National Trust *for* Historic Preservation®

October 7, 2026

Travis Voyles, Vice Chairman
Advisory Council on Historic Preservation
401 F Street NW, Room 308
Washington, DC 20001

Re: Objection to Vice Chairman's Draft Section 106 Comment Letter for the Triumphal Arch Project, ACHP Case #025123

Dear Vice Chairman Voyles:

The National Trust for Historic Preservation ("National Trust") appreciates the opportunity to comment on your draft comment letter to the Secretary of the Interior regarding the proposed Triumphal Arch Project (the "Project"). Unfortunately, your draft comments do not reflect the gravity of the undertaking for this Project or the magnitude of its effects. As currently written your comments fall well short of the level of scrutiny and analysis warranted by a project that would permanently alter the Monumental Core, disrupt one of the Nation's most significant commemorative landscapes, and intrude upon the solemn character, historic setting, and commemorative function of Arlington National Cemetery.

Lack of Accuracy to Reflect Significance and Substantial Concerns

While your draft comment letter acknowledges that the Project will adversely affect numerous historic properties, including several of our nation's most iconic National Historic Landmarks, the draft letter does not accurately reflect the significance of the undertaking or the substantial opposition raised throughout the consultation process.

We have been especially moved by the strong opposition of military veterans and their families, who see the proposed Arch as a desecration to the burials and the solemn setting at Arlington National Cemetery. Their voices deserve greater recognition in your comments.

Additionally, it is remarkable that your proposed comments give so little attention to the serious concerns raised by both the Virginia State Historic Preservation Officer and the District of Columbia Historic Preservation Officer. As principal consulting parties in the Section 106 process, SHPOs are entrusted with representing historic preservation interests and their views are typically accorded significant weight. The fact that both SHPOs identified substantial

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adverse effects from the Project, as well as less harmful alternatives and modifications to the proposal, should be prominently reflected in your comments.

These omissions reflect a broader issue in the overall approach your comments take toward this Project. By significantly understating the scale and importance of this Project, your comments minimize the extent to which consulting parties worked in good faith with the NPS to identify alternatives for the NPS's consideration. Your draft comments also fail to provide recommendations that are proportionate to the significance of this undertaking and the permanent adverse effects it will inflict on so many nationally significant historic resources.

Your final comments should emphasize the exceptional nature of this undertaking, and the unusually compressed review timeline, while also acknowledging that there are no exigent circumstances that require the immediate construction of this Project. There are likely few undertakings reviewed under Section 106 that involve such a concentration of nationally significant historic resources, and certainly few have generated such widespread public opposition.

Minimization of the Public's Concern

The draft letter does not adequately reflect the extraordinary level of public opposition to this Project. In our view, the ACHP has an obligation to emphasize the gravity and scale of the public's input to the Secretary of the Interior.[1] The public response generated by this Project has been unprecedented. The NPS received more than 100,000 comments opposing this Project, and the ACHP received 7,200 comments in just three and a half business days. One significant segment of the public opposition consists of individuals with a close personal connection to Arlington National Cemetery, including veterans, military families, and Gold Star family members. These individuals have emphasized that this Project would intrude upon the solemn character of Arlington National Cemetery, disrupt the historic commemorative landscape linking the Cemetery and the Lincoln Memorial, and diminish the dignity of a place dedicated to service and remembrance.

Collectively, these comments overwhelmingly expressed concern regarding the Project's impacts on nationally significant historic resources, viewsheds, commemorative landscapes, and the integrity of the Monumental Core. Your draft letter provides little discussion of those concerns and does not fully convey the extraordinary level of public opposition reflected in the administrative record.

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[1] For example, 36 C.F.R. § 800.2(d)(1) states that "The views of the public are essential to informed Federal decision-making in the section 106 process."

NPS's Failure to Avoid or Minimize Harm

Your letter should provide greater context and detail related to the NPS's failure to adequately evaluate opportunities to avoid or minimize effects before turning to mitigation. The dispute during the consultation process has never been whether interpretive signage, documentation, or educational materials might constitute adequate mitigation. The consulting parties consistently maintained that the NPS failed to undertake the full analysis required by Sections 106 and 110(f) before developing mitigation.

Throughout consultation, consulting parties proposed alternative locations, alternative designs, modifications to the scale and massing of the Arch, and other measures that would have reduced impacts to historic properties, viewsheds, and landscapes. Your comments should clearly acknowledge that the record for this consultation reflects a fundamental disagreement regarding whether the NPS satisfied its obligations to first seek avoidance and minimization before turning to mitigation. The consulting parties questioned whether that heightened statutory obligation had been met; however, your draft comments largely frame the issue as one requiring additional explanation or documentation. The concern expressed by consulting parties was not merely a lack of information; it was whether the agency actually demonstrated compliance with the substantive requirements of Section 110(f). Your comments should more directly acknowledge and address these issues.

More specifically, the draft letter contains multiple misstatements of law and misrepresentations of the requirements of the Section 106 process and Section 110(f) of the NHPA. One key example is the NPS's assertion that the proposed undertaking is "location dependent." As the ACHP is aware, there is no such designation in law for federal undertakings, nor is a federal agency permitted to restrict the Section 106 process or limit an agency's Section 110(f) compliance based on such a designation. In addition, the consulting parties have identified alternatives and modifications to the Project that retain the same location but would substantially reduce its adverse effects. NPS has nonetheless refused to consider them. The ACHP has a responsibility to accurately identify NPS's failure to comply with Section 110(f).

The draft letter also fails to address the multiple unlawful aspects of the proposed undertaking that consulting parties have raised. For example, the proposed undertaking remains in violation of the Commemorative Works Act and the Height of Buildings Act. 40 U.S.C. §§ 8901–8909 and Pub. L. 61-196, 36 Stat. 452, in addition to *many* other laws, as discussed in our earlier comments. Your attempt to terminate the Section 106 consultation for this undertaking runs the risk that the ACHP will be further facilitating a process and an undertaking that

violates these laws, which will likely make any final action taken by the NPS more vulnerable to challenge under the Administrative Procedure Act as "not in accordance with the law." 5 U.S.C. § 706(2)(a).

Overall, your actions regarding the termination of this consultation are an unprecedented departure from the ACHP's statutory obligations and the ACHP's longstanding practices. Failure to address these issues and to clearly identify them to the Secretary of the Interior will almost certainly result in additional litigation.

Lack of Authority to Terminate Consultation

The National Trust again strongly objects to your decision to attempt termination of the Section 106 consultation for this Project. As explained in our September 29, 2026 letter, the Vice Chairman lacks authority under the NHPA, the ACHP's regulations, and the ACHP's Operating Procedures to unilaterally terminate consultation on behalf of the Council. In our capacity as a voting member of the Council, the National Trust requests that the ACHP's General Counsel provide a written legal opinion identifying and analyzing the legal authority upon which you relied in taking this action.

The Historic Resources Impacted by This Project, and the Magnitude of the Adverse Effects, Warrant More Than a Rushed and Deeply Flawed Process

As with our prior comment letters and those of the other consulting parties, the National Trust objects to the irrationally short 24-hour period to respond to your draft comment letter. The National Trust requests that you provide a deadline that provides ACHP members with a reasonable amount of time to review all public comments (not merely a summary of the 7,200 public comments) and to provide a comprehensive response to your draft letter. We suggest that 14 days be allowed for this review.

You should be clear in your comments that the process the NPS conducted was rushed and deeply flawed. That problem has been exacerbated by your arbitrary decision to provide comments to the Secretary of the Interior *today* – just two weeks after your attempt to terminate consultation, rather than the 45 days allowed by the Section 106 regulations, 36 C.F.R. § 800.7(c)(2). This creates the public impression that the arbitrary deadlines are calculated to assist the Secretary in ramming through final approval of the Project.

The National Trust suggests that your comment letter address the spirit and letter of the NHPA and how the NPS's process is not consistent with similar consultations of this size and scale, such as the creation of the World War II Memorial on the National Mall. The ACHP should provide the NPS with

recommendations that meaningfully address the scale of the adverse effects at issue with this Project.

The monuments and landscapes adversely affected by this Project are among the most significant historic and commemorative resources in our nation. Your final comments should reflect the extraordinary importance of these resources and the substantial unresolved concerns raised throughout the consultation process. As currently drafted, the comments fall well short of the level of scrutiny and analysis warranted by a project that would permanently alter the Monumental Core and intrude upon the solemn character and historic commemorative landscape of Arlington National Cemetery. The opposition of thousands of military veterans and their families has been especially powerful and should not be overlooked or reduced to a brief summary.

The National Trust respectfully urges you to rescind your attempt to terminate consultation, and instead allow the Section 106 process to continue. At a minimum, you should revise substantially your draft comments to ensure they accurately reflect the record, you should provide recommendations that are proportionate with the magnitude and significance of this undertaking and its adverse effects, and you should include statement of the ACHP's findings of facts including the nature and degree of effects on the historic resources impacted by this Project.

Sincerely,

Ross M. Bradford

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Acting General Counsel & Chief Legal Officer

cc:
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