

**MEMORANDUM OF AGREEMENT
AMONG
THE NATIONAL PARK SERVICE
THE NATIONAL CAPITAL PLANNING COMMISSION
THE DISTRICT OF COLUMBIA STATE HISTORIC PRESERVATION OFFICE
THE VIRGINIA DEPARTMENT OF HISTORIC RESOURCES
AND
THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS
REGARDING
THE KENNEDY CENTER EXPANSION CONNECTION PROJECT
WASHINGTON, D.C.**

WHEREAS, the John F. Kennedy Center for the Performing Arts (Kennedy Center), in accordance with John F. Kennedy Center Reauthorization Action of 2012 (P.L. 112-131), has been authorized to build an expansion to the Edward Durell Stone building that includes a connection between the Kennedy Center and the Rock Creek and Potomac Parkway; and

WHEREAS, the National Park Service (NPS), the National Capital Planning Commission (NCPC), the District of Columbia State Historic Preservation Office (DCSHPO), and the John F. Kennedy Center for the Performing Arts (Kennedy Center) entered into an Amended Memorandum of Agreement (MOA) (Appendix A) on January 30, 2015 pursuant to Section 106 of the National Historic Preservation Act (NHPA) to address adverse effects that would result from the Kennedy Center Expansion Project; and

WHEREAS, the Amended MOA stipulated the NCPC, the NPS and the Kennedy Center will conduct separate consultation under Section 106 of the NHPA and environmental review under the National Environmental Policy Act (NEPA) to address the potential connection to the Rock Creek and Potomac Parkway; and

WHEREAS, the Kennedy Center is proposing a direct pedestrian and bicycle connection between the Kennedy Center Expansion Project and the Rock Creek Paved Recreation Trail; and

WHEREAS, the proposed Kennedy Center Expansion Connection Project would provide a safe pedestrian and bicycle connection between the Kennedy Center and the Rock Creek Paved Recreation Trail and improve access and create a public waterfront link to and from the Kennedy Center and the new expansion area on the south, the Potomac River waterfront, the National Mall and Memorial Parks (NAMA), and the surrounding vicinity; and

WHEREAS, after detailed study of various alternatives and consideration of efforts to avoid and minimize certain impacts of the proposed Expansion Connection Project, the Kennedy Center

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has defined the Bridge Access with Ramp and Stairs as the Preferred Option (Alternative C in the Kennedy Center Expansion Connection Project Environmental Assessment and reflected in the Expansion Connection Project plans dated May 2016 attached hereto as Appendix A); and

WHEREAS, the Expansion Connection Project would include:

- the construction of a pedestrian and bicycle bridge over the Rock Creek and Potomac Parkway to connect the Expansion Project and the Rock Creek Paved Recreation Trail; and,
- the construction of trail spurs from the Rock Creek Paved Recreation Trail to connect the pedestrian/bicycle connection with the trail; and

WHEREAS, the Project Area of the Expansion Connection Project would be located on the west side of the Expansion Project area and would span the Rock Creek and Potomac Parkway to connect with the Rock Creek Paved Recreation Trail as shown in Appendix B; and

WHEREAS, a portion of the Project Area falls within the Rock Creek and Potomac Parkway, which is under the jurisdiction of the NAMA, a unit of the NPS; and

WHEREAS, permitting or jurisdictional transfers conducted by NPS and approval of projects by the NCPC constitute federal Undertakings subject to Section 106 of the NHPA (54 U.S.C. § 306108; formerly 16 U.S.C. § 470f) and its implementing regulations (36 CFR Part 800); and

WHEREAS, the NPS Undertaking is the transfer of jurisdiction to the Kennedy Center of a portion of NPS administered property and certain air rights and the issuance of construction and right-of-way permits; and

WHEREAS, the NCPC Undertaking is the approval of the design of the Expansion Connection Project under its authorities specified in the National Capital Planning Act and the approval of the transfer of jurisdiction from NPS to the Kennedy Center; and

WHEREAS, the NPS and NCPC are entering into the Agreement to fulfill their responsibilities under Section 106 pursuant to 36 CFR 800.2(a)(2); and

WHEREAS, the Kennedy Center, as a trust instrumentality of the United States is authorized to design and construct the Expansion Project with jurisdiction over the land on which the Expansion Project will be partially constructed, has participated as a Consulting Party in the process pursuant to 36 CFR 800.2(c)(4); and

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WHEREAS, the Kennedy Center participated in consultation, has responsibilities for implementing stipulations under this Agreement, and, pursuant to 36 CFR 800.6(c)(2), has been invited to be a Signatory to this Agreement; and

WHEREAS, the NPS and NCPC initiated Section 106 consultation with the District of Columbia State Historic Preservation Office (DCSHPO) by letter dated November 9, 2015 and with the Virginia Department of Historic Resources (VASHPO) by letter dated February 17, 2016; and

WHEREAS, the NPS and NCPC notified the public and conducted a combined NEPA Scoping and Section 106 consultation meeting on September 29, 2015, to inform the public of the Expansion Connection Project design and to solicit verbal and written comments, followed by Section 106 consultation meetings held on December 10, 2015, and February 23, 2016, to provide additional opportunities for the Consulting Parties to comment on historic preservation concerns regarding the Expansion Connection Project; and

WHEREAS, the NPS, NCPC, DCSHPO, and the VASHPO, together with the Kennedy Center and the Consulting Parties, defined the Undertakings' area of potential effects to include the parcels, buildings, cultural landscapes, and view corridors surrounding the Project Area and to encompass the geographic areas within which the Undertakings may directly or indirectly cause alterations in the character or use of historic properties as described in Appendix D; and

WHEREAS, in recognition of its significance as the sole national memorial to President John F. Kennedy within the National Capital and its environs and its significance as an important example of the work of Edward Durell Stone, a nationally recognized architect of the Modern Movement, the Kennedy Center was determined eligible for the National Register of Historic Places by the DCSHPO on February 13, 2012; and

WHEREAS, the Rock Creek and Potomac Parkway, comprised of approximately 180 acres in the northwest quadrant of Washington, D.C., and significant in the areas of community planning and development, engineering, recreation, and landscape architecture, was listed in the National Register of Historic Places on May 4, 2005, under the multiple property listing "Parkways of the National Capital Region, 1913-1965;" and

WHEREAS, the NPS and NCPC, in accordance with 36 CFR 800.2(a)(4), have invited individuals and organizations with a demonstrated interest in the Undertakings and the public to participate as Consulting Parties in the Section 106 process, with the full list of invited Consulting Parties compiled in Appendix E; and

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WHEREAS, the NPS and NCPC, in accordance with 36 CFR 800.2(c)(2)(ii), invited the Catawba Indian Nation and the Pamunkey Tribe by letter dated April 22, 2016, to participate in Section 106 consultation on the Expansion Connection Project; and

WHEREAS, the NPS and NCPC have consulted with the DCSHPO and the VASHPO as well as the Consulting Parties and determined that the Undertakings will have adverse effects on the Rock Creek and Potomac Parkway (as described in the Summary of Adverse Effects Determination in Appendix F); and

WHEREAS, in accordance with 36 CFR 800.6(a)(1), the NPS and NCPC have notified the Advisory Council on Historic Preservation (ACHP) of the adverse effects determination and provided the documentation specified in 36 CFR 800.11(e), and the ACHP has chosen not to participate in consultation pursuant to 36 CFR 800.6(a)(1)(iv); and

WHEREAS, through the process of consultation and design analysis, the pedestrian/bicycle access between the Rock Creek Paved Recreation Trail and the Expansion Project has been adjusted to minimize potential effects on historic properties, and these adjustments are reflected in the Expansion Connection Project plans dated May 2016 and attached in Appendix B, and entail

- removal of all translucent glass rails and refinement of the cable rails,
- removal of the north stairs, and
- refinement of the night lighting; and

WHEREAS, on May 16, 2016 the Kennedy Center presented design drawings to the U.S. Commission of Fine Arts (CFA) and the CFA recommended modification to the trail spurs to provide more room; and

WHEREAS, on June 16, 2016, the KCPA will present for Final approval, in meetings before the public, to the U.S. Commission of Fine Arts (CFA) for the Expansion Connection Project; and

WHEREAS, on April 6, 2016, the NCPC provided comments on the concept plans for the Expansion Connection Project; and

WHEREAS, NCPC approved the Kennedy Center's preferred alternative and NCPC recommended the character of the Expansion Connection be further evaluated from an urban design and historic preservation perspective as it relates to both the Kennedy Center expansion as well as the Rock Creek and Potomac Parkway and requested Kennedy Center provide a circulation map, renderings, and detailed plans that delineate the various elements of the

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connection bridge and detailed sections of the overlooks on the western side of the bridge and the middle of the ramp at the time of preliminary review; and

WHEREAS, on March 23, 2016, the NPS and NCPC released for public review and comment the Kennedy Center Expansion Project Environmental Assessment pursuant to NEPA, which analyzed the potential environmental impacts of the proposed Expansion Connection Project; and

WHEREAS, the Kennedy Center submitted preliminary and final design documentation (reflected in the plans dated May 2016 and attached as Appendix B) to NCPC for review on July 7, 2016, and

NOW, THEREFORE, the NPS, NCPC, Kennedy Center, DCSHPO, and VA SHPO agree that the Undertakings and the Expansion Project shall be carried out in accordance with the following stipulations in order to take into account the effects of the Undertakings on historic properties.

STIPULATIONS

The NPS, NCPC, and Kennedy Center shall work together to ensure that the following measures are carried out:

MITIGATION

1. Rock Creek and Potomac Parkway, Potomac Waterfront Section, Cultural Landscape Report. Prior to the onset of construction of the Connection Bridge, the Kennedy Center shall provide funding not to exceed \$45,000 to NPS to complete a Cultural Landscape Report (CLR) for the segment of the Rock Creek and Potomac Parkway from the terminus of Constitution Avenue (the Belvedere) to Virginia Avenue, including the parkway lands managed by NPS and the Kennedy Center frontage to the Potomac River shoreline and encompassing the portion of the Rock Creek and Potomac Parkway within the Project Area. The CLR will follow NPS standards for documentation as defined in the NPS publication *A Guide to Cultural Landscape Reports: Contents, Process, and Techniques* (1998) and include, at a minimum, the following components: a.) site history, including a historical narrative and annotated chronology, b.) existing conditions documenting landscape characteristics as they currently exist, c.) analysis and evaluation of the landscape characteristics, including a list of contributing and noncontributing features, d.) treatment guidelines for parkway features, and e.) bibliography. The NPS shall complete the CLR documentation within 1-1/2 years following the completion of construction of the Expansion Connection Bridge Project, or sooner.

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ADMINISTRATION

1. **Updates.** The NPS and NCPC will update the Signatories, the Consulting Parties, and the public on the actions taken to implement the terms of this Agreement. The Kennedy Center will work with the NPS and NCPC and provide information as requested so that the NPS and NCPC can provide updates to the Signatories and Consulting Parties. The update will take the form of a Report submitted on an annual basis from the effective date of the execution of this Agreement until its completion, at a minimum. The annual Reports shall include information regarding activities undertaken pursuant to this Agreement and information on the overall status of the Expansion Connection Project.
2. **Duration.** This Agreement will be valid for a period of 5 years from the date of execution by the last Signatory. If the Expansion Connection project has not been fully constructed after 5 years from the date of execution, the Signatories shall reconsider the terms of this Agreement.
3. **Dispute Resolution.** Should any Signatory object in writing to NPS or NCPC regarding any action carried out in accordance with this Agreement, the Signatories shall consult to resolve the objection. Between NPS and NCPC, the agency responsible for carrying out the action that is the subject of the objection has the lead in the dispute resolution unless otherwise decided between the two. In any event, both may participate. Should the Signatories be unable to resolve the disagreement, NPS and/or NCPC shall forward its background information on the dispute as well as NPS's and/or NCPC's proposed resolution of the dispute to the ACHP. Within 45 days after receipt of all pertinent documentation, the ACHP shall provide NPS and NCPC with written recommendations, which NPS and NCPC shall take into account in reaching a final decision regarding the dispute, or notify NPS and NCPC that it shall comment pursuant to 36 CFR 800.7(c) and then proceed to comment. NPS and NCPC shall take the ACHP comments into account, in accordance with 36 CFR 800.7(c)(4). Any ACHP recommendation or comment shall be understood to pertain only to the subject matter of the dispute; NPS's and NCPC's responsibility to carry out all actions under this Agreement that are not subjects of the dispute shall remain unchanged.
4. **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.
5. **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

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Signatories 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. Once the Agreement is terminated, and prior to work continuing on the Undertakings, NPS and NCPC must either execute a new Agreement or request, take into account, and respond to the comments of the ACHP per 36 CFR 800.7. They are not required to select the same option. NPS and NCPC will each notify the Signatories as to the course of action it will pursue.

6. 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.
7. Electronic Copies. Within 1 week of the last signature on this Agreement, the NCPC shall provide each Signatory and Concurring Party with one legible, color, electronic copy of this fully-executed Agreement and all of its attachments. If the electronic copy is too large to send by email, the NCPC shall provide each Signatory and Concurring Party with a copy of this Agreement on a compact disc.

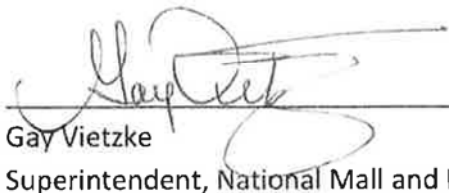
Execution of this Agreement by the NPS, NCPC, DCSHPO, VA SHPO and Kennedy Center and the implementation of its terms evidence that NPS and NCPC have taken into account the effect of these Undertakings on historic properties and afforded the ACHP a reasonable opportunity to comment, and thereby satisfied their Section 106 responsibilities.

SIGNATURES FOLLOW ON SEPARATE PAGES

ATTACHMENTS

- Appendix A: Amended Memorandum of Agreement
- Appendix B: May 2016 Design
- Appendix C: Project Area
- Appendix D: Area of Potential Effects
- Appendix E: List of Consulting Parties
- Appendix F: Summary of Adverse Effects Determination

SIGNATORY PAGE

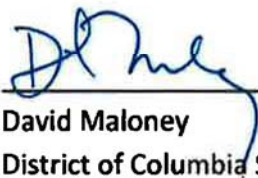


Gay Vietzke

6/16/14
Date

Superintendent, National Mall and Memorial Parks, National Park Service

SIGNATORY PAGE

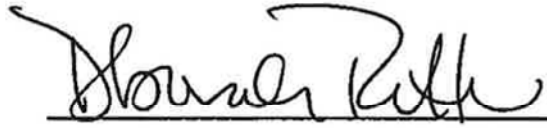


David Maloney
District of Columbia State Historic Preservation Officer

6/16/2016
Date

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SIGNATORY PAGE



Deborah F. Rutter

President, John F. Kennedy Center for the Performing Arts

22 June 2014

Date

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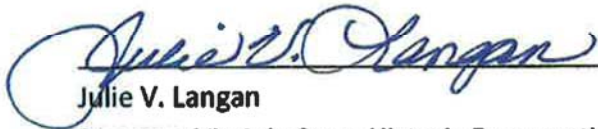
6/15/16

Marcel Acosta

Date

Executive Director, National Capital Planning Commission

SIGNATORY PAGE

A handwritten signature in blue ink, reading "Julie V. Langan", is written over a horizontal line.

Julie V. Langan

Director, Virginia State Historic Preservation Officer

A handwritten date "6/17/16" in blue ink is written over a horizontal line.

Date

Appendix A: Amended Memorandum of Agreement

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Appendix B: May 2016 Design Plan



Figure 1: Site plan, May 2016 Design

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Figure 2: Oblique view, May 2016 Design.

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Figure 3: View looking north at trail spur adjacent to the Rock Creek and Potomac Parkway,
May 2016 Design

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Figure 4: View looking south along the Rock Creek Paved Recreation Trail, May 2016 Design

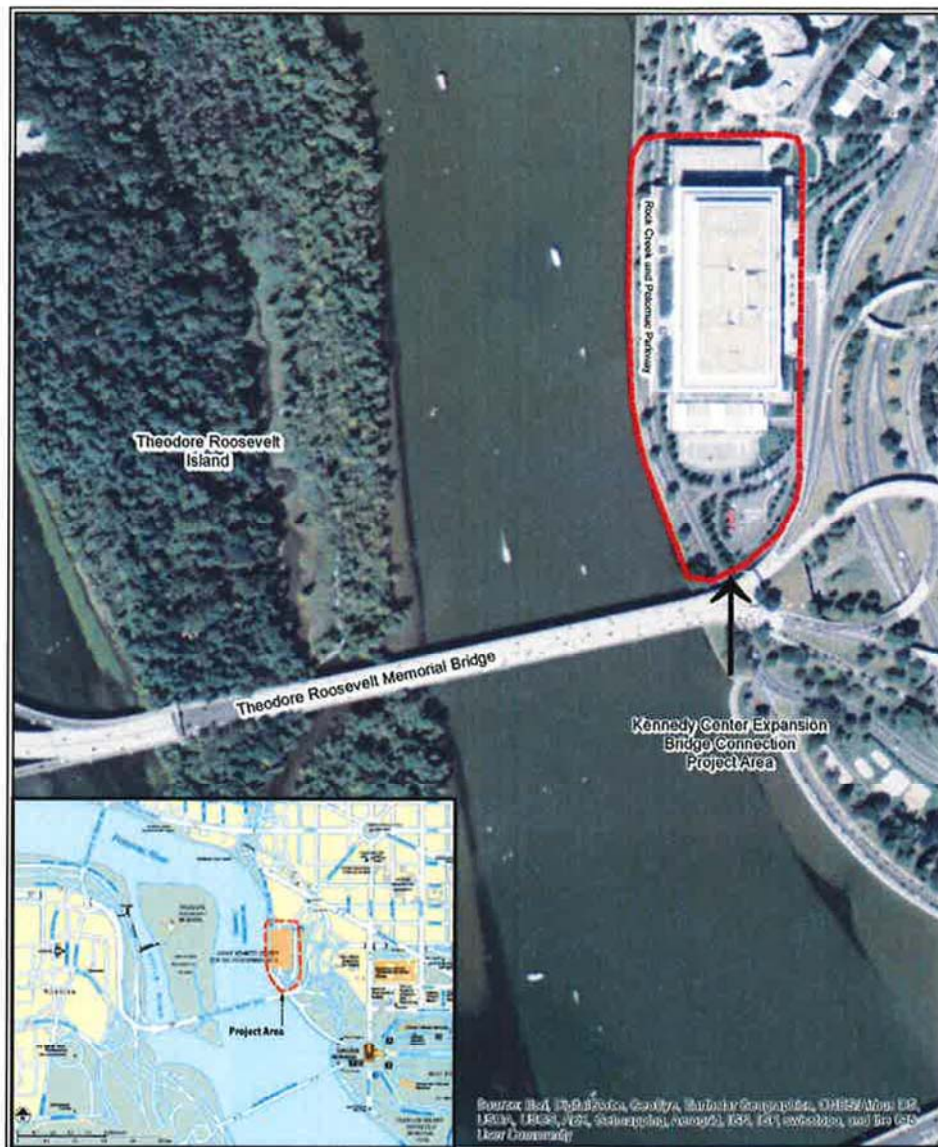
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Figure 5: View looking west from the Connection Bridge, May 2016 Design

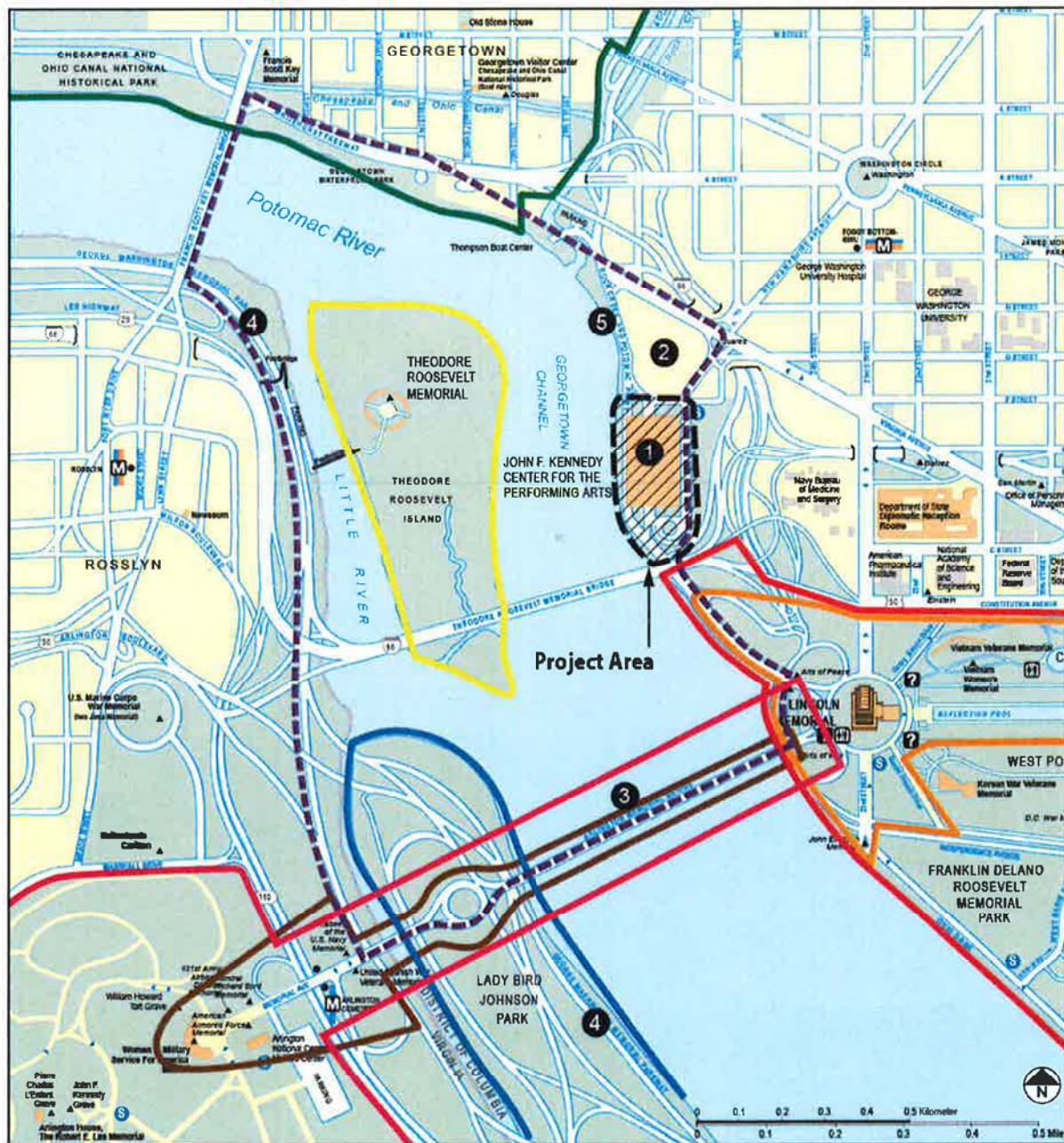
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Appendix -C: Project Area



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Appendix D: Area of Potential Effects



Area of Potential Effects (APE)

Buildings

- 1 John F. Kennedy Center for the Performing Arts
- 2 Watergate Complex

Structures

- 3 Arlington Memorial Bridge and Related Features

Districts

- 4 George Washington Memorial Parkway
- 5 Rock Creek and Potomac Parkway
- East and West Potomac Parks Historic District
- Georgetown Historic District
- Arlington National Cemetery Historic District

Cultural Landscapes

- Lady Bird Johnson Park
- Lincoln Memorial Grounds
- Memorial Avenue Corridor
- Theodore Roosevelt Island

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Appendix E: List of Consulting Parties

Advisory Neighborhood Commissions

Mr. Patrick Kennedy
Commissioner 2A01
Chairperson
532 20th Street, NW, #312
Washington, DC 20006
2A01@anc.dc.gov

Ms. Rebecca Coder
Commissioner 2A02
2501 M Street, NW #721
Washington, DC 20037
2A02@anc.dc.gov
rebeccacoder@mac.com

Ms. Florence Harmon
Commissioner, 2A06
Vice Chairperson
1099 22nd Street, NW, #1011
Washington, DC 20037
2A06@anc.dc.gov

Agencies and Neighborhood/Interest Groups

Advisory Council on Historic Preservation
401 F Street, NW, Suite 308
Washington, DC 20001-2637
Katy Harris, Program Analyst
kharris@achp.gov

Arlington County
Department of Community Planning, Housing &
Development
2100 Clarendon Boulevard, Ste. 700
Arlington, VA 22201
John Liebertz, Preservation Planner
jliebertz@arlingtonva.us

American Institute of Architects
1735 New York Avenue, NW
Washington, DC 20006
Andrew Goldberg, Managing Director,
Government Relations and Outreach
agoldberg@aia.org

Arlington Historical Society, Inc.
P.O. Box 100402
Arlington, Virginia 22210-3402
Karl VanNewkirk
karlvannewkirk@comcast.net

American Institute of Architects, Washington
Chapter
421 7th Street, NW
Washington, DC 20004
Mary Fitch, Executive Director
mfitch@aiadc.com

Arlington National Cemetery
1 Memorial Avenue, WC Building
Arlington, VA 22211-5003
Rebecca L. Stevens, Cultural Resources Manager
rebecca.l.stevens35.civ@mail.mil

David T. Barthol, Chief, Master Planning and
Resources Branch, Engineering Division
david.t.barthol.civ@mail.mil

American Society of Landscape Architects
636 I Street, NW
Washington, DC 20001
Julia Lent, Managing Director, Government Affairs
lent@asla.org

Catawba Indian Nation
996 Avenue of the Nations
Rock Hill, SC 29730
info@catawbaindian.net

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Committee of 100 on the Federal City
945 G Street, NW
Washington, DC 20001
Carol Aten, Treasurer
carolaten@aol.com
info@Committeeof100.net

DC Historic Preservation Office
1100 4th Street, SW
Washington, DC 20024
David Maloney, SHPO
david.maloney@dc.gov

Andrew Lewis
andrew.lewis@dc.gov

Tim Dennee
timothy.dennee@dc.gov

J. Peter Byrne, Mayor's Agent
historic.preservation@dc.gov

DC Preservation League
1221 Connecticut Avenue, NW, #5A
Washington, DC 20036
Rebecca Miller, Executive Director
rebecca@dcpreservation.org

Downtown DC – BID
1250 H Street, NW, Suite 1000
Washington, D.C. 20005
Neil O. Albert, President and Executive Director
contact@downtowndc.org

The Federal City Council
1156 15th Street, NW, Suite 600
Washington DC 20005
Anthony A. Williams, CEO/Executive Director
awilliams@federalcitycouncil.org

Cultural Tourism DC
1250 H. Street, NW, Suite 1000
Washington, DC 20005
Steven E. Shulman, Executive Director
sshulman@culturaltourismdc.org

DC Office of Planning
1100 4th Street, SW, Suite E650
Washington, DC 20024
Jennifer Steingasser, Deputy Director
Jennifer.steingasser@dc.gov

Tanya M. Stern, Deputy Director
tanya.stern@dc.gov

District Department of Consumer and Regulatory
Affairs (DCRA)
100 4th Street, SW, 2nd Floor
Washington, DC 20024
Melinda M. Bolling, Interim Director
dcra@dc.gov

Foggy Bottom Association
Marina Streznewski, President
PO Box 58087
Washington, DC 20037
president@foggybottomassociation.com

Georgetown University
3700 O Street, NW
Washington, DC 20057
gusaexecutive@gmail.com

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Georgetown DC – BID
1000 Potomac St., NW, Suite 122
Washington, DC 20007
Joe Sternlieb, CEO/President
jsternlieb@georgetowndc.com

Guild of Professional Tour Guides of Washington,
DC
Joe Steinbock, President
jsteinbo@yahoo.com

Martz Gold Line/Gray Line DC
50 Massachusetts Avenue, NE
Washington, DC 20002
gltourinfo@martzgroup.com

National Park Service, National Mall and Memorial
Parks [Co-lead Agency]
900 Ohio Drive, SW
Washington, DC 20024
Catherine Dewey, Chief of Resource Management
catherine_dewey@nps.gov
Mike Commisso
michael_commisso@nps.gov
Eliza Voigt
eliza_voigt@nps.gov

National Association for Olmsted Parks
1111 16th Street, NW, Suite 310
Washington, D.C. 20036
Piera M. Weiss, Director of Administration
WeissPiera@naop.org

George Washington University Students
Association
800 21st Street, NW, Suite 427
Washington, DC 20052
gwsa@gwmail.gwu.edu

John F. Kennedy Center for the Performing Arts
Kathy Kruse
kkruse@kennedy-center.org
Tom Whitaker
tgwhitaker@kennedy-center.org
Ellery Brown
ejbrown@kennedy-center.org

National Capital Planning Commission [Co-lead
Agency]
401 9th Street, NW, #500
Washington, DC 20004
Jennifer Hirsch, Federal Preservation Officer
jennifer.hirsch@ncpc.gov

Carlton Hart
carlton.hart@ncpc.gov

National Park Service, National Capital Region
1100 Ohio Drive, SW
Washington D.C. 20242
Peter May
peter_may@nps.gov
Perry Wheelock
perry_wheelock@nps.gov
Joel Gorder
joel_gorder@nps.gov
Mary Morrison
mary_morrison@nps.gov

National Parks Conservation Association
777 6th Street, NW
Washington, DC 20001
Joy Oakes, Senior Director, Mid-Atlantic Region
joakes@npca.org

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National Mall Coalition
P.O. Box 4709
Rockville, MD 20849
Judy Scott Feldman, Chair
jfeldman@savethemall.org
National Park Service, George Washington
Memorial Parkway
Bradley Krueger
bradley_krueger@nps.gov

National Trust for Historic Preservation
The Watergate Office Building
2600 Virginia Avenue, Suite 1100
Washington, DC 20037
Elizabeth Merritt, Deputy General Counsel
betsy_merritt@nthp.org
emerritt@savingplaces.org
Robert Niewig
rnieweg@savingplaces.org Southern Field Office
sfo@nthp.org

Robinson & Associates
1909 Q Street, NW, Suite 300
Washington, DC 20009
Judith Robinson
jrobinson@robinson-inc.com
Daria Gasparini
gasparini@robinson-inc.com

Smithsonian Institution
Architectural History and Historic Preservation
Division
PO Box 37012, MRC 511, Suite 5001
600 Maryland Avenue, SW
Washington, DC 20013-7012
Sharon Park
parks@si.edu

Amy Ballard
ballaam@si.edu

National Recreation and Park Association
22377 Belmont Ridge Road
Ashburn, VA 20148-4501
Barbara Tulipane, President/CEO
btulipane@nrpa.org

Pamunkey Indian Reservation
191 Lay Landing Road
King William, Virginia 23086
Chief Robert Gray
Rgray58@hughes.net

Royal Embassy of Saudi Arabia
601 New Hampshire Avenue, NW
Washington, DC 20037
info@saudiembassy.net

Stantec
6110 Frost Place
Laurel, MD 20707
Liz Estes, Environmental Planning
liz.estes@stantec.com

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The Trust for the National Mall
1300 Pennsylvania Avenue, NW, Suite 370
Washington, DC 20004
Theresa Durkin, Project Manager
tdurkin@nationalmall.org

U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC
Jack Van Dop
jack.j.vandop@fhwa.dot.gov

Washington Area Bicyclist Association
2599 Ontario Road, NW
Washington, DC 20009
Shane Farthing, Executive Director
shane@waba.org
waba@waba.org

West End Citizens Association
Barbara Kahlow, Secretary-Treasurer
barbara.kahlow@verizon.net

U.S. Commission of Fine Arts
401 F Street, NW, Suite 312
Washington, DC 20001
Thomas Luebke, Secretary
tluebke@cfa.gov
Sarah Batcheler, Architect
sbatcheler@cfa.gov
Tony Simon, Architect and Planner
tsimon@cfa.gov
georgetown@cfa.gov

Virginia State Historic Preservation Office
Marc Holma, Architectural Historian
marc.holma@dhr.virginia.gov

Ethel Eaton, Senior Policy Analyst
Division of Resource Services and Review
Ethel.Eaton@dhr.virginia.gov

Washington Convention and Visitors Association
(Destination DC)
901 7th Street NW, 4th floor
Washington, DC 20001-3719
Elliott Ferguson, President and CEO
Elliott.Ferguson@destinationdc.com

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Individuals

Ronald Cocome
rtc888888@hotmail.com

Kent Cooper
kentcooper@mindspring.com
w.kent.cooper@verizon.net

John Fondersmith
john.fondersmith@verizon.net

Edwin L. Fountain
fountaine@abmc.gov

Ellen Gold: ellengold4@aol.com

Patricia Moore
patriciamoore1504@gmail.com

Cynthia Field: fieldcy@yahoo.com

Peter Penzer: penczer@gmail.com

Richard Westbrook: rbwestb@aol.com

eeofdcfba@aol.com

rapreble@aol.com

Catherine Nagel
nagelcatherine@cityparksalliance.org

Arthur Cotton Moore
acmoore1504@gmail.com
tom9754@verizon.net

Mark Sanchez: mark.sanchez@brooks.af.mil

Art Spitzer: artspitzer@aol.com

Iris Miller: irislarrymiller@comcast.net

dinamfox@yahoo.com

gmimms@mac.com

madeline.chessman@gmail.com

pesacco@gwu.edu

llaudi@huntlaudistudio.com

rmlnrek@aol.com

dwbdcy@yahoo.com

Appendix F: Summary of Adverse Effects Determination

	No Action Alternative	At-Grade Crossing Access Alternative	Bridge Access with Ramp and Stair Alternative	Bridge Access with Ramp and Elevator Alternative	River Terrace Access Alternative
Resource					
Arlington Memorial Bridge and Related Structures	No effect	No effect	No adverse effect	No adverse effect	No adverse effect
Arlington National Cemetery Historic District	No effect	No effect	No adverse effect	No adverse effect	No adverse effect
East and West Potomac Parks Historic District	No effect	No effect	No adverse effect	No adverse effect	No effect
George Washington Memorial Parkway	No effect	No effect	No adverse effect	No adverse effect	No adverse effect
Georgetown Historic District	No effect	No effect	No adverse effect	No adverse effect	No adverse effect
John F. Kennedy Center for the Performing Arts	No effect	No effect	No adverse effect	No adverse effect	<p><i>Adverse Effect</i></p> <ul style="list-style-type: none"> -Views from the River Terrace would be interrupted - River Terrace perimeter wall and River Terrace footprint would be altered -Cantilevered quality of the River Terrace and overall horizontality of the building's original design would be diminished

Memorandum of Agreement
Kennedy Center Expansion Connection Project

Resource	No Action Alternative	At-Grade Crossing Access Alternative	Bridge Access with Ramp and Stair Alternative	Bridge Access with Ramp and Elevator Alternative	River Terrace Access Alternative
Lady Bird Johnson Park	No effect	No effect	No adverse effect	No adverse effect	No adverse effect
Lincoln Memorial grounds	No effect	No effect	No adverse effect	No adverse effect	No effect
Memorial Avenue corridor	No effect	No effect	No adverse effect	No adverse effect	No adverse effect
Rock Creek and Potomac Parkway	No effect	No adverse effect	Adverse Effect - Views of the Potomac River and Theodore Roosevelt Island from sections of the Rock Creek and Potomac Parkway Roadway and Trail would be interrupted - Rerouting a section of the Rock Creek Paved Recreation Trail and adding three trail spurs would impact the Network of Trails	Adverse Effect - Views of the Potomac River and Theodore Roosevelt Island from sections of the Rock Creek and Potomac Parkway Roadway and Trail would be interrupted - Rerouting a section of the Rock Creek Paved Recreation Trail and adding three trail spurs would impact the Network of Trails	Adverse Effect - Views of the Potomac River and Theodore Roosevelt Island from sections of the Rock Creek and Potomac Parkway Roadway and Trail would be interrupted - Bridge and stair structures would increase tunnel effect along the Rock Creek and Potomac Parkway - Plaza at the base of the stair and elevator structures would impact the Network of Trails
Theodore Roosevelt Island	No effect	No adverse effect	No adverse effect	No adverse effect	No adverse effect
Watergate	No effect	No effect	No effect	No effect	No adverse effect