

**PROGRAMMATIC AGREEMENT
AMONG
THE NATIONAL PARK SERVICE,
THE NATIONAL CAPITAL PLANNING COMMISSION,
DISTRICT OF COLUMBIA STATE HISTORIC PRESERVATION OFFICE, AND
VIRGINIA STATE HISTORIC PRESERVATION OFFICE,
REGARDING
THE TRIUMPHAL ARCH PROJECT**

This Programmatic Agreement ("PA") is made as of this ____ day of ____, 2026, by and among the National Park Service (NPS), the Virginia State Historic Preservation Office (VA SHPO), the District of Columbia Historic Preservation Office (DC HPO), and the National Capital Planning Commission (NCPC) (referred to collectively herein as the "Parties" or "Signatories" or individually as a "Party" or "Signatory"), pursuant to Section 106 of the National Historic Preservation Act ("NHPA"), 54 U.S.C. § 306108, and its implementing regulations 36 CFR Part 800 ("Section 106") regarding the Triumphal Arch Project (Undertaking); and

WHEREAS, the George Washington Memorial Parkway was established pursuant to what is known as the Capper-Cramton Act, Public Law 71-284, 46 Stat. 482, (May 29, 1930), and became a unit of the national park system pursuant to Executive Order 6166 of June 10, 1933 (taking effect August 10, 1933), and the George Washington Memorial Parkway (hereinafter "GW Parkway") is administered by the National Park Service (hereinafter "NPS"); and

WHEREAS, the NPS is charged in its administration of the units of the NPS System to meet the directives of other laws, regulations, and policies including the NPS Organic Act as codified in Title 54 United States Code (USC) § 100101(a) to "conserve the scenery, natural and historic objects, and wild life in the System units and to provide for the enjoyment of the scenery, natural and historic objects, and wild life in such manner and by such means as will leave them unimpaired for the enjoyment of future generations"; and

WHEREAS, the GW Parkway is a nationally significant historic property in Virginia, Maryland, and the District of Columbia listed in the National Register of Historic Places (hereinafter "NRHP") on June 2, 1995 as a historic district for its commemorative, design, and scenic qualities, and the 25 mile long parkway segment along the Potomac River west shore and 6.8 mile long segment along the Potomac River east shore and their settings are important landscape features that contribute to the significance of the GW Parkway; and

WHEREAS, Memorial Circle, which connects Arlington Memorial Bridge and Memorial Avenue, is located within the GW Parkway and is part of the nationally significant historic property Arlington Memorial Bridge and Related Features in Virginia and the District of Columbia and listed in the NRHP on April 4, 1980 as a historic property for its architectural and engineering design qualities; and

WHEREAS, NPS proposes to construct the Triumphal Arch ("the Undertaking") within Memorial Circle to celebrate 250 years of American independence by honoring America's

founding principles through installation of a structure at the intersection of Arlington Memorial Bridge and Memorial Avenue within George Washington Memorial Parkway, in a manner consistent with the avenue's established role as a ceremonial gateway and "Avenue of Heroes" celebrating valor, sacrifice, and American heritage.

WHEREAS, the Undertaking is subject to review under Section 106 of the NHPA as amended (54 U.S.C. § 306108) and NPS will be the federal agency responsible for compliance; and

WHEREAS, the Undertaking is subject to review under National Environmental Policy Act (NEPA) (42 U.S.C. § 4231 et seq), and in accordance with NEPA, the NPS has prepared an Environmental Assessment (EA); and

WHEREAS, in accordance with 36 C.F.R. § 800.3, NPS initiated Section 106 consultation with DC HPO, VA SHPO, and Consulting Parties on June 5, 2026; and

WHEREAS, the NPS, DC HPO, VA SHPO, and NCPC have agreed that the NPS will be the lead agency pursuant to 36 C.F.R. § 800.2(a)(2) for the Undertaking to fulfill their collective Section 106 responsibilities; and

WHEREAS, NCPC is a Consulting Party in the Section 106 process pursuant to 36 CFR § 800.3(f)(1), has approval authority over Federal projects located within the District of Columbia and has approval authority over all land transfers and physical alterations to Federal property pursuant to the National Capital Planning Act (40 U.S.C. § 8722(b)(1) and (d)), and this approval would constitute an Undertaking as defined at 36 CFR § 800.16(y). NCPC has elected to fulfill its Section 106 responsibilities by participating in this consultation and is a Signatory to this PA pursuant to 36 CFR § 800.6(c)(2); and

WHEREAS, the U.S. Commission of Fine Arts (CFA) has a statutory obligation under the Shipstead-Luce Act of 1930 (Public Law 71-231) to regulate construction of private and semiprivate buildings in certain areas of the National Capital within which the Undertaking falls. CFA has design review authority over new structures erected in the District under the direction of the Federal government (Executive Order 1862) and plans for parks which “in any essential way affect the appearance of the City of Washington, or the District of Columbia” (Executive Order 3524). The CFA is a Consulting Party in the Section 106 process pursuant to 36 CFR § 800.3(f)(1) and is invited to concur with this PA pursuant to 36 CFR § 800.6(c)(3); and

WHEREAS, in letters dated [insert date], the NPS informed the Federally recognized sovereign Indian Nations that have a government-to-government relationship with the United States and an interest in the area affected by the Undertaking, pursuant to 36 C.F.R. § 800.2(c)(2), about the project and invited them to be a Consulting Party. The Federally recognized sovereign Indian Nations include the Absentee Shawnee Tribe of Indians of Oklahoma Nation, Catawba Indian Nation, Chickahominy Indian Tribe, Chickahominy Tribe Eastern Division, Monacan Indian Nation, Nansemond Indian Nation, Pamunkey Indian Tribe, Rappahannock Tribe, Shawnee Tribe, and Upper Mattaponi Indian Tribe (collectively referred to as “Native American Tribes” in this PA). The NPS invited each of these Native American Tribes to concur with this PA pursuant to 36 C.F.R. § 800.6(c)(3). All the letters sent to Native American Tribes can be found in Appendix A; and

WHEREAS, the Native American Tribes that did not respond to the invitation continue to be included in the Section 106 process through invitations to Consulting Parties meetings and will continue to be invited to any subsequent consulting Parties meetings; and

WHEREAS, in accordance with 36 C.F.R. § 800.2(a)(4), the NPS invited certain individuals and organizations with a demonstrated interest in the Undertaking to participate as Consulting Parties in the Section 106 process via meeting virtually held on June 15, 2026. The full list of Consulting Parties invited is provided in Appendix B, along with presentation materials from the consulting party meetings; and

WHEREAS, the NPS, in consultation with DC HPO, VA SHPO, NCPC, and the Consulting Parties, established the Area of Potential Effects (APE), as defined under 36 C.F.R. § 800.16(d). The APE is included in Exhibit C; and

WHEREAS, the NPS identified X historic resources within the APE (that also encompass numerous contributing features), including the [list resources]; and

WHEREAS, pursuant to 36 CFR § 800.5(a) the NPS, in consultation with the DC HPO, VA SHPO, NCPC, and the Consulting Parties, have applied the criteria of 36 CFR § 800.5(a)(1) to the undertaking, and provide all relevant findings in the *Triumphal Arch Assessment of Effects Report* (Appendix C); and

WHEREAS, specific design details are not developed at the concept planning level, therefore, the Triumphal Arch Assessment of Effects includes determinations from portions of the proposed undertaking. These effects will be further assessed as part of future Section 106 reviews of individual project components, as required under the terms of this PA; and

WHEREAS, the NPS conducted X Section 106 Consulting Party meetings to provide opportunities for the Consulting Parties to comment on the Undertaking, the delineation of the APE, the identification of historic properties, the assessment of effects on historic properties, and potential resolution strategies; and

WHEREAS, the NPS completed an EA, published June 5, 2026, as part of NPS's NEPA compliance and issued the Finding of No Significant Impact; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), NPS notified the Advisory Council on Historic Preservation (ACHP) of its findings of effects meeting the criteria in 36 CFR § 800.5(a)(1) with specified documentation on June 5, 2026, and on [INSERT DATE] the ACHP [chose or chose not] to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

NOW, THEREFORE, NPS, DC HPO, VA SHPO, and NCPC agree that, if the Undertaking is implemented in accordance with the following stipulations taking into account the adverse effects on historic properties, these stipulations will govern compliance with Section 106 of the NHPA.

STIPULATIONS

The NPS will ensure that the following measures are carried out:

I. GENERAL

A. APPLICABILITY

1. The NPS will use the terms and conditions of this PA to fulfill its Section 106 responsibilities and those of other Federal agencies who designate NPS as the lead Federal agency pursuant to 36 C.F.R. § 800.2(a)(2). Federal agencies that do not designate NPS as the lead Federal agency remain individually responsible for their compliance with Section 106.
2. In the event a Federal agency or other agency issues federal funding or approvals for the Undertaking, such funding or approving agency may comply with Section 106 by agreeing in writing to the terms of this PA and notifying and consulting with the Signatories. Any necessary amendments will be considered in accordance with Stipulation X of this PA.

B. CODES AND STANDARDS

1. The Undertaking will be consistent with *Secretary of the Interior's Standards for the Treatment of Historic Properties*, including the standards for Preservation and Rehabilitation, as applicable, together with the *Secretary of the Interior's Standards and Guidelines for the Treatment of Cultural Landscapes*, the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation*, and, where recordation is adopted as a mitigation measure, the *Secretary of the Interior's Standards for Architectural and Engineering Documentation*.

C. TIME AND NOTIFICATIONS

1. All time designations are in calendar days unless otherwise stipulated. If a review period ends on a Saturday, Sunday, or a Federal holiday, the review period will be extended until the first following business day.
2. All communication and notifications required by this PA will be sent by email or other electronic means.

D. ROLES AND RESPONSIBILITIES

1. NPS
 - a. Pursuant to 36 C.F.R. § 800.2(a)(2), NPS has the responsibility to ensure the provisions of this PA are carried out.
 - b. NPS is responsible for all government-to-government consultation with Federally recognized Native American tribes.

- c. NPS is responsible for coordinating Federal agencies' compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) within its jurisdictional areas.
 - d. NPS is responsible for enforcing the applicable provisions of the Archaeological Resources Protection Act (ARPA) (16 U.S.C. § 470aa et seq.), including but not limited to the issuance of permits, permit oversight, and investigation of any damages resulting from prohibited activities.
- 2. DC HPO and VA SHPO
 - a. DC HPO and VA SHPO will review Project submittals according to the timeframes defined within this PA, and participate in consultation, as requested by NPS.
- 3. NCPC
 - a. NCPC will review Project submittals according to the timeframes defined within this PA, and participate in consultation, as requested by NPS.
 - b. These reviews do not supersede the statutory or regulatory obligations of this body, and NCPC will review and approve the project components as required.
- 4. CFA
 - a. CFA will review Project submittals according to the timeframes defined within this PA, and participate in consultation, as requested by NPS.
 - b. These reviews do not supersede the statutory or regulatory obligations of this body, and CFA will review and approve the project components as required.

II. PROFESSIONAL QUALIFICATIONS STANDARDS

The NPS will ensure that all historic preservation work performed by the relevant agency pursuant will be accomplished by or under the direct supervision of a person or persons who meet(s) or exceed(s) the pertinent qualifications in *The Secretary of the Interior's Historic Preservation Qualification Standards* (62 CFR § 33708) as amended on June 20, 1997.

III. RESOLUTION OF POTENTIAL ADVERSE EFFECTS

- A. Design Review for Minimization and Mitigation Measures
 - 1. The NPS shall continue to consult with the DC HPO, VA SHPO, and consulting parties during design development in order to avoid and minimize any potential effects to historic properties to the maximum extent feasible.
 - 2. The NPS shall consider comments received from the DC HPO, VA SHPO, and consulting parties and shall document in writing how those comments were addressed in subsequent design development.
 - 3. The final design shall account for any potential effects on historic properties through refinement of architectural detailing, materials, lighting, signage, security infrastructure, utility enclosures, stormwater features, pedestrian improvements, and other associated site features

B. Documentation

1. Preparation of an Updated National Register of Historic Places Nomination.

C. Viewshed and Visual Mitigation

1. The NPS shall continue to refine the design of the undertaking to minimize visual intrusion on historic properties within the APE to the maximum extent feasible.
2. Measures to be considered shall include, as appropriate:
 - a. refinement of lighting intensity, direction, and shielding to reduce glare and spill;
 - b. minimizing the visibility and visual dominance of security features and associated infrastructure;
 - c. careful siting and design of utility enclosures, pump station features, and stormwater facilities;
 - d. reduction or integration of signage, lighting, and site furnishings; and
 - e. preservation or restoration of landscape features that support significant views and enhance the design landscape character.
3. NPS shall prepare updated visual simulations at agreed-upon design milestones from key viewpoints identified in consultation with the DC SHPO, VA SHPO, and consulting parties.

D. Construction Management Control Plan

1. The NPS will minimize temporary construction effects to historic properties from noise and vibration and visual effects using a variety of construction management techniques. Visual effects will be minimized to the extent practicable by providing appropriate screening between construction staging areas and cultural resources, limiting the size of construction staging areas, and/or locating them away from sensitive views and viewsheds.
2. The NPS will develop and implement a construction noise and vibration control plan to ensure that both noise and vibrations are controlled throughout the estimated 2-3 year construction of the Project.
3. The NPS will develop and implement a plan for visual screening of construction areas throughout the estimated 2-3 year construction of the Project.

E. Archeology

1. The NPS will continue identification and evaluation of archeological historic properties in accordance with 36 CFR §§ 800.4 and 800.5 and following the findings and recommendations of the Phase IA Archaeological Assessment Report.
2. Pre-Construction Phase 1B Geoarcheological Investigations
 - a. The NPS shall complete geoarcheological investigations to inform the Archeological Monitoring and Documentation Work Plan to investigate and evaluate subsurface areas within the project's Limits of Disturbance (LOD) to

- better ascertain the archeological potential within the LOD and the depths at which archeological historic properties could be expected.
- b. The results of the geoarcheological investigations shall be incorporated into the Archeological Monitoring and Documentation Work Plan.
3. Archeological Monitoring and Documentation
- a. The NPS shall develop an Archeological Monitoring and Documentation Work Plan in consultation with the DC HPO and VA SHPO. The Archeological Monitoring and Documentation Work Plan shall cover all archeological activities to be carried out throughout the duration of the project's ground disturbing activities.
 - b. The Archeological Monitoring and Documentation Work Plan shall include sections describing the following, to an adequate level of detail as concurred upon by the DC HPO and VA SHPO:
 - i. Analysis and synthesis of investigations sufficient to identify horizontal and vertical distributed locations of archeological potential and characterization of said archeological potential (low, medium, high);
 - ii. Archeological monitoring during mechanical stripping, trenching, and near surface ground disturbing activities;
 - iii. Archeological monitoring for deeply buried resources, potential buried surfaces, and potential paleosols;
 - iv. Description of archeological documentation methods and standards to identify and evaluate finds for National Register of Historic Places (NRHP) eligibility and recovery of sufficient data to mitigate adverse effects on archeological historic properties, including potential specialized analysis and contextual research);
 - v. Description of procedures for notification of finds, determinations of eligibility, review periods, etc.;
 - vi. Procedures for artifact collection, cleaning/processing, analysis, and curation;
 - vii. Documentation Standards and Reporting.
 - viii. The NPS and DC HPO agree to review and return all comments within three (3) business days on drafts of the work plan, unless otherwise agreed upon in writing.
4. Precolonial Finds
- a. The NPS will notify Native American Tribes in the event that any precontact resources are discovered and considered potentially eligible for the National Register of Historic Places. Notification will also be given should additional phases of archeological investigation pertaining to precolonial resources be necessary or identified in a Post Review Discovery.

IV. MONITORING AND REPORTING

Each year, until the PA expires or is terminated, the NPS shall provide the Signatories with a summary report detailing work undertaken pursuant to its terms, or a statement of "no activity". The report will be issued annually on or before July 31st. The report will summarize the efforts carried out during the prior year, updates on current Section 106

consultation processes, and any projects planned for the coming year. The NPS shall convene a meeting to discuss the information contained in the annual report as required, or when requested by a Signatory. Failure to provide such summary report may be considered noncompliance with the terms of the PA pursuant to Stipulation X.

V. POST-REVIEW DISCOVERIES

- A. If newly identified historic properties, sites and/or features are discovered during construction or unanticipated effects on known historic properties are identified, the NPS will comply with 36 C.F.R. § 800.13. The NPS shall consult with DC HPO, VA SHPO, and, if applicable, Native American Tribes that may attach religious and/or cultural significance to the affected property, and shall develop and implement avoidance, minimization, or mitigation measures with the concurrence of DC HPO, VA SHPO, and if applicable, Native American Tribes.
1. The NPS will immediately cease all ground disturbing and/or construction activities within a fifty (50)-foot radius of the discovery. The NPS will not resume ground disturbing and/or construction activities until the specified Section 106 process required by this PA is complete.
 2. The NPS will inform the Signatories of the discovery within forty-eight (48) hours and, together with the Signatories, will determine the projected path forward to comply with Section 106 within fourteen (14) calendar days.
 3. The Signatories will review the plan documents and provide written comments to the NPS within seven (7) calendar days.
 4. The NPS will consider the written comments to the fullest reasonable extent. Should the NPS object to any comments made by the Signatories, NPS will provide a written explanation of their objection and will consult with the Signatories to resolve the objection. If no agreement is reached following receipt of a written explanation, the NPS will request the Advisory Council on Historic Preservation (ACHP) to review the dispute in accordance with Stipulation VII.
 5. If no Signatory provides written comments within the agreed upon time, NPS will assume they have no comments regarding the discovery and may then proceed with the submitted plan.
- B. Treatment of Human Remains. In the event that human remains, burials, or funerary objects are discovered during construction of the Plan or any action taken pursuant to this PA, NPS will immediately halt subsurface construction disturbance in the area of the discovery and in the surrounding area where additional remains can reasonably be expected to occur and will immediately notify DC HPO and the District Chief Medical Examiner or the VA SHPO and the Virginia Office of the Chief Examiner, as appropriate.
1. If the CME determines that the human remains are not subject to a criminal investigation by Federal or local authorities, NPS will comply with the applicable Federal or local laws and regulations governing the discovery and disposition of human remains and consider the ACHP's Policy Statement Regarding Treatment of Burial Sites, Human Remains, and Funerary Objects (2007).

2. For actions involving Native American human remains or burials, the appropriate Native American Tribes, the VA SHPO, and the DC HPO will be consulted to determine a treatment plan for the avoidance, recovery, or reburial of the remains.
3. The NPS will ensure compliance with applicable laws in accordance with provisions of NAGPRA, as amended (Public Law 101-601, 25 USC § 3001 *et seq.*) and regulations of the Secretary of the Interior at 43 CFR § 10.

VI. CONFIDENTIALITY

- A. If disclosure of locational information could result in the disturbance of a cultural resource, all Signatories to this PA will ensure shared data, including data concerning the precise location and nature of historic properties, archeological sites, and properties of religious and cultural significance, are protected from public disclosure to the greatest extent permitted by law, in accordance with 36 C.F.R. § 800.11(c), Section 304 of the NHPA, Section 9 of the Archeological Resource Protection Act (ARPA) of 1979, and Executive Order on Sacred Sites 13007 CFR § 61-104 dated May 24, 1996.
- B. The NPS standard policies, Director's Orders #28 and 28A and the NPS management policies will be followed. In accordance with ARPA, the Superintendent of each park is the arbiter for what information can and cannot be released publicly.
- C. Consulting Parties and members of the public are not entitled to receive information protected from public disclosure.

VII. DURATION

This PA will expire if its terms are not carried out within ten (10) years from the date of its execution. Twelve (12) months prior to expiration, the NPS may consult with the Signatories to reconsider the terms of this PA and amend it in accordance with Stipulation **X** below.

VIII. DISPUTE RESOLUTION

- A. Should any Signatory or Consulting Party to this PA object at any time to any actions proposed or the manner in which the terms of the PA are implemented, NPS will consult with such Signatory to resolve the objection. If NPS determines that such objection cannot be resolved within a reasonable time period, NPS will:
 1. Forward all documentation relevant to the dispute, including NPS's proposed resolution, to the ACHP with a copy to the Consulting Parties to this PA and request that ACHP provide NPS with its comments on the resolution of the objection within thirty (30) calendar days of receiving the documentation.
 2. If the ACHP does not provide comment regarding the dispute within the thirty (30) calendar-day time period, NPS will make a final decision on the dispute and proceed accordingly.
 3. The NPS will document this decision in a written response to the objection that takes into account any timely comments regarding the dispute from the Signatories and

Consulting Parties and provide the ACHP and all parties with a copy of such written response.

4. The NPS may then proceed according to its decision.
5. The Signatories remain responsible for carrying out all other actions subject to the terms of the PA that are not the subject of the dispute.

IX. ADOPTABILITY

In the event that a Federal agency other than NPS is considering providing financial assistance, permits, licenses, or approvals for the Plan, such Federal agency may become a Signatory to this PA as a means of satisfying its Section 106 compliance responsibilities. To become a Signatory to this PA, the agency official must provide written notice to the Signatories that the agency agrees to the terms of the PA, specifying the extent of the agency's intent to participate in the PA, and identifying the lead Federal agency for the Undertaking. The participation of the agency is subject to approval by the Signatories, who must respond to the written notice within thirty (30) calendar days, or the approval will be considered implicit. Any other modifications to the PA will be considered in accordance with Stipulation XI.

X. AMENDMENTS TO THE PA AND NON-COMPLIANCE

Any Signatory to this PA may request that it be amended. The Signatories will consult for no more than thirty (30) calendar days (or another time period agreed upon by all Signatories) to consider such amendment. The amendment will be effective on the date a copy, signed by all the Signatories, is filed with the ACHP.

XI. TERMINATION AND WITHDRAWAL

If any Signatory to this PA determines that the terms of the PA will not or cannot be carried out, that Signatory will immediately notify the other Signatories in writing and consult with them to seek resolution or amendment pursuant to Stipulations IX or XI of the PA. If within sixty (60) days a resolution or amendment cannot be reached, any Signatory may terminate their participation in the PA upon written notification to the other Signatories. Once the PA is terminated, and prior to work continuing on the Undertaking, NPS must either (a) execute a new PA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. NPS will notify the Signatories as to the course of action it will pursue.

XII. SIGNATURES AND EFFECTIVE DATE

This PA may be executed in counterparts, with a separate page for each signatory. This PA will become effective immediately upon execution by all Signatories. The NPS will ensure that each signatory party is provided with a copy of the fully executed PA. Execution and implementation of this PA evidences that NPS has considered the effects of this Undertaking on historic properties and satisfied its responsibilities under Section 106 of the NHPA and its implementing regulations.

SIGNATURES AND EXHIBITS FOLLOW ON SEPARATE PAGES

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NATIONAL PARK SERVICE

Jennifer Madello
Superintendent
George Washington Memorial Parkway

Date

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DISTRICT OF COLUMBIA HISTORIC PRESERVATION OFFICE

David Maloney
DC Historic Preservation Officer

Date

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VIRGINIA STATE HISTORIC PRESERVATION OFFICE

VA Historic Preservation Officer

Date