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City of Chicago



O2018-5016

Office of the City Clerk

Document Tracking Sheet

Meeting Date: 6/27/2018

Sponsor(s): Emanuel (Mayor)

Type: Ordinance

Title: Intergovernmental agreement with U.S. Department of the Army, Army Corps of Engineers for professional assistance updating 2005 Chicago River Corridor Design

Committee(s) Assignment: Committee on Budget and Government Operations

ORDINANCE

WHEREAS, Section 22 of the Water Resources Development Act of 1974, as amended (42 U.S.C. 1962d-16) (the "Act"), authorizes the Secretary of the Army, acting through the U.S. Army Engineer, Chicago District (the "District Engineer"), to provide its professional design and development assistance (the "Professional Assistance") in the preparation of a comprehensive water resources plan (the "Plan") with the City of Chicago (the "City"), acting through its Department of Planning and Development ("DPD"); and

WHEREAS, the Plan will update the 2005 Chicago River Corridor Design Guidelines and Standards, and will include the community input received during the City's 2017 River Edge Ideas Lab initiative, to provide a cohesive planning framework that promotes exceptional design and increased connectivity and natural and recreational options for the Chicago River Corridor, all pursuant to the waterway zoning requirements set forth in Section 17-8-0509 of the City of Chicago Municipal Code; and

WHEREAS, the District Engineer requires that an agreement (the "Agreement") be entered into between the Department of the Army, through its District Engineer, and the City, through DPD, setting forth the terms and conditions of (i) the Professional Assistance, (ii) the \$70,000 in-kind value of the Professional Assistance, and (iii) the Act's requirement that the City contribute an equivalent amount of \$70,000 consisting either of in-kind value or City funds to the development of the Plan; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The above recitals are incorporated herein and made a part hereof.

SECTION 2. The Commissioner of DPD (the "Commissioner") or a designee of the Commissioner are each hereby authorized, with the approval of the City's Corporation Counsel as to form and legality, to negotiate, execute and deliver the Agreement between the District Engineer and the City in substantially in the form attached hereto as Exhibit A and made a part hereof, including amendments, and such other supporting documents as may be necessary to carry out and comply with the provisions of the Agreement, with such changes, deletions and insertions as shall be approved by the persons executing the Agreement.

SECTION 3. To the extent that any ordinance, resolution, rule, order or provision of the Municipal Code of Chicago, or part thereof, is in conflict with the provisions of this ordinance, the provisions of this ordinance shall control. If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this ordinance.

SECTION 4. This ordinance shall be effective as of the date of its passage and approval.

Exhibit A
Agreement

AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
THE CITY OF CHICAGO
FOR DEVELOPMENT OF A COMPREHENSIVE PLAN

THIS AGREEMENT is entered into this ____ day of _____, _____, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Engineer, Chicago District (hereinafter the "District Engineer"), and the City of Chicago (hereinafter the "Non-Federal Sponsor"), represented by the Director, Department of Planning and Development.

WITNESSETH, THAT:

WHEREAS, Section 22 of the Water Resources Development Act of 1974, as amended (42 U.S.C. 1962d-16) authorizes the Secretary of the Army, acting through the Chief of Engineers, to provide assistance in the preparation of a comprehensive water resources plan (hereinafter the "Plan") to a State or non-Federal interest working with a State, and to establish and collect fees for the purpose of recovering 50 percent of the costs of such assistance except that Secretary may accept and expend non-Federal funds provided that are in excess of such fee; and

WHEREAS, the Government and the Non-Federal Sponsor have the full authority and capability to perform in accordance with the terms of this Agreement.

NOW, THEREFORE, the parties agree as follows:

1. The Government shall develop the Plan, in coordination with the Non-Federal Sponsor, in accordance with the attached Scope of Work, and any modifications thereto, that specifies the scope, cost, and schedule for activities and tasks, including the Non-Federal Sponsor's in-kind services.

2. The Non-Federal Sponsor shall provide 50 percent of the costs for developing the Plan in accordance with the provisions of this paragraph. As of the effective date of this Agreement, the costs of developing the Plan are projected to be \$140,000, with the Government's share of such costs projected to be \$70,000 and the Non-Federal Sponsor's share of such costs projected to be \$70,000, which includes estimated credit in the amount of \$70,000 for in-kind services.

a. After considering the estimated amount of credit for in-kind services that will be afforded in accordance with paragraph 4, if any, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor for the initial fiscal year

of development of the Plan, with a fiscal year beginning on October 1st and ending on September 30th of the following year. No later than 15 calendar days after such notification, the Non-Federal Sponsor shall provide the full amount of such funds to the Government by delivering a check payable to "FAO, USAED, Chicago (H6)" to the District Engineer or by providing an Electronic Funds Transfer of such required funds in accordance with procedures established by the Government.

b. No later than August 1st prior to each subsequent fiscal year during development of the Plan, the Government shall provide the Non-Federal Sponsor with a written estimate of the amount of funds required from the Non-Federal Sponsor during that fiscal year. No later than September 1st prior to that fiscal year, the Non-Federal Sponsor shall provide the full amount of such required funds to the Government using one of the payment mechanisms specified in paragraph 2.a. above.

c. If the Government determines at any time that additional funds are needed from the Non-Federal Sponsor to cover the Non-Federal Sponsor's costs of developing the Plan, the Government shall provide the Non-Federal Sponsor with written notice of the amount of additional funds required. Within 60 calendar days of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional funds.

d. Upon completion of the Plan and resolution of any relevant claims and appeals, the Government shall conduct a final accounting and furnish the Non-Federal Sponsor with the written results of such final accounting. Should the final accounting determine that additional funds are required from the Non-Federal Sponsor, the Non-Federal Sponsor, within 60 calendar days of written notice from the Government, shall provide the Government with the full amount of such additional funds. Should the final accounting determine that the Non-Federal Sponsor has provided funds in excess of its required amount, the Government shall refund the excess amount, subject to the availability of funds. Such final accounting does not limit the Non-Federal Sponsor's responsibility to pay its share of costs, including contract claims or any other liability that may become known after the final accounting.

3. In addition to its required cost share, the Non-Federal Sponsor may determine that it is in its best interests to provide additional funds for development of the Plan. Additional funds provided under this paragraph and obligated by the Government are not included in calculating the Non-Federal Sponsor's required cost share and are not eligible for credit or repayment.

4. The in-kind services includes those activities (including services, materials, supplies, or other in-kind services) that are required for development of the Plan and would otherwise have been undertaken by the Government and that are specified in the Scope of Work and performed or provided by the Non-

Federal Sponsor after the effective date of this Agreement and in accordance with the Scope of Work. The Government shall credit towards the Non-Federal Sponsor's share of costs, the costs, documented to the satisfaction of the Government, that the Non-Federal Sponsor incurs in providing or performing in-kind services, including associated supervision and administration. Such costs shall be subject to audit in accordance with paragraph 9 to determine reasonableness, allocability, and allowability, and crediting shall be in accordance with the following procedures, requirements, and limitations:

a. As in-kind services are completed and no later than 60 calendar day after such completion, the Non-Federal Sponsor shall provide the Government appropriate documentation, including invoices and certification of specific payments to contractors, suppliers, and the Non-Federal Sponsor's employees. Failure to provide such documentation in a timely manner may result in denial of credit. The amount of credit afforded for in-kind services shall not exceed the Non-Federal Sponsor's share of costs.

b. No credit shall be afforded for interest charges, or any adjustment to reflect changes in price levels between the time the in-kind services are completed and credit is afforded; for the value of in-kind services obtained at no cost to the Non-Federal Sponsor; or for costs that exceed the Government's estimate of the cost for such item if it had been performed by the Government.

5. The Non-Federal Sponsor shall not use Federal Program funds to meet any of its obligations under this Agreement unless the Federal agency providing the funds verifies in writing that the funds are authorized to be used for the Plan. Federal program funds are those funds provided by a Federal agency, plus any non-Federal contribution required as a matching share therefor.

6. In carrying out its obligations under this Agreement, the Non-Federal Sponsor shall comply with all the requirements of applicable Federal laws and implementing regulations, including, but not limited to: Title VI of the Civil Rights Act of 1964 (P.L. 88-352), as amended (42 U.S.C. 2000d), and Department of Defense Directive 5500.11 issued pursuant thereto; the Age Discrimination Act of 1975 (42 U.S.C. 6102); and the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Army Regulation 600-7 issued pursuant thereto.

7. Upon 30 calendar days written notice to the other party, either party may elect, without penalty, to suspend or terminate further development of the Plan. Any suspension or termination shall not relieve the parties of liability for any obligation incurred.

8. As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they

may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to the parties. Each party shall pay an equal share of any costs for the services provided by such a third party as such costs are incurred. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

9. The parties shall develop procedures for the maintenance by the Non-Federal Sponsor of books, records, documents, or other evidence pertaining to costs and expenses for a minimum of three years after the final accounting. The Non-Federal Sponsor shall assure that such materials are reasonably available for examination, audit, or reproduction by the Government.

a. The Government may conduct, or arrange for the conduct of, audits of the Plan. Government audits shall be conducted in accordance with applicable Government cost principles and regulations. The Government's costs of audits for the Plan shall not be included in the shared costs of the Plan, but shall be included in calculating the overall Federal cost of the Plan.

b. To the extent permitted under applicable Federal laws and regulations, the Government shall allow the Non-Federal Sponsor to inspect books, records, documents, or other evidence pertaining to costs and expenses maintained by the Government, or at the request of the Non-Federal Sponsor, provide to the Non-Federal Sponsor or independent auditors any such information necessary to enable an audit of the Non-Federal Sponsor's activities under this Agreement. The costs of non-Federal audits shall be paid solely by the Non-Federal Sponsor without reimbursement or credit by the Government.

10. In the exercise of their respective rights and obligations under this Agreement, the Government and the Non-Federal Sponsor each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other. Neither party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights a party may have to seek relief or redress against that contractor.

11. Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally or mailed by certified mail, with return receipt, as shown below. A party may change the recipient or address for such communications by giving written notice to the other party in the manner provided in this paragraph.

If to the Non-Federal Sponsor:
Commissioner
Department of Planning and Development
City of Chicago
121 N. LaSalle Street, Room 1000
Chicago, Illinois 60602

If to the Government:
District Commander
U.S. Army Corps of Engineers, Chicago District
231 S. LaSalle Street, Suite 1500
Chicago, Illinois 60604

12. To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

13. Nothing in this Agreement is intended, nor may be construed, to create any rights, confer any benefits, or relieve any liability, of any kind whatsoever in any third person not a party to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the District Engineer.

DEPARTMENT OF THE ARMY

CITY OF CHICAGO

BY: _____
Aaron W. Reisinger
Colonel, U.S. Army
District Engineer

BY: _____
[INSERT TYPED NAME]
[Insert Full Title]

DATE: _____

DATE: _____

SCOPE OF WORK

City of Chicago

Development of a Comprehensive Plan

River Edge Design Guidelines Update

Under the authority of Section 22, Water Resources Development Act of 1974, as amended, Planning Assistance to States Program

March 21, 2018

Prepared By:



U.S. Army Corps of Engineers
Chicago District

1. Study Description:

To assist the City of Chicago in their effort to update existing design guidelines for development projects along the Chicago River. The goal of this effort is to encourage innovative, accessible, and engaging riverfront development in the future by developing guidelines that promote design consistency and adherence to best practices. This project will build upon existing river edge design guidelines, the 2017 River Edge Ideas Labs (www.ChiRiverLab.com), community input from various planning efforts on the future of the river, and national best practices. The end result is intended to provide a cohesive planning framework that promotes exceptional design, increased connectivity, increased options for recreation, and habitat creation/restoration.

2. Product Description:

The City of Chicago (City) Department of Planning and Development (DPD) is seeking professional services from the U.S. Army Corps of Engineers (USACE) Chicago District (LRC) to contribute to an update of DPD's 2005 Chicago River Corridor Design Guidelines and Standards document. The services shall, at a minimum, include the following:

a) **Provide Analysis of, and Recommendations for, Appendices to the 2005 Chicago River Corridor Design Guidelines and Standards** – DPD will provide access to all existing appendices that require review and analysis.

The appendices that LRC will analyze and provide recommendations on are as follows:

- 1) **Appendix E (Plant Palette):** LRC botanists will review and make recommendations for a consistent native plant palette. This effort will include species lists, community assemblages, and recommendations by planned development zone.
- 2) **Appendix F (Safety Equipment):** LRC safety engineer will review existing safety equipment recommendations and determine whether to recommend additional equipment and/or equipment guidelines.
- 3) **Appendix G (Chicago Park District Riverfront Trail Specifications):** LRC will work with DPD to update the existing riverfront standard trail cross section and provide additional renderings and non-standard alterations for alternative use areas, as necessary.
- 4) **Appendix H (Federal Navigation Channel Maps):** LRC will provide the most up-to-date Federal Navigation Channel Maps for the Chicago River Waterway.
- 5) **Appendix I (City of Chicago Harbor Permit Review):** LRC planning and regulatory staff will coordinate with DPD to provide review and recommendations. This review process will likely include coordination between all other related government permitting bodies, including Metropolitan Water Reclamation District, Illinois Department of Natural Resources, USACE, and the US Coast Guard.
- 6) **Appendix J (City of Chicago Pollution of Waters Ordinances):** LRC will coordinate with DPD to ensure that the most up-to-date version of the

Pollution of Waters Ordinance (City of Chicago Municipal Code Article VIII. Pollution of waters) is included in the document appendices. LRC could potentially provide recommendations for potential alterations to the code at the request of DPD.

- 7) **Appendix K (Riverbank Restoration Solutions):** LRC environmental planning staff (planners, botanists, fish biologists, and fluvial geomorphologists) will make recommendations for riverbank restoration solutions along the Chicago River Corridor based on their regional expertise in aquatic ecosystem restoration. Recommendations will include design criteria for materials, stabilization techniques, plant communities, habitat features, hydrologic features, etc.
 - 8) **Appendix L (Stormwater Management Best Practices):** LRC planners and hydrologists will review and provide recommendations for stormwater management best practices that could be applied consistently throughout the corridor.
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- b) **Provide Content Updates and Graphics as needed** – In addition to the review and recommendations in (a.), USACE will generate new content and graphic aids as necessary in the completion of Appendices E-L.
 - c) **Participate in Working Group Meetings** – LRC will attempt to have at least one staff member present at every meeting of the Working Group. Multiple staff may attend based on the agenda for a particular meeting. Working group meetings are tentatively planned to occur monthly between May and October 2018.
 - d) **Additional Content and Graphic Support in coordination with the City and its Contractor** – In addition to updating Appendices E-L, LRC will be available to support content and graphic generation in collaboration with DPD and their contractor on a case-by-case basis.

3. Items Provided by the City of Chicago

The City, its partner(s), and/or its contractor(s) will provide "Work In Kind Services" as follows:

City Tasks	
Lead, establish, and coordinate the working group	The working group will meet monthly from approximately May-October and include representatives from the following groups (and potentially additional parties): DPD, CDOT, DCASE, 2FM, CPD, USACE, MPC, Friends of the River, architects, landscape architects, and developers.
Assemble existing City data and documents	DPD will provide LRC will all of the existing City planning materials necessary for the completion of LRC's tasks, as outlined in section 2.
Provide guidance on content updates and graphic standards	DPD will coordinate with LRC staff to ensure that all project deliverables are generated in a consistent and efficient manner with the expectations of the City and the work of their contractor.
Post draft guidelines online and collect public feedback	The City (and it contractor) will be responsible for distributing all materials generated throughout this process. This will include, but is not limited to, posting materials to the web, soliciting feedback, and coordinating responses to feedback.

City's Contractor Tasks	
Analysis of existing plans, policies, and community feedback	Review should include, but is not limited to: i. River Edge Ideas Lab concepts and survey feedback, ii. National best practices for urban river edge design, iii. Great Rivers Chicago report and survey feedback, iv. Chicago River Corridor Design Guidelines and Standards, 2005, v. Chicago River Corridor Development Plan, 1999, vi. Chicago Riverwalk Main Branch Framework Plan, 2009, vii. Calumet Design Guidelines, 2004 viii. Riverwalk Master Plan, anticipated in 2018, ix. South Branch engineering study, anticipated in 2018
Attend and produce materials for river edge design guidelines working group, anticipate monthly meetings from May-October	

<p>Update 2005 Chicago River Corridor Design Guidelines and Standards, to include the following, and is subject to revision based on feedback from working group</p>	<p>a. Minor content updates to Chapter One (Introduction), Chapter Two (Setbacks), Chapter Six (Bubbly Creek), and Appendix A (Definitions).</p> <p>b. Content and graphic updates to Chapter Three (Riverbank Zone), Chapter Four (Urban Greenway Zone), Chapter Five (Development Zone), Appendix B (Development Areas), Appendix C (Site Furnishings), Appendix D (Signage and Public Art). Updated content should account for, but is not limited to: i. Public access and accessibility ii. Continuous multi-use trails for leisure and active uses iii. Creative, yet unified design through materials and/or kit-of-parts iv. Wayfinding and branding v. Landscaping and open space design vi. Recreation and riverfront trail amenities vii. Connectivity under bridges and to existing Riverwalk segments</p> <p>c. Coordinate with U.S. Army Corps on proposed updates for other Appendices.</p>
<p>Develop a unified brand, wayfinding, and style guide for all river edge development (including the existing Riverwalk segments)</p>	
<p>Prepare final River Edge Development Guidelines document for publication</p>	
<p>Prepare presentation and other materials for Plan Commission hearing</p>	

4. Cost:

The City of Chicago cost for providing the items above is estimated at \$70,000.

USACE estimate for the effort described above is \$70,000.00.

Total cost for this project is estimated at \$140,000.

5. Schedule:

This is a one year effort. The final plan will be submitted 12 months from the date the PAS agreement is signed.

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OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

June 27, 2018

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Planning and Development, I transmit herewith an ordinance authorizing the execution of an intergovernmental agreement with the Army Corps of Engineers.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

A handwritten signature in cursive script that reads "Rahm Emanuel".

Mayor



APPROVED


CORPORATION COUNSEL

DATED: 8/1/18

APPROVED


MAYOR

DATED: 8/1/18