordance with 36 CFR § 800.6(b)(1)(iv).

9
10
11
12

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

19
20
21
22
23
24
25
26

**MEMORANDUM OF AGREEMENT
BETWEEN
THE NATIONAL CEMETERY ADMINISTRATION
OF THE U.S. DEPARTMENT OF VETERANS AFFAIRS
AND
THE MISSOURI STATE HISTORIC PRESERVATION OFFICER
FOR
THE EXPANSION OF THE JEFFERSON BARRACKS NATIONAL CEMETERY AT
2900 SHERIDAN ROAD, ST. LOUIS, ST. LOUIS COUNTY, MISSOURI**

SIGNATORY:

Missouri State Historic Preservation Officer



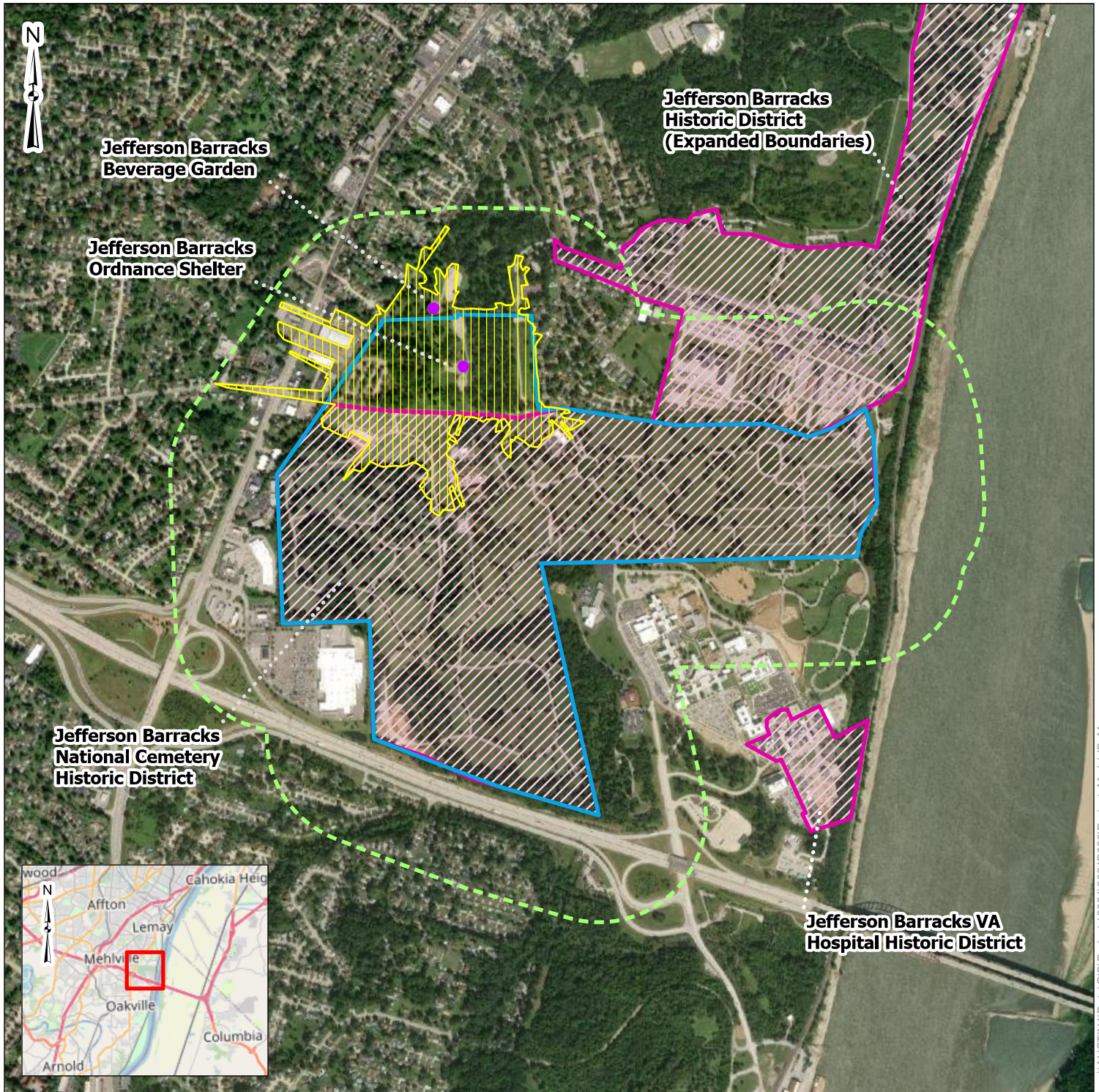
07/27/2023 Date

Brian Stith / Deputy Missouri State Historic Preservation Officer

1
2
3
4

ATTACHMENT A

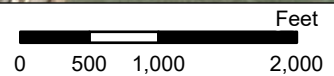
Map illustrating Area of Potential Effects



I:\AUSTIN\1\GIS\Projects\2021\9621P099\Project_Maps.aprx

Legend

- NRHP Eligible (Individual)
- Project APE
- Viewshed
- Parcel boundaries
- NRHP Listed Properties (Historic District)



DATA SOURCES:
 FEMA - National Flood Hazard Layer
 ESRI WMS - World Aerial Imagery, OpenStreetMap

Project No.:	9621P099
Date:	Oct 2022
Drawn By:	SEV
Reviewed By:	JDH

5307 Industrial Oaks Blvd, Ste. 160 Austin, TX 78735
 (512) 442 1122 terracon.com

Area of Potential Effects

Section 106 Coordination
 Jefferson Barracks National Cemetery
 2900 Sheridan Road
 St. Louis, MO 63125

--	--

1
2
3
4 **ATTACHMENT B**

5
6 **CONTACT INFORMATION FOR SIGNATORIES**

7
8 **SIGNATORIES:**

9 **U.S. Department of Veterans Affairs**

10 Marty A. Fury

11 Executive Director

12 Jefferson Barracks National Cemetery

13 2900 Sheridan Road

14 St. Louis, MO 63125

15 Office: 314-845-8320

16 Cell: 314-793-0089

17 Marty.Fury@va.gov

18
19 **Missouri State Historic Preservation Officer**

20 Brian Stith, Deputy Missouri State Historic Preservation Officer

21 State Historic Preservation Office

22 P.O. Box 176

23 Jefferson City, Missouri 65102

24 573-751-9392

25 brian.stith@dnr.mo.gov

26
27
28
29 **INVITED SIGNATORIES:**

30
31 **Osage Nation**

32 Dr. Andrea A. Hunter, Director

33 Tribal Historic Preservation Officer

34 Historic Preservation Office

35 100 W. Main

36 Pawhuska, Oklahoma 74056

37 918-287-5328

38 ahunter@osagenation-nsn.gov

39
40
41 **Miami Tribe of Oklahoma**

42 Diane Hunter, Tribal Historic Preservation Officer

43 Historic Preservation Office

44 3410 P. Street NW

45 Miami, Oklahoma 74354

46 918-541-8966

47 dhunter@miamination.com