



City of Chicago



O2015-1455

Office of the City Clerk

Document Tracking Sheet

Meeting Date:	3/18/2015
Sponsor(s):	Emanuel (Mayor)
Type:	Ordinance
Title:	Intergovernmental agreement with Chicago Park District for Navy Pier Flyover improvements
Committee(s) Assignment:	Committee on Pedestrian and Traffic Safety



TRAFFIC

OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

March 18, 2015

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

Ladies and Gentlemen:

At the request of the Commissioner of Transportation, I transmit herewith an ordinance authorizing the execution of an intergovernmental agreement with the Chicago Park District regarding the Navy Pier Flyover.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

A handwritten signature in black ink that reads "Rahm Emanuel". The signature is written in a cursive, flowing style.

Mayor

ORDINANCE

WHEREAS, the City of Chicago (the "City") is a home rule unit of government by virtue of the provisions of the Constitution of the State of Illinois of 1970, and as such, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the Chicago Park District (the "Park District") is a body politic and corporate unit of local government and park district of the State of Illinois organized and existing under the Chicago Park District Act, 70 ILCS 1505/0.01 et. seq. with authority to exercise control over and supervise the operation of all parks within the city of Chicago and to enter into intergovernmental agreements upon approval of its Board of Commissioners; and

WHEREAS, the City and Park District (together, the "Parties") have authority to enter into intergovernmental agreements pursuant to Article VII, Section 10 of the Constitution of the State of Illinois; and

WHEREAS, the City, in cooperation with the Park District as a non-participating construction co-sponsor, has undertaken the construction of a certain multi-use public way path to the Navy Pier and Chicago River bridge segments of the Lakefront Trail from Grant Park on the south to Jane Addams Memorial Park on the north, shall be attached to North Lake Shore Drive (the "Navy Pier Flyover Improvements") and lies adjacent to Lake Point Tower ("Lake Point Tower"), in Chicago, Illinois, as such Improvements are more fully described on Exhibit A attached hereto; and

WHEREAS, the City's construction of the Navy Pier Flyover Improvements will extend through and over the Park District's DuSable Park, as depicted on Exhibit B; and

WHEREAS, the City's construction of the Navy Pier Flyover Improvements will extend through and over the Park District's Jane Addams Memorial Park; and

WHEREAS, the Parties have mutually determined that it is necessary and appropriate that the Parties enter into an Intergovernmental License Agreement (the "License Agreement") providing for: (1) the Park District granting of an irrevocable license in and over DuSable Park and in and over Jane Addams Memorial Park to the City for the purposes of construction of the Navy Pier Flyover Improvements; and (2) the Parties mutual agreement that the Park District shall maintain and operate the Navy Pier Flyover Improvements; and

WHEREAS, the Park District, pursuant to a Resolution dated November 10, 2010, is authorized to enter into the License Agreement, and any other agreements, with the City in connection with the construction, and the maintenance and operation of the Navy Pier Flyover Improvements; and

WHEREAS, the City Council finds that it is necessary, desirable and in the public interest that the City and the Park District enter into the License Agreement in order to set forth their respective objectives, duties and responsibilities and to describe the procedures and guidelines to be followed with respect to the implementation of the Navy Pier Flyover Improvements; now, therefore,

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

SECTION 1. The foregoing recitals are hereby adopted as the findings of the City Council.

SECTION 2. The Commissioner of the Department of Transportation (the "Commissioner") and a designee of the Commissioner are each hereby authorized to execute an intergovernmental

redevelopment agreement substantially in the form attached hereto as **Exhibit C** and made a part hereof, and such other documents as may be necessary to implement the License Agreement, subject to the approval of the Corporation Counsel.

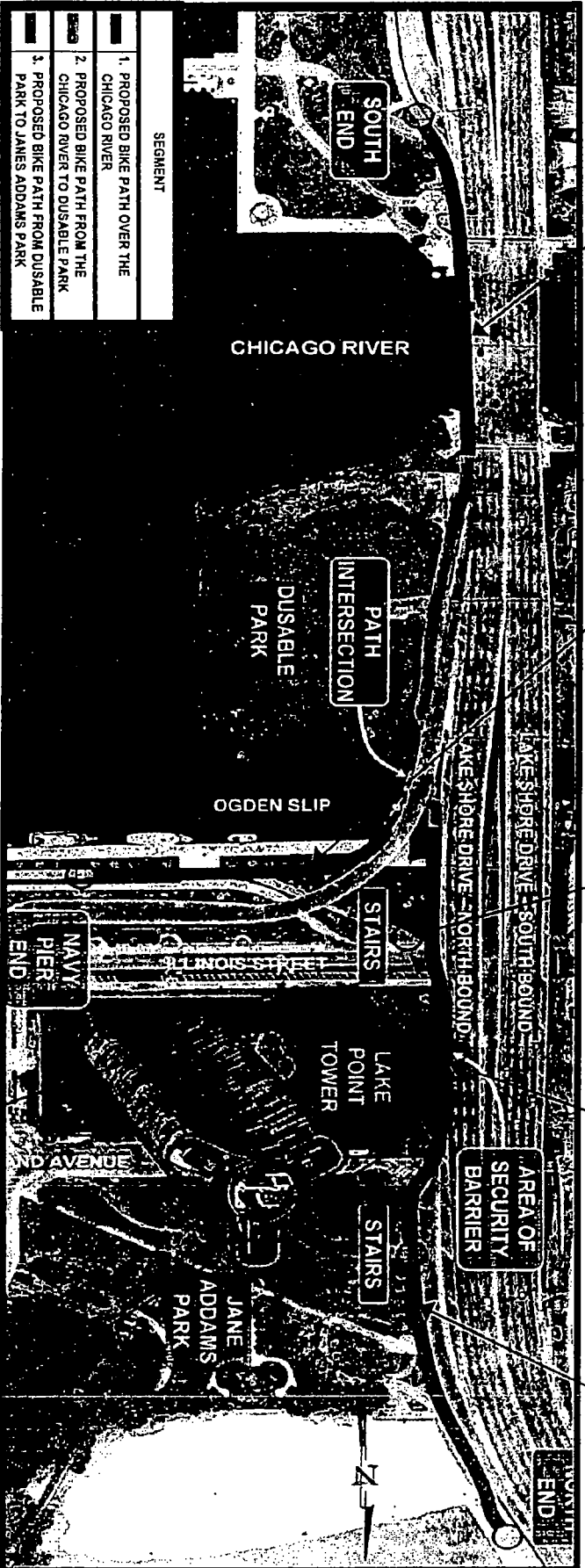
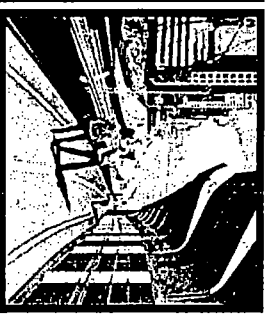
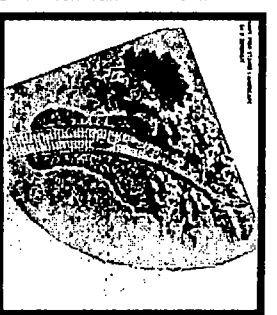
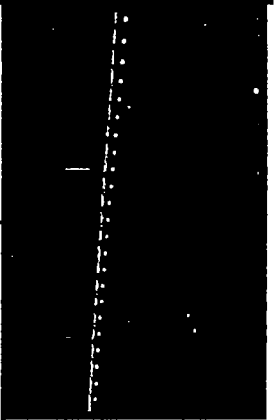
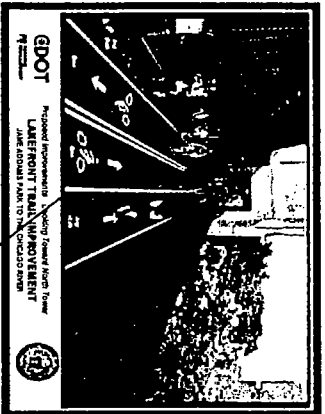
SECTION 5. If any provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the other provisions of this ordinance.

SECTION 6. All ordinances, resolutions, motions or orders in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 7. This ordinance shall take effect immediately upon its passage and approval.

EXHIBIT A

**NAVY PIER FLYOVER IMPROVMENTS
(Attached)**



Detail of column and deck lighting

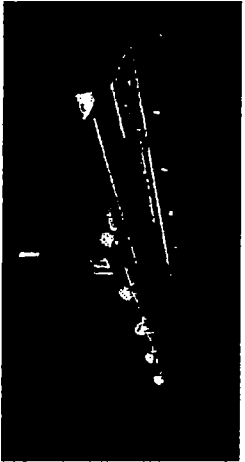
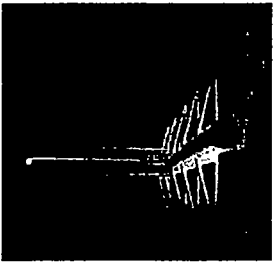


EXHIBIT B

**NAVY PIER FLYOVER IMPROVEMENTS OVER
DUSABLE PARK
(Attached)**

EXHIBIT C

**FORM OF
INTERGOVERNMENTAL LICENSE AGREEMENT
(Attached)**

**INTERGOVERNMENTAL LICENSE AGREEMENT BETWEEN
THE CITY OF CHICAGO
AND
THE CHICAGO PARK DISTRICT**

(NAVY PIER FLYOVER)

This Intergovernmental License Agreement (the "Agreement") is entered into this ____ day of _____, 2015, between the City of Chicago (the "City"), a municipal corporation and home rule unit of government under Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois, by and through its Department of Transportation ("CDOT") and the Chicago Park District (the "Park District"), a body politic and corporate and a unit of local government under Article VII, Section 1 of the 1970 Constitution of the State of Illinois. The City and Park District together shall be referred to herein from time to time as the "Parties" and individually as a "Party".

RECITALS

WHEREAS, the City is a home rule unit of local government under the 1970 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 Park District is a body politic and corporate unit of local government and park district of the State of Illinois organized and existing under the Chicago Park District Act, 70 ILCS 1505/0.01 et. seq. with authority to exercise control over and supervise the operation of all parks within the City of Chicago and to enter into intergovernmental agreements upon approval of its Board of Commissioners; and

WHEREAS, the City and Park District have authority to enter into intergovernmental agreements pursuant to Article VII, Section 10 of the Constitution of the State of Illinois; and

WHEREAS, the City, in cooperation with the Park District as a non-participating construction co-sponsor, has undertaken the construction of a certain multi-use public way path to the Navy Pier and Chicago River bridge segments of the Lakefront Trail from Grant Park on the south to Jane Addams Memorial Park on the north, shall be attached to North Lake Shore Drive (the "Navy Pier Flyover Improvements") and lies adjacent to Lake Point Tower ("Lake Point Tower"), in Chicago, Illinois, as such Improvements are more fully described on **Exhibit A** attached hereto; and

WHEREAS, the City's construction of the Navy Pier Flyover Improvements will extend through and over the Park District's DuSable Park, as depicted on **Exhibit B**; and

WHEREAS, the City's construction of the Navy Pier Flyover Improvements will extend through and over the Park District's Jane Addams Memorial Park, as depicted on **Exhibit C**; and

WHEREAS, the Parties have mutually determined that it is necessary and appropriate that the Park District grant a five (5) year irrevocable license with two, ten (10) year automatic renewals ("License") in and over DuSable Park and in and over Jane Addams Memorial Park to the City for the portions of the Navy Pier Flyover Improvements that lie in and over the DuSable Park and in and over Jane Addams Memorial Park for the purposes of construction of the Navy Pier Flyover Improvements and the incorporation of the license areas ("License Areas") into the Navy Pier Flyover Improvements to be utilized as public way; and

WHEREAS, the City Council of the City, by ordinance adopted June 27, 2012, authorized the

City to enter into an irrevocable exclusive license agreement ("LPT License Agreement") with the owners of Lake Point Tower, for the purpose of permitting the City to construct the Navy Pier Flyover Improvements at grade level and above grade level on the Lake Point Tower property; and

WHEREAS, the Parties have mutually agreed that CDOT shall own, insure and maintain the Navy Pier Flyover Improvements, including without limitation the Navy Pier Flyover Improvements subject to the LPT License Agreement and those Navy Pier Flyover Improvements falling within the License Areas, as a public way for the benefit of the public, pursuant to the maintenance and operation provisions set forth herein; and

WHEREAS, the Parties have mutually agreed that the Park District shall maintain and operate the Navy Pier Flyover Improvements as delineated in 4.B and 4 C. subject to the LPT License Agreement and those Navy Pier Flyover Improvements falling within the License Areas, as a public way for the benefit of the public, pursuant to the maintenance and operation provisions set forth herein; and

WHEREAS, the Park District, pursuant to a Resolution ("Resolution") dated November 10, 2010, is authorized to enter into this Agreement, and any other agreements, with the City in connection with the construction of the Navy Pier Flyover Improvements; and

WHEREAS, on _____, 2015, the City Council of the City, adopted an ordinance published in the Journal of Proceedings for said date at pages _____ to _____, among other things, authorized the City to enter into this Agreement; and

WHEREAS, the Parties have determined that it is necessary, desirable and in the public interest to enter into this Agreement pursuant to the Intergovernmental Cooperation Act of the State of Illinois in order to set forth their respective objectives, duties and responsibilities and to describe the procedures and guidelines to be followed with respect to the implementation of the Navy Pier Flyover Improvements.

NOW, THEREFORE, the Parties hereto in consideration of mutual covenants hereinafter contained agree as follows:

1. **Incorporation of Recitals.** The recitals set forth above constitute an integral part of this Agreement and are hereby incorporated herein by this reference with the same force and effect as if set forth herein as agreements of the Parties.

2. **Services to be Provided.** CDOT shall perform and carry out the following services required through the completion of construction of the Navy Pier Flyover Improvements (the "Services"):

- A. CDOT shall, upon approval from the state and/or Federal Highway Administration, and either with its own forces or in conjunction with consulting engineering firms approved by the Illinois Department of Transportation ("IDOT"), make all necessary surveys, compile the data and prepare the design and location studies, hold the required public hearings, prepare the required environmental studies and final design reports, perform the engineering for the necessary right-of-way acquisition and the relocation and/or adjustment of City-owned electrical and water utilities, and prepare the final plans, specification, estimates and all other documents or agreements required to let and award contracts or otherwise construct the Navy Pier Flyover Improvements, all of which is herein referred to as "Preliminary Engineering."

- B. CDOT shall, if necessary (a) prepare or cause to be prepared, studies, plans, plats, legal descriptions and estimates for cost for any right-of-way acquisition and to acquire in its name all necessary right-of-way in accordance with the requirements of Title II and III of the Uniform Relocation and Acquisition Act, the requirements of which shall be carried out in accordance with established State of Illinois ("State") policies and procedures as now in effect or hereafter revised or amended; and (b) prior to the advertisement by the City for bids, to certify to the State that the City has complied with all requirements of Title II and III of the Uniform Relocation and Acquisition Act, which certification is subject to acceptance by the State and approval by the Division Administrator of the Federal Highway Administration.
- C. CDOT shall upon the approval from the State and/or Federal Highway Administration, let and award contracts for the Navy Pier Flyover Improvements, and/or cause to be provided all force account construction and construction engineering/ supervision for the Navy Pier Flyover Improvements as herein identified, in accordance with approved plans and specifications and established procedures of the City, the State and the Federal Highway Administration.
- D. CDOT shall comply with all applicable State and federal executive orders, laws and regulations pertaining to equal opportunity and non-discrimination legislation including but not limited to the following: Title VII of the Civil Rights Act of 1964; section 504 of the Rehabilitation Act of 1973, as amended; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; the Americans with Disabilities Act of 1990; the Department of Justice Non-Discrimination Regulations, 28 C.F.R. Part 42, subparts C, D, E and G; the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq; and the Illinois Environmental Barriers Act, 410.
- E. CDOT shall upon the award of any and all construction contracts cause the general contractor (the "Contractor") to obtain any permits required by law from respective city agencies. Further, the Contractor shall obtain a separate Standard Access Permit from the Park District prior to any onsite work. The Contractor shall contact The Department of Planning and Construction at (312) 742-5695 to obtain said permit and obtain parking permits, a utility walkthrough and locate prior to any on-site work, and confirmation of work limits and tree protection standards.
- F. CDOT shall maintain, for a minimum of five (5) years after the completion of any contract awarded pursuant to bids and/or force account construction and construction engineering/supervision, adequate books, records and supporting documents to verify the amounts, recipients and uses of all funds disbursed in conjunction with such contract and/or force account construction and construction engineering/supervision; making such contracts and all books, records and supporting documents related to such contract and the Navy Pier Flyover Improvements available for review and audit by the Auditor General and to provide full access to all relevant materials, with the knowledge that failure to maintain the books, records and supporting documents so required shall establish a presumption in favor of the State for the recovery of any funds paid by the State under such contract and/or for the Navy Pier Flyover Improvements for which adequate books, records and supporting documentation are not available to support their purported disbursement.
- G. The Parties shall agree with the conceptual and/or schematic plans for the work.

- H. CDOT shall conduct regular project status meetings with the Park District, which may include Park District attendance at any regularly scheduled weekly construction project meetings on-site or at a regularly scheduled location. Further, the designated Park District representative shall review all change orders which will affect any aesthetic, landscaping, lighting, signage or like issue which will affect the maintenance of both the structure and surrounding construction and restoration work.
- I. CDOT shall provide to the Park District a 24 hour contact number for representatives of both CDOT and the Contractor.
- J. At the close of the project, CDOT shall invite the Park District to all punch list and walkthrough dates. Further, at the completion of all redlines and final update of as-builts, CDOT shall deliver to the Park District one (1) set of reproducible as-builts on vellum or similar and two (2) copies on CD, DVD or similar electronic format. Further, during said punch list and walkthrough dates, CDOT staff and representatives shall be present to answer any questions, and supply any keys or codes to ensure Park District access for maintenance and routine repairs.

3. **Park District Grant of License over DuSable Park and Jane Addams Memorial Park.**

- A. The Park District shall grant, as authorized by the Resolution, the City a License in and over portions of the License Areas for those portions of the Navy Pier Flyover Improvements that lie in and over the License Areas. The License Areas shall be utilized and operated by the City as a public way for the benefit of the public and may, at times, be utilized to stage the construction of the Navy Pier Flyover Improvements.
- B. CDOT shall be responsible for any construction work related to the Navy Pier Flyover Improvements at the License Areas, including any and all necessary repairs to the seawall/revetment made necessary by the project. In the event of any disturbance, undermining or further strengthening needed as result of the project, CDOT shall assume all responsibility for design, cost and construction of the improvement.
- C. CDOT shall be responsible for all thorium screening and disposal as required by the USEPA regarding the DuSable Park site. CDOT shall further be required to provide a site specific work plan for Park District review and approval regarding thorium screening and removal from the DuSable Park site.

4. **Maintenance and Operation of the Navy Pier Flyover Improvements.**

- A. Following the completion of the Navy Pier Flyover Improvements, the Park District shall provide for the maintenance as set forth in this Section 4 and operations of the Navy Pier Flyover Improvements, including without limitation, the Navy Pier Flyover Improvements subject to the LPT License Agreement and those Navy Pier Flyover Improvements falling within the License Areas, as a public way for the benefit of the public, in accordance with the usual and customary rules and regulations governing use and occupancy of property operated or maintained by the Park District.
- B. CDOT Navy Pier Flyover Maintenance and Operation Responsibilities shall include all major rehabilitations and/or replacements of all structure, systems, surfaces, and fixtures, and all costs associated therewith. CDOT's responsibilities hereunder shall apply whether necessitated by age, normal wear and tear, and/or damage.

- C. The Park District Navy Pier Flyover Maintenance and Operation Responsibilities shall include the maintenance and all costs associated therewith for electric utilities; minor repairs and relamping of light fixtures (excluding color changing LED lighting); snow removal and trash removal; graffiti removal; landscape maintenance; signage and striping maintenance; clean out of drainage structures; touch-up painting; and minor maintenance as necessary such as cable tightening along rail. Park District responsibilities do not include major rehabilitations and/or replacements including but not limited to, railings, paving, electrical systems and all other capital improvements and all costs associated therewith.
- D. The Parties agree that CDOT will coordinate an annual walk-through assessment of the Navy Pier Flyover Improvements with members of both the City and the Park District at a mutually agreeable date and time..

5. **Cooperation.** The Parties agree that they shall cooperate with State and Federal Agencies, utility companies and all other agencies working on any other phases of the Navy Pier Flyover Improvements, so as not to interfere with or hinder the progress or completion of work.

6. **Notice.** Notice and communications under this Agreement shall be sent by first-class prepaid mail to CDOT, addressed to:

Chicago Department of Transportation,
30 N. LaSalle Street, Room 1100,
Chicago, Illinois 60602
Attention: Commissioner

With a copy to:

Corporation Counsel
City of Chicago
121 North LaSalle Street
Room 600, City Hall
Chicago, Illinois 60602
Attn: Deputy Corporation Counsel
Real Estate and Land Use Division

And to the Park District:

Chicago Park District
541 N. Fairbanks
Chicago, Illinois 60611
Attn: General Superintendent

With a copy to:

Chicago Park District
541 N. Fairbanks
Chicago, Illinois 60611
Attn: First Deputy General Counsel

Unless otherwise specified elsewhere in this Agreement, said notices shall be deemed received

when mailed.

7. **Assignment.** This Agreement or any portion thereof shall not be assigned by CDOT or Park District without the prior written consent of the other party.

8. **Amendment.** This Agreement and the Exhibits attached hereto may not be amended or modified without the prior written consent of the Parties hereto.

9. **Entire Agreement.** This Agreement (including each Exhibits attached hereto, which is hereby incorporated herein by reference) constitutes the entire Agreement between the parties hereto and it supersedes all prior agreements, negotiations and discussions between the parties relative to the subject matter hereof.

10. **Limitation of Liability.** No member, official or employee of the City shall be personally liable to the Park District or any respective successor in interest in the event of any default or breach by the City or for any amount which may become due to the Park District from the City or any successor in interest or on any obligation under the terms of this Agreement. No member, official or employee of the Park District shall be personally liable to the City or any respective successor in interest in the event of any default or breach by the Park District or for any amount which may become due to the City from Park District or any successor in interest or on any obligation under the terms of this Agreement.

11. **Further Assurances.** The Parties agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may become necessary or appropriate to carry out the services, terms, provisions and intent of this Agreement.

12. **Waiver.** Waiver by the Parties with respect to any breach of this Agreement shall not be considered or treated as a waiver of the rights of the respective party with respect to any other default or with respect to any particular default, except to the extent specifically waived by the Parties in writing. No delay or omission on the part of a party in exercising any right shall operate as a waiver of such right or any other right unless pursuant to the specific terms hereof. A waiver by a party of a provision of this Agreement shall not prejudice or constitute a waiver of such party's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by a party, nor any course of dealing between the Parties hereto, shall constitute a waiver of any such party's rights or of any obligations of any other party hereto as to any future transactions.

13. **Remedies Cumulative.** The remedies of a Party hereunder are cumulative and the exercise of any one or more of the remedies provided for herein shall not be construed as a waiver of any other remedies of such Party unless specifically so provided herein.

14. **Headings.** The paragraph and section headings contained herein are for convenience only and are not intended to limit, vary, define or expand the content thereof.

15. **Counterparts.** This Agreement may be executed in several counterparts, each of

which shall be deemed an original and all of which shall constitute one and the same agreement.

16. **Severability.** If any provision in this Agreement, or any paragraph, sentence, clause, phrase, word or the application thereof, in any circumstance, is held invalid, this Agreement shall be construed as if such invalid part were never included herein and the remainder of this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

17. **Conflict.** In the event of a conflict between any provisions of this Agreement and the provisions of the any ordinances relating to the Navy Pier Flyover Improvements, if any, such ordinance(s) shall prevail and control.

18. **Governing Law.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of Illinois, without regard to its conflicts of law principles.

19. **Form of Documents.** All documents required by this Agreement to be submitted, delivered or furnished to the City shall be in form and content satisfactory to the City.

20. **Approval.** Wherever this Agreement provides for the approval or consent of the City, CDOT or the Commissioner, or any matter is to be to the City's, CDOT's or the Commissioner's satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by the City, CDOT or the Commissioner in writing and in the reasonable discretion thereof. The Commissioner or other person designated by the Mayor of the City shall act for the City or CDOT in making all approvals, consents and determinations of satisfaction or otherwise administering this Agreement for the City.

21. **Binding Effect.** This Agreement shall be binding upon the respective Parties and their respective successors and shall inure to the benefit of the City and the Park District, and their respective successors. Except as otherwise provided herein, this Agreement shall not run to the benefit of, or be enforceable by, any person or entity other than a Party to this Agreement and its successors. This Agreement should not be deemed to confer upon third parties any remedy, claim, right of reimbursement or other right.

22. **Force Majeure.** Neither the Parties nor any successor in interest to either of them shall be considered in breach of or in default of its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, strike, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or for an abnormal duration, tornadoes or cyclones, and other events or conditions beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder. The individual or entity relying on this section with respect to any such delay shall, upon the occurrence of the event causing such delay, immediately give written notice to the other parties to this Agreement. The individual or entity relying on this section with respect to any such delay may rely on this section only to the extent of the actual number of days of delay affected by any such events described above.

23. **Venue and Consent to Jurisdiction.** If there is a lawsuit under this Agreement, each party hereto agrees to submit to the jurisdiction of the courts of Cook County, the State of Illinois and the United States District Court for the Northern District of Illinois.

24. **Insurance and Indemnification.**

A. CDOT

(i) CDOT certifies that it is self-insured and in accordance with CDOT's budgeted estimate has funds available, and agrees to indemnify the Park District against and save harmless from loss and damage to property, and injury to or death of any person or persons and from court costs and attorney's fees, and expenses incidental thereto, arising out of the Services and work to be performed hereunder by CDOT, or any contractor or subcontractor for CDOT, or their respective officers, agents or employees except for the negligence or willful or intentional misconduct on the part of the Park District or any contractor or subcontractor of the Park District or their respective transferees, successors or assignees, or their respective officers, agents and employees. The Park District shall give timely notice to CDOT of the possible filing or filing of any such claims.

(ii) CDOT shall require that the Contractor and any subcontractors purchase and maintain during the construction of the Project the types and amounts of insurance substantially in accordance with the provisions of **Exhibit D** hereof. Prior to the commencement of the construction of the Navy Pier Flyover Improvements, CDOT shall require that the Contractor provide certificates of insurance evidencing the required insurance and certifying the name and address of the Contractor, the description of work or services covered by such policies, the inception and expiration dates of the policies, the specific coverages to be provided and naming the City and the Park District as an additional insured as their interests may appear. A copy of any and all such insurance certificates shall be provided by CDOT to the authorized representatives of the Park District. All such insurance shall be placed in financially responsible companies, authorized under the insurance laws of the State of Illinois to do business in the State of Illinois. Upon completion of the Navy Pier Flyover Improvements, CDOT shall be responsible for insuring the Navy Pier Flyover Improvements and all property and improvements within the License Areas for the purposes set forth herein.

(iii) CDOT covenants and agrees that it shall indemnify, protect, defend and hold harmless the Park District from any and all liability, costs, damages, expenses, or claims arising under, through or by virtue of the operation, use, and maintenance of the Navy Pier Flyover Improvements, as a result of any acts or omissions of CDOT, its agents and employees, excepting the negligence of the Park District, its employees or agents.

(iv) All CDOT contracts and subcontracts, if any, for work or Services under this Agreement shall provide for indemnification of the Park District to the same extent that CDOT requires such Contractor or subcontractors to indemnify CDOT. The contracts shall require that the Contractor indemnify, save and hold harmless the City, the Park District and their respective officials, agents, employees and representatives, individually and collectively, from all claims, demands, actions and the like arising or alleged to arise out of the Work as a result of any act or omission of the Contractor or its subcontractors or subconsultants or any of their respective employees or agents.

B. Park District

(i) The Parties acknowledge and understand that the Park District is a self-insurer of the type of liabilities and coverages that would be provided under this Agreement. Upon

request, the Park District will provide satisfactory evidence of its self-insurance coverage.

(ii) After the completion of construction of the Navy Pier Flyover Improvements, Park District agrees to: (1) release, hold harmless, and indemnify the City from any claims and liabilities relating to or arising from the environmental condition of the License Areas (including, without limitation, claims under CERCLA) caused by the Park District, its officials, employees, contractors, or agents, and (2) undertake and discharge all liabilities of the City arising from any environmental condition, caused by the Park District, its officials, employees, contractors, or agents, after (a) the execution of this Agreement, and (b) the completion of construction of the Navy Pier Flyover Improvements on the License Areas.

(iii) To the extent liability of a municipal corporation, as such is precluded by the Local and Governmental Tort Immunity Act or the common law of the State of Illinois, the Park District agrees to indemnify, defend (at the City's option), and hold the City, its officers and employees, harmless from and against any losses, costs, damages, liabilities, claims, suits, actions, causes of action and expenses, including, without limitation, reasonable attorney's fees and court costs suffered or incurred by the City arising from or in connection with (i) the Park District's failure to comply with any of the terms, covenants and conditions contained in this Agreement; or (ii) the Park District's or any contractor's failure to pay general contractors, subcontractors or materialmen in connection with the Project.

The defense, hold harmless, and indemnification obligations set forth in this Section 24 shall survive the termination or expiration of this Agreement.

No elected or appointed official or member or employee or agent of the City or the Park District shall be individually or personally liable in connection with this Agreement.

25. **Disclaimer.** Nothing contained in this Agreement nor any act of the City shall be deemed or construed by any of the Parties, or by any third person, to create or imply any relationship of third-party beneficiary, principal or agent, limited or general partnership or joint venture, or to create or imply any association or relationship involving the City.

26. **Exhibits.** All of the exhibits attached hereto are incorporated herein by reference. This Agreement includes the following exhibits:

- Exhibit A: DESCRIPTION OF IMPROVEMENTS**
- Exhibit B: DEPICTION OF NAVY PIER FLYOVER AT DUSABLE PARK**
- Exhibit C: DEPICTION OF NAVY PIER FLYOVER AT JANE ADDAMS MEMORIAL PARK**
- Exhibit D: CONTRACT INSURANCE REQUIREMENTS**

(This Space Intentionally Left Blank)

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their proper officers thereunto duly authorized, as of the date written above.

CITY OF CHICAGO,

A Illinois municipal corporation

By: _____
Commissioner
Department of Transportation

CHICAGO PARK DISTRICT,

a body politic and corporate

By: _____
General Superintendent

EXHIBIT A
DESCRIPTION OF IMPROVEMENTS

EXHIBIT B

DEPICTION OF NAVY PIER FLYOVER AT DUSABLE PARK

EXHIBIT C

DEPICTION OF NAVY PIER FLYOVER AT JANE ADDAMS MEMORIAL PARK

EXHIBIT D
CONTRACT INSURANCE REQUIREMENTS

Department of Transportation
Navy Pier Flyover

The Contractor must provide and maintain at Contractor's own expense, until Contract completion and during the time period following final completion if Contractor is required to return and perform any additional work, the insurance coverages and requirements specified below, insuring all operations related to the Contract.

A. INSURANCE TO BE PROVIDED

1) Workers Compensation and Employers Liability

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide work under this Contract and Employers Liability coverage with limits of not less than \$500,000 each accident, illness or disease.

2) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$10,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations (for a minimum of two (2) years following project completion), explosion, collapse, underground, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

Subcontractors performing work for the Contractor must maintain limits of not less than \$2,000,000 with the same terms herein.

3) Owner's and Contractor's Protective Liability

With respect to the operations performed by Contractor, an Owner's and Contractor's Protective Liability policy designating the City of Chicago as named insured must be provided with limits of not less than \$2,000,000 per occurrence, combined single limit, for losses arising out of bodily injuries to or death of all persons and for damage to or destruction of property.

4) Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Contractor must provide Automobile Liability Insurance with limits of not less than \$2,000,000 per occurrence for bodily injury and property damage. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

Subcontractors performing work for the Contractor must maintain limits of not less than \$1,000,000 with the same terms herein.

5) Builders Risk

When Contractor undertakes any construction, including improvements, betterments, and/or repairs, the Contractor must provide All Risk Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the project. Coverages must include but are not limited to the following: material stored off-site and in-transit, water including overflow, leakage, sewer backup or seepage debris removal and faulty workmanship or materials. The City of Chicago is to be named as an additional insured and loss payee.

The Contractor is responsible for all loss or damage to City property at full replacement cost.

The Contractor is responsible for all loss or damage to personal property (including materials, equipment, tools and supplies) owned, rented or used by Contractor.

6) Professional Liability

When any architects, engineers, construction managers or other professional consultants perform work in connection with this Agreement, Professional Liability Insurance covering acts, errors, or omissions must be maintained with limits of not less than \$2,000,000. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

7) Valuable Papers

When any plans, designs, drawings, specifications and documents are produced or used under this Contract, Valuable Papers Insurance must be maintained in an amount to insure against any loss whatsoever, and must have limits sufficient to pay for the re-creation and reconstruction of such records.

B. ADDITIONAL REQUIREMENTS

The Contractor must furnish the City of Chicago, Department of Procurement Services, City Hall, Room 403, 121 North LaSalle Street 60602, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Contract, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Contract. The Contractor must submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached) or equivalent prior to Contract award. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Contract have been fully met or that the insurance policies indicated on the certificate are in compliance with all Contract requirements. The failure of the City to obtain certificates or other insurance evidence from Contractor is not a waiver by the City of any requirements for the Contractor to obtain and maintain the specified coverages. The Contractor shall advise all insurers of the Contract provisions regarding insurance. Non-conforming insurance does not relieve Contractor of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Contract, and the City retains the right to stop work until proper evidence of insurance is provided, or the Contract may be terminated.

The insurance must provide for 60 days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.

Any deductibles or self insured retentions on referenced insurance coverages must be borne by Contractor.

The Contractor hereby waives and agrees to require their insurers to waive their rights of subrogation against the City of Chicago, its employees, elected officials, agents, or representatives.

The coverages and limits furnished by Contractor in no way limit the Contractor's liabilities and responsibilities specified within the Contract or by law.

Any insurance or self insurance programs maintained by the City of Chicago do not contribute with insurance provided by the Contractor under the Contract.

The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Contract or any limitation placed on the indemnity in this Contract given as a matter of law.

If Contractor is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

The Contractor must require all subcontractors to provide the insurance required herein, or Contractor may provide the coverages for subcontractors. All subcontractors are subject to the same insurance

requirements of Contractor unless otherwise specified in this Contract.

If Contractor or subcontractor desires additional coverages, the party desiring the additional coverages is responsible for the acquisition and cost.

The City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements.