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City Council Document Tracking Sheet

Meeting Date:	5/4/2011
Sponsor(s):	Mayor Daley
Type:	Ordinance
Title:	Memorandum of understanding with Army Corps of Engineers regarding information sharing
Committee(s) Assignment:	Committee on Budget and Government Operations

BUDG.



OFFICE OF THE MAYOR
CITY OF CHICAGO

RICHARD M. DALEY
MAYOR

May 4, 2011

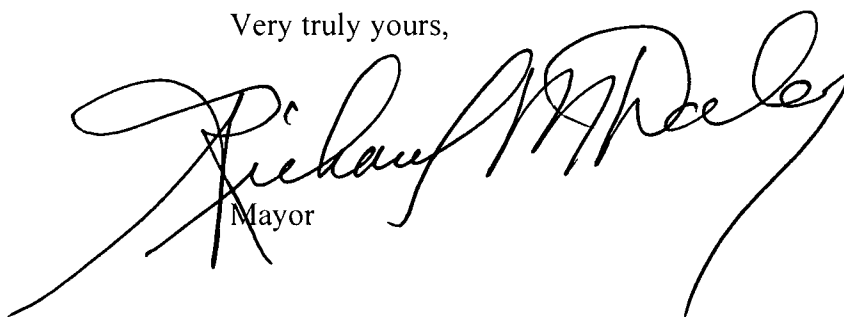
TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Water Management, I transmit herewith an ordinance authorizing the execution of a memorandum of understanding with the Army Corps of Engineers regarding information sharing.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,


Mayor

ORDINANCE

WHEREAS, the City of Chicago (the "City") is a home rule unit of government under Article VII, Section 6(a) of the Constitution of the State of Illinois, and as such may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the City is the owner of certain properties comprising a sewer system which serves primarily residents of the City (the "City's Sewer System"); and

WHEREAS, the City through its Department of Water Management ("DWM") has built an InfoWorks Sewer Model for the City of Chicago (hereinafter "the Model") through a series of contracts and related task orders individually with CDM, CH2M HILL, Inc. and MWH Global, Inc. (collectively the "Consultants"); and

WHEREAS, Section 3061(d) of the Water Resources Development Act of 2007 (Pub. L. No. 110-114) directs the Secretary of the Army, in consultation with appropriate Federal, State, local, and nongovernmental entities, to conduct, at Federal expense, a feasibility study of the range of options and technologies available to prevent the spread of aquatic nuisance species between the Great Lakes and Mississippi River basins through the Chicago Sanitary and Ship Canal and other aquatic pathways; and

WHEREAS, other studies and projects may be implemented within the waterways that flow through the City under continuing authorities and specific authorization; and

WHEREAS, the United States Department of the Army Corp of Engineers ("USAGE"), represented by the U.S. Army Engineer District, Chicago (hereinafter the "Chicago District Engineer") has expressed an interest in using the Model for purposes of its Great Lakes Mississippi River Interbasin Study (hereinafter "GLMRIS") in order to incorporate safety and economic considerations of basement flooding into GLMRIS and to quantify compensatory storage requirements needed to offset basement flooding impacts caused by project alternatives; and

WHEREAS, USAGE has expressed an Interest in using the Model for other studies and projects that could impact conditions in the Chicago Area Waterway System ("Other Projects"); and

WHEREAS, the City and USAGE have agreed to enter into an agreement in substantially the form attached hereto as Exhibit A (the "Agreement") in order to memorialize their respective roles in such an effort; now, therefore

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

SECTION 1. The above recitals are expressly incorporated in and made part of this ordinance as though fully set forth herein.

SECTION 2. The City grants USACE full rights to use the Model consistent with the purpose of GLMRIS and for Other Projects and in return USAGE will Inform the City of any improvements to the Model, provide written reports of such changes and grant the City full rights to any changes to the Model.

SECTION 3. The Commissioner of DWM (the "Commissioner") is authorized to execute the Agreement, and such other documents as are necessary, between the City and USACE, subject to the approval of the Corporation Counsel of the City as to form and legality.

EXHIBIT A
AGREEMENT

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE U.S. ARMY CORPS OF ENGINEERS, CHICAGO DISTRICT
AND
THE CITY OF CHICAGO, ILLINOIS, DEPARTMENT OF WATER MANAGEMENT

THIS MEMORANDUM OF UNDERSTANDING (hereinafter the "MOU") is entered into this _____ day of _____, 2011, by and between the Department of the Army (hereinafter "USAGE"), represented by the U.S. Army Engineer District, Chicago (hereinafter the "Chicago District Engineer") and the City of Chicago (hereinafter "City"), represented by the Department of Water Management.

WITNESSETH, THAT:

WHEREAS, Section 3061(d) of the Water Resources Development Act of 2007 (Pub. L. No. 110-114 (the "ACT")) directs the Secretary of the Army, in consultation with appropriate Federal, State, local, and nongovernmental entities, to conduct, at Federal expense, a feasibility study of the range of options and technologies available to prevent the spread of aquatic nuisance species between the Great Lakes and Mississippi River basins through the Chicago Sanitary and Ship Canal and other aquatic pathways; and

WHEREAS, other studies and projects may be implemented within the waterways that flow through the City of Chicago under continuing authorities and specific authorization; and

WHEREAS, the City has built an InfoWorks Sewer Model for the City of Chicago (hereinafter "the Model") through a series of task orders with CDM, CH2M HILL, Inc. and MWH Global, Inc. (collectively, the "Consultants"); and

WHEREAS, USAGE has expressed an interest in using the Model for purposes of its Great Lakes Mississippi River Interbasin Study (hereinafter "GLMRIS") in order to incorporate safety and economic considerations of basement flooding into GLMRIS and to quantify compensatory storage requirements needed to offset basement flooding impacts caused by project alternatives; and

WHEREAS, USAGE has expressed an interest in using the Model for other studies and projects that could impact conditions in the Chicago Area Waterway System ("Other Projects"); and

WHEREAS, USAGE and the City desire to memorialize their respective roles in such an effort; and

WHEREAS, on _____, the City Council of the City (the "City Council") adopted an ordinance published in the Journal of the Proceedings of the City Council for said date at pages _____ to _____, among other things, authorizes the execution of this Agreement; and pursuant to the Act and other authorities, USAGE in carrying out GLMRIS and the Other Projects is authorized to enter this Agreement; and

NOW THEREFORE, it is agreed, as follows:

1. The City grants full rights for USACE to use the Model consistent with the purpose of CLMRIS, including but not limited to its use to incorporate safety and economic considerations of basement flooding into CLMRIS and to quantify compensatory storage requirements needed to offset basement flooding impacts caused by CLMRIS alternatives.
2. The City grants full rights for USACE to use the Model for Other Projects, including but not limited to impacts analysis of project alternatives. USACE will provide the City with written notice of intent to use the Model for Other Projects, describing the project and how USACE intends to use the Model.
3. USACE will use the Model by contracting directly with one of the Consultants currently retained by the City who built the Model for the City and each have access to the Model, or with any other firm retained by the City who has access to the Model.
4. USACE will inform the City of any improvements made to the Model by identifying the modifications made to the Model in written reports. USACE will provide the City with copies of these reports.
5. At the conclusion of its use of the Model, USACE will furnish the City with a report detailing any changes made to the Model.
6. The City shall have full rights to use any improvements made to the Model by USACE for purposes of CLMRIS or Other Projects.
7. USACE is studying the impacts of flooding in the Chicagoland area. In the spirit of cooperation, the City will provide relevant information to assist USACE in these studies. Such information shall not be released by USACE without the prior consent of the City or unless required by law.
8. This MOU shall be effective for a period of five years from taking effect, as described below, and may be extended for no more than two additional five year terms. Prior to expiration, USACE will submit a written request for extension. Such request for extension shall be deemed approved unless the City provides a written denial within 30 days of its receipt.
9. This MOU is to take effect upon the signature of the parties and may be terminated by either party by giving written notice to the other party. For the purposes of this MOU, the party to receive such notice is:

If to the City:

Commissioner
City of Chicago
Department of Water Management
121 N. LaSalle Street
Chicago, IL 60602

If to USACE:

District Commander
U.S. Army Engineer District, Chicago
111 North Canal Street, Suite 600
Chicago, IL 60606

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

Commissioner
Department of Water Management
City of Chicago

Vincent V. Quarles
Colonel, U.S. Army
Chicago District Commander