MEMORANDUM OF AGREEMENT
AMONG
THE NATIONAL PARK SERVICE
THE WORLD WAR I CENTENNIAL COMMISSION
THE DISTRICT OF COLUMBIA STATE HISTORIC PRESERVATION OFFICER
THE NATIONAL CAPITAL PLANNING COMMISSION
AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING
THE ESTABLISHMENT OF THE NATIONAL WORLD WAR I MEMORIAL
WASHINGTON, DC

This Memorandum of Agreement ("MOA") is made as of this 10th day of April, 2019, by and among the National Park Service (NPS), the World War I Centennial Commission, the District of Columbia State Historic Preservation Officer (DC SHPO), the National Capital Planning Commission (NCPC), and the Advisory Council on Historic Preservation (ACHP) (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 Establishment of the National World War I Memorial in Washington, DC; and

WHEREAS, through Public Law 113-291, 3091 Stat. 3292 (December 19, 2014), the U.S. Congress redesignated Pershing Park in the District of Columbia as a World War I Memorial; and

WHEREAS, through Public Law 113-291, 3091 Stat 3292, the U.S. Congress has authorized the World War I Centennial Commission (WWICC) to enhance the General Pershing Commemorative Work on the World War I Memorial site by constructing appropriate sculptural and other commemorative elements, including landscaping, to further honor the service of members of the United States Armed Forces in World War I; and

WHEREAS, the World War I Memorial site is located within the Pennsylvania Avenue National Historic Site (Pennsylvania Avenue NHS), which is under the jurisdiction of the National Mall and Memorial Parks (NAMA), a unit of the National Park Service (NPS); and

WHEREAS, after detailed study of various alternatives to avoid and minimize adverse effects of the proposed World War I Memorial, the NPS has defined the preferred option as the Proposed Action in the *World War I Memorial Assessment of Effects,* as reflected in the plans attached hereto as Appendix A; and

WHEREAS, the World War I Memorial would result in a cumulative adverse effect on the Pershing Park due to the following actions:

- Removal of the existing cascade fountain structure;
- Alteration of the materials of the existing pool basin and modification of its depth;
- Insertion of a freestanding commemorative sculpture in the pool basin;
- Replacement of the circular metal and plastic kiosk with an elevated interpretive viewing platform; and

- Modification, replacement, or removal of existing vegetation

WHEREAS, the proposed World War I Memorial constitutes a federal Undertaking subject to Section 106 of the NHPA; and

WHEREAS, pursuant to Section 106, federal agencies must take into account the effects of their undertakings on any district, site, building, structure or object that is included in or eligible for inclusion in the National Register of Historic Places, and afford the ACHP a reasonable opportunity to comment; and

WHEREAS, the NPS is entering into this Memorandum of Agreement (Agreement) pursuant to 36 CFR 800.6(c) to fulfill its responsibilities under Section 106; and

WHEREAS, the Memorial is being established pursuant to the Commemorative Works Act, 40 USC Chapter 89 (CWA); and

WHEREAS, the CWA requires that memorials are designed and located to protect open space (40 USC 8905), and cultural and natural resources (40 USC 8905(b)(2)(B)) to the extent practicable; and

WHEREAS, the National Capital Planning Commission (NCPC) has approval authority over the proposed World War I pursuant to the CWA, and NCPC is required to comply with Section 106 of the NHPA; and

WHEREAS, the NPS and NCPC have agreed that the NPS will be the lead agency pursuant to 36 CFR 800.2(a) (2) for the Undertaking to fulfill their collective Section 106 responsibilities; and

WHEREAS, the NPS initiated Section 106 consultation with the District of Columbia State Historic Preservation Officer (DCSHPO) on May 1, 2015; and

WHEREAS, the NPS has consulted with other parties including, but not limited to, the US Commission of Fine Arts (CFA), the Committee of 100 on the Federal City, the National Trust for Historic Preservation, the DC Preservation League, and the Cultural Landscape Foundation (see Appendix C for complete list of consulting parties); and

WHEREAS, the NPS notified the public and conducted a combined National Environmental Policy Act (NEPA) scoping and Section 106 consultation meeting on May 20, 2015, to inform the public of the World War I Memorial and solicit comments, followed by Section 106 consultation meetings held on December 16, 2015; September 21, 2016; February 9, 2017; June 28, 2017; February 13, 2018; November 5, 2018 ; and February 25, 2019 to provide additional opportunities for the Consulting Parties to comment on historic preservation concerns regarding the World War I Memorial; and

WHEREAS, in accordance with 36 CFR 800.4, the NPS and DCSHPO defined the Undertaking's Area of Potential Effects (APE) to include the structures, buildings, cultural landscapes, and viewsheds surrounding the project area and to encompass the geographic areas within which the Undertaking may directly or indirectly cause alterations in the character or use of historic properties, as shown in Appendix B; and

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WHEREAS, Pershing Park, the name by which the World War I Memorial site was formerly known, was determined individually eligible for listing in the National Register of Historic Places (NRHP) because it is a signature designed landscape by M. Paul Friedberg, one of American landscape architecture's most accomplished designers; it includes an overlay planting design by the noted landscape architecture firm of Oehme van Sweden; it demonstrates a high degree of integrity in location, design, and setting; it and contains original plant materials, including trees, lawn, grasses, and flowers; it , contains contributing features of historic, architectural, and symbolic significance in the Pennsylvania Avenue National Historic Site, a property listed in the NRHP; and because it contains contributing features in the Pennsylvania Avenue, NW-White House to the Capitol Cultural Landscape, which has been determined eligible for the NRHP; and

WHEREAS, the WWICC and the NPS substantially minimized the changes to the park from the initial design concept by adhering to the Secretary of Interior's Standards for the Treatment of Historic Properties as closely as possible; retaining the berms, the General Pershing Commemorative Work, the Bex Eagle sculpture, and much of the spatial relationship, seating, paving, vegetation, views and vistas, and sound of the fountain; and by minimizing the length of the commemorative sculpture, as shown in Appendix C; and

WHEREAS, the NPS, in consultation with the WWICC, DCSHPO, NCPC and the Consulting Parties, has determined that the Undertaking will have adverse effects on the World War I Memorial site (formerly Pershing Park), as described in the Summary of Adverse Effects Determination in Appendix E; and

WHEREAS, in accordance with 36 CFR 800.6(a)(1), the NPS has notified the Advisory Council on Historic Preservation (ACHP) of the adverse effects determination and provided the documentation specified in 36 CFR.11(3) and the ACHP elected to participate in the consultation; and

WHEREAS, the Signatories to this Agreement are the NPS, WWICC, NCPC, DCSHPO and ACHP; and

WHEREAS, the NPS submitted the concept design for the World War I Memorial to the NCPC on June 9, 2017 and on August 30, 2018, and the NCPC provided comments on the concept design on July 13, 2017 and October 4, 2018 respectively, and NPS subsequently submitted the revised concept for the World War I Memorial to the NCPC on December 7, 2018, and the NCPC approved the preliminary memorial and site development plans on February 7, 2019; and

WHEREAS, on July 5, 2018 the NPS submitted the revised concept design for the World War I Memorial to the CFA, and on July 19, 2018 "… the [CFA] members commented that the presentation demonstrated that the new commemorative purpose and the preservation of the historic park are not antithetical goals, and that the insertion of the freestanding sculpture wall at the western end of the central pool would successfully reinterpret the existing landscape. They also endorsed the project team's preferred configuration of creating a large paved area or viewing platform within the historic pool, bordered by a significant perimeter of water;" and

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WHEREAS, the NPS has released for public review and comment the *World War I Memorial Environmental Assessment*, which analyzed the potential environmental impact from the World War I Memorial; and

NOW, THEREFORE, the NPS and Signatories agree that the Undertaking shall be carried out in accordance with the following stipulations in order to take into account the effects of the Undertaking on historic properties.

STIPULATIONS

The WWICC, the NPS and NCPC shall ensure that the following measures are carried out:

1. **DESIGN REVIEW**
   The NPS shall review the final design documentation after approval by NCPC and CFA, focusing on any substantive changes from the design as presented at the February 25, 2019 Consulting Parties meeting and at the February 7, 2019 NCPC meeting, at which time NCPC approved the preliminary memorial and site development plans, and make a determination as to whether the proposed final design may result in new adverse effects that have not already been resolved and/or the intensification of known adverse effects on historic properties. If the NPS determines that a new or intensified adverse effect will result, the NPS shall immediately notify the Signatories and Consulting Parties and will consult further to determine whether additional mitigation and/or an amendment to this Agreement will be necessary. Any such amendment will be addressed in accordance with Administration Stipulation 5.d.

2. **MINIMIZATION**

a. Structural Elements

   New paving or other stone elements shall be materials consistent with the original design of the former Pershing Park as appropriate. The WWICC and the NPS shall retain the circular shape of the kiosk at the new belvedere. The WWICC and the NPS will continue to minimize the number and size of walkway connections to the pool edge.

b. Incorporation of Fountain

   The WWICC and the NPS shall include a fountain in the design of the new commemorative sculpture in order to replicate the historic auditory experience of moving water and movement to the pooled water.

c. Treatment of Vegetation

   The WWICC and the NPS shall replace vegetation at the site in-kind (i.e. with same or like vegetation), or with vegetation that adheres to the planting plan and that perpetuates the historic landscape design to the extent practicable with current NPS policies (i.e. non-invasive and native), as shown in Appendix A.

3. MITIGATION

a. Treatment of General Pershing Commemorative Work Text

The WWICC and the NPS shall improve the readability of the existing General Pershing Commemorative Work. These improvements will re-letter the remaining poorly legible text in a manner consistent with improvements undertaken in 2018.

b. NRHP Nomination

Prior to the issuance of a construction permit, the WWICC shall provide funding not to exceed $25,000 for the NPS, under the appropriate authority, to contract with a qualified consultant meeting the *Secretary of the Interior's Professional Qualification Standards* to prepare an NRHP nomination for the World War I Memorial in order to document the site's history, changes to the site, and the various elements of the World War I Memorial.

c. Historic American Landscape Survey Documentation

Prior to the issuance of a construction permit, the WWICC shall provide funding not to exceed $45,000 for the NPS to contract with a qualified consultant meeting the *Secretary of the Interior's Professional Qualification Standards* to complete Level I Historic American Landscape Survey (HALS) documentation as specified in the Heritage Documentation Programs standards (Drawings: full set of measured drawings depicting existing conditions; Photographs: photographs with large-format negatives of views; photocopies with large-format negatives of select, existing drawings or historic views that are produced in accordance with U.S. Copyright Act; Written data: history and description). The field work, including photographs and measurements, for the HALS documentation shall be completed before any work on the site is carried out.

d. Modernist Landscape Context Study

Prior to the issuance of the construction permit, the WWICC shall provide funding not to exceed $25,000 for the NPS to contract with a qualified consultant meeting the *Secretary of the Interior's Professional Qualification Standards* to develop a contextual study building upon existing surveys of publicly accessible Modernist Landscapes in Washington, DC. The study will consider the timeline of landscapes, identify key features of the style, and begin to identify relationships between them. The NPS shall provide a draft document for DC SHPO and NCPC comment prior to finalizing the document. This information will be made available to the public through an NPS website or other electronic means.

e. Interpretative Materials

The WWICC and the NPS shall prepare interpretative materials covering the development and history of the World War I Memorial site, including the M. Paul Friedberg design, for use at the site as part of physical improvements and as part of an on-line database with the District of Columbia Office of Planning. The WWICC and the NPS shall provide drafts of the interpretive materials for DC SHPO and NCPC comment prior to finalizing the document. The type of materials produced and their method of distribution shall be determined by the Interpretation Division of NAMA. Historical interpretation shall be incorporated into the Memorial Site before the Memorial is opened to the public.

f. Donation of PADC Pavers

The WWICC shall obtain a stock of new 8" x 8" PADC custom pavers and provide them to the NPS to assist in ongoing replacement and maintenance of the Pennsylvania Avenue NHS. The new stock shall include up to 300 new pavers.

4. ARCHEOLOGY AND UNANTICIPATED DISCOVERIES

a. Post Review Discovery of Historic Properties.

Should historic properties including archeological resources be unexpectedly identified during the implementation of the Project or any actions taken pursuant to this Agreement, NPS shall immediately stop work in the location and contact NCPC and DC SHPO to report the discovery. NPS will consult with NCPC and DC SHPO to ensure that reasonable efforts are made to avoid, minimize, or mitigate adverse effects to such properties. NPS shall ensure that any resulting cultural resources work is accomplished in accordance with the relevant performance standards in Stipulation I, including the District of Columbia's Guidelines for Archaeological Investigations, applicable Secretary of Interior's Standards, and following appropriate ACHP guidance. Any dispute on the treatment of resources will be handled in accordance with Stipulation 5.c.

b. Treatment of Human Remains.

In the event that human remains, burials, or funerary objects are discovered during construction of the Project or any action taken pursuant to this MOA, NPS shall 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 shall immediately notify NCPC, DC SHPO, and the District of Columbia Chief Medical Examiner ("CME") of the discovery under DC Code Section 5-1406 and other applicable laws and regulations.

If the CME determines that the human remains are not subject to a criminal investigation by federal or local authorities, NPS shall 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).

For actions involving Native American human remains or burials, NPS and shall comply with applicable laws in accordance with provisions of the Native American Graves Protection and Repatriation Act, as amended (Public Law 101-601, 25 USC 3001 et seq) and regulations of the Secretary of the Interior at 43 CFR Part 10.

5. ADMINISTRATION

a. Reporting. The NPS will update the Signatories, the Consulting Parties, and the public on the actions taken to implement the terms of this Agreement and the status of the World War I Memorial by providing an annual report on or before the effective date of this Agreement. Annual reports shall be developed for the duration of this Agreement and posted on PEPC, at a minimum. The NPS shall notify the Signatories and Consulting Parties identified in Appendix D via email, and the public when such annual reports are available.

b. Duration. This Agreement will be valid for a period of seven (7) years from the date of execution by the last Signatory. If the World War I Memorial has not been fully constructed and/or all of the mitigation measures in this Agreement have not been implemented after five (5) years from the date of execution, the Signatories and Consulting parties shall reconsider the terms of this Agreement.

c. Dispute Resolution. Should any Signatory object in writing to the NPS regarding any action carried out in accordance with this Agreement, the Signatories and Consulting Parties shall consult to resolve the objection. Should the Signatories be unable to resolve the disagreement, the NPS shall forward its background information on the dispute as well as the NPS's proposed resolution of the dispute to the ACHP. Within 45 days after receipt of all pertinent documentation, the ACHP shall provide the NPS with written recommendations, which the NPS shall take into account in reaching a final decision regarding the dispute, or notify the NPS that it shall comment pursuant to 36 CFR 800.7(c) and then proceed to comment. The NPS shall take the ACHP comments into account, in accordance with 36 CFR 800.7(c)(4). Any ACHP recommendation of comment shall be understood to pertain only to the subject matter of the dispute; the NPS's responsibility to carry out all actions under this Agreement that are not subjects of the dispute shall remain unchanged.

d. Amendments. This Agreement may be amended when an Amendment is agreed to in writing by all Signatories. The Amendment will be effective on the date of the last signature.

e. Termination. If any Signatory to this Agreement determines that the terms of the Agreement cannot be or are not being carried out, that party shall so notify the other Signatories and Consulting Parties in writing and consult with them to seek resolution or Amendment of the Agreement. If within 60 days a resolution or Amendment cannot be reached, any Signatory may terminate the Agreement upon written notification to the other Signatories. If the Agreement is terminated, and prior to work continuing on the Undertaking, the NPS must either execute a new Agreement or comply with 36 CFR Part 800 for any aspects of the World War I Memorial that have not yet been completed. The NPS will notify each Signatory as to the course of action it will pursue.

f. Anti-Deficiency Act. The obligations of federal agencies under this Agreement are pursuant to 31 USC 1341(a)(1), therefore nothing in this Agreement shall be construed as binding the United States to expend in any one fiscal year any sum in excess of appropriations made by Congress for this purpose, or to involve the United States in any contract or obligation for the further expenditure of money in excess of such appropriations.

g. Electronic Copies. Within one (1) week of the last signature on this Agreement, the NPS shall provide each Signatory with one legible, color, electronic copy of this fully-executed Agreement and all of its attachments. Internet links shall not be used as a means to provide copies of the attachments since web-based information often changes. If the electronic copy is too large to send by email, the NPS shall provide each Signatory with a copy of this Agreement on an external digital storage device.

Execution of this Agreement and the implementation of its terms evidence that the NPS and NCPC have taken into account the effects of the Undertaking on historic properties and afforded the ACHP a reasonable opportunity to comment, and thereby satisfy their Section 106 responsibilities.

SIGNATURES FOLLOW ON SEPARATE PAGES

ATTACHMENTS
Appendix A: Preferred Alternative
Appendix B: Project Area and Area of Potential Effect
Appendix C: Evolution of World War I Memorial Design
Appendix D: List of Consulting Parties
Appendix E: Summary of Adverse Effects Determination

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SIGNATORY PAGE

World War I Centennial Commission

04/05/2019

Daniel Dayton Date

Executive Director, World War I Centennial Commission

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SIGNATORY PAGE

NATIONAL PARK SERVICE

4/9/2019

Jeffrey P. Reinbold

Date

Acting Superintendent, National Mall and Memorial Parks, National Park Service

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SIGNATORY PAGE

DC STATE HISTORIC PRESERVATION OFFICER

CAMCOTT FOR MALONEY 4-8-19

David Maloney Date

District of Columbia State Historic Preservation Officer

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SIGNATORY PAGE

NATIONAL CAPITAL PLANNING COMMISSION

April 5, 2019

Marcel Acosta — Date

Executive Director, National Capital Planning Commission

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SIGNATORY PAGE

ADVISORY COUNCIL ON HISTORIC PRESERVATION

John M. Fowler 4/10/19

John M. Fowler Date

Executive Director, Advisory Council on Historic Preservation

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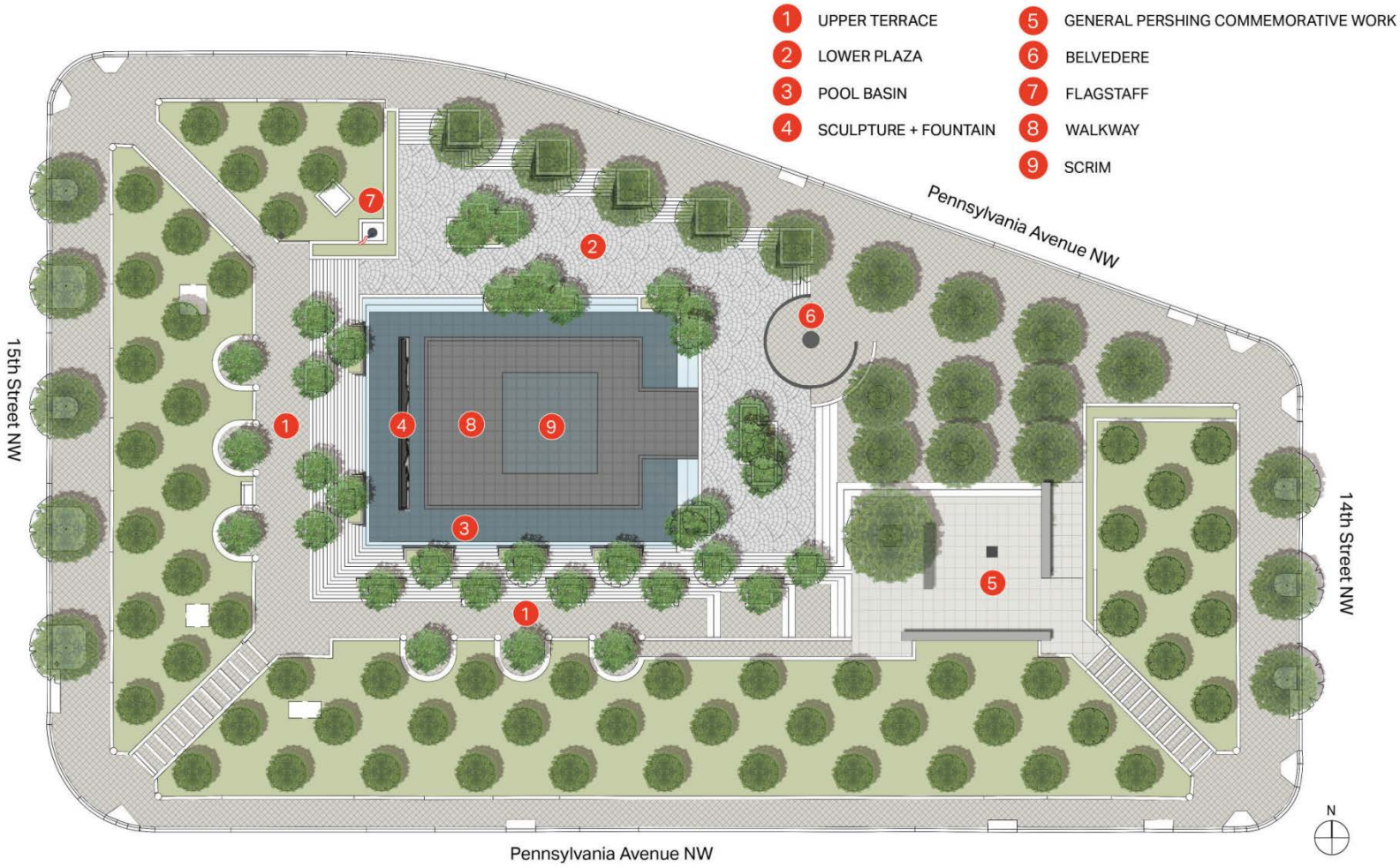
Appendix A: Preferred Alternative Site Plan and Planting Plan



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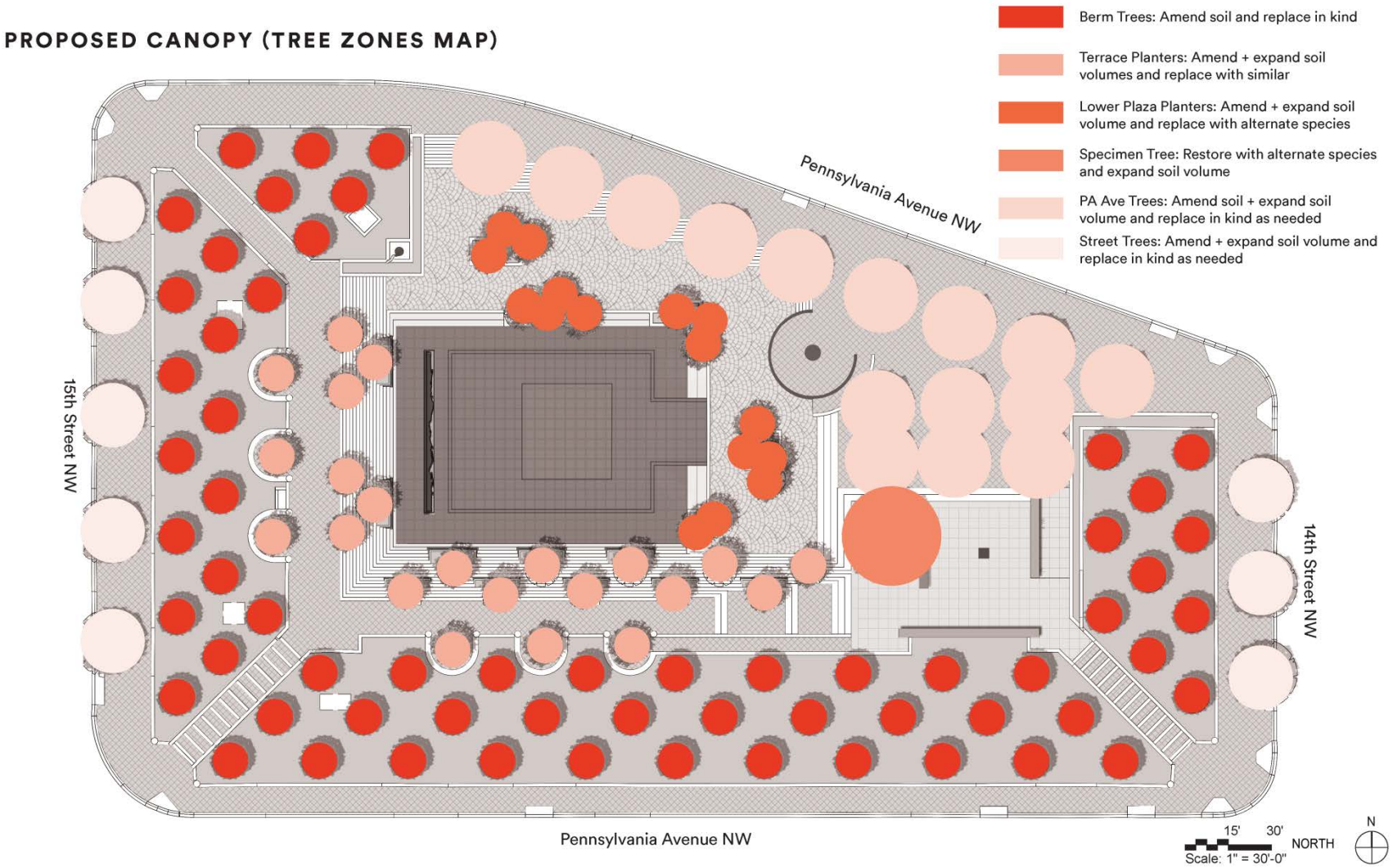

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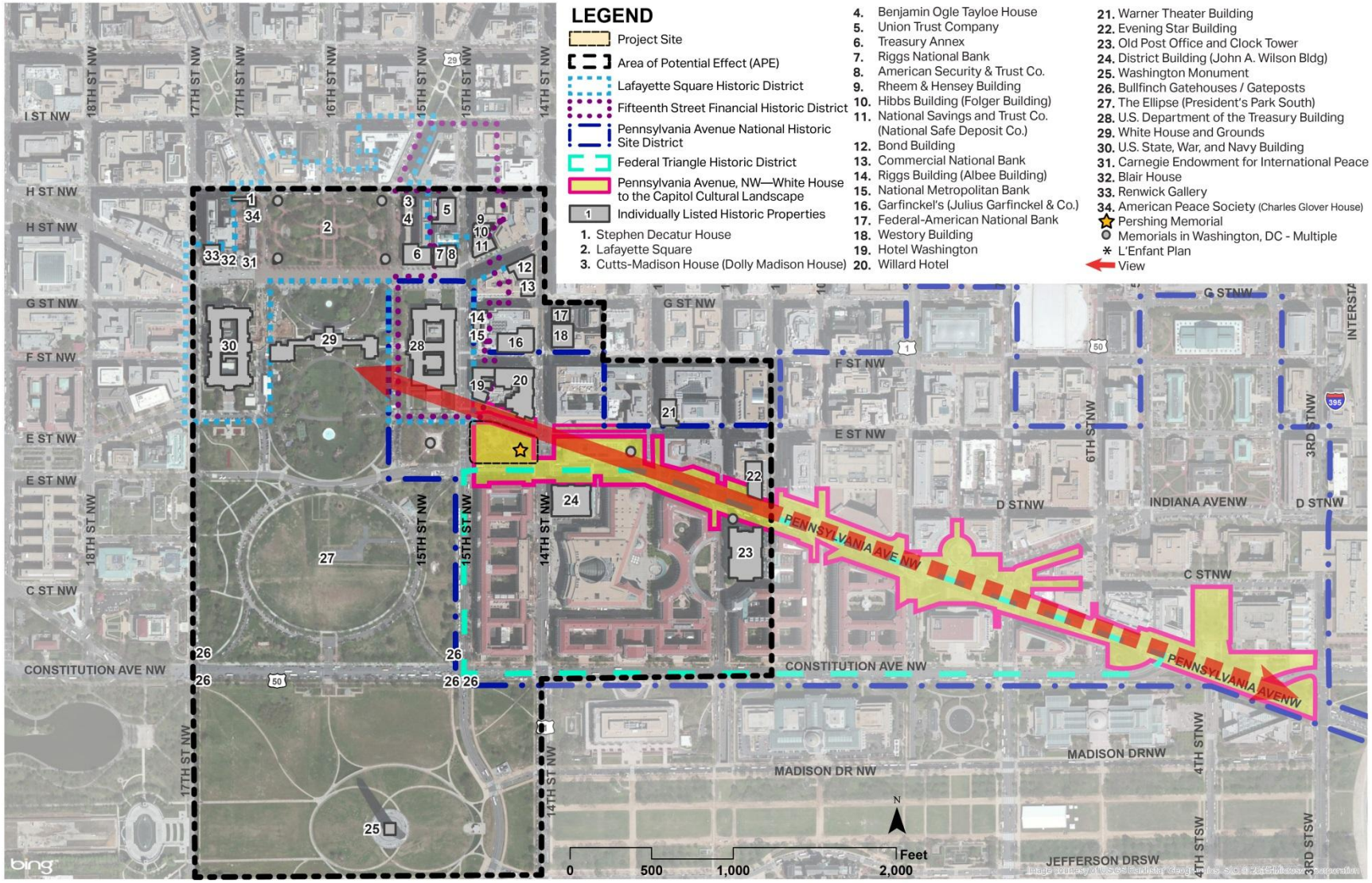
Appendix B: Project Area and Area of Potential Effect



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Appendix C: World War I Memorial Design Evolution to Minimize Adverse Effects

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Appendix D: List of Consulting Parties

Advisory Council on Historic Preservation

Advisory Neighborhood Commission 2C

American Society of Landscape Architects

Big Star Aquatics Construction

Cultural Tourism DC

DC Department of Public Works

DC Office of Planning

DC Preservation League

District of Columbia State Historic Preservation Office

Downtown DC BID

National Capital Planning Commission

National Coalition to Save Our Mall

National Trust for Historic Preservation

Oldest Inhabitants of the District of Columbia

Oliver Carr Company

Penn Quarter Neighborhood Association

The Committee of 100 on the Federal City

The Cultural Landscape Foundation

US Commission of Fine Arts

U.S. Environmental Protection Agency

U.S. General Services Administration

Washington Metropolitan Area Transit Authority

Appendix E: Summary of Adverse Effects Determination

Resource	Assessment	Avoidance, Minimization, or Mitigation Measures
Pennsylvania Avenue, NW – White House to the Capitol Cultural Landscape	Adverse effect	Minimized change to structural elements. Mitigated through donation of PADC pavers; preparation of NRHP nomination, HALS, and interpretive materials; and changes to design identified (see below).
L'Enfant Plan of the City of Washington	No adverse effect	
Pennsylvania Avenue National Historic Site	No adverse effect	
Other Historic Properties within the APE	No adverse effect	
Pershing Park	Adverse effect; cumulative adverse effect due to overall changes to active, multi-layered lush experience of park	Avoided changes within multiple areas of the park. Minimized change through the retention of multiple structural elements. Mitigated through compatible design for proposed structural elements, preparation of NRHP nomination, HALS, and interpretive materials; and changes to design identified for specific elements (see below).
Retained		
Pershing Memorial granite walls, bench, and statue	No adverse effect	Avoided changes
Terra-cotta pavers	No adverse effect	Avoided changes
Memorial plaza granite flooring	No adverse effect	Avoided adverse changes; will repair granite flooring.
Belgian block paving	No adverse effect	Minimized changes; will clean and repair.
Semi-circular alcoves	No adverse effect	Avoided adverse changes; will clean and repair.
PADC lighting	No adverse effect	Avoided adverse changes; will clean and repair.
Removed		
Kiosk	Adverse effect	Minimized through the circular shape of belvedere.
Cascade fountain structure	Adverse effect	Minimized through the incorporation of falling water into sculpture feature and use of similar stone.
Modified		
Spatial Organization	Adverse effect	Minimized through maintain relationship of three focal features, and retention of circulation patterns throughout the site.
Granite planters	Adverse effect	Avoided changing most planters. Minimized change by retaining number of planters. Mitigated through placement of relocated planters and cleaning and repair of planters.
Granite steps	Adverse effect	Avoided changing most granite steps. Minimized through cleaning and repair of

		steps.
Pool basin	Adverse effect	Minimized change to the depth of water along edges of pool basin. Minimized through replacement of pool basin.
Omnidirectional views	Adverse effect	Minimized through retention of open views.
Honey locust trees over lawn on berms	Adverse effect	Minimized change through tree replacement, improvements to soil and growing conditions.
Willow oaks above paving at NE corner	Adverse effect	Minimized change through tree replacement, improvements to soil and growing conditions.
Willow oaks in planters on north side of pool	Adverse effect	Minimized change through tree replacement, improvements to soil and growing conditions.
Crape myrtle trees	Adverse effect	Minimized change through tree replacement, improvements to soil and growing conditions.
Birch trees	Adverse effect	Minimized change through tree replacement, improvements to soil and growing conditions.
Lawn, native and naturalized grasses and perennials	Adverse effect	Minimized by compatible planting design, improvements to soil and growing conditions.
Lighting along elevated walks and Pershing Memorial	Adverse effect	Minimized through selection of compatible lighting design and placement.
Drinking fountain	Adverse effect	Minimized through installation of new drinking fountain.
Trash cans	Adverse effect	