

**PROGRAMMATIC AGREEMENT
BETWEEN
U.S. ARMY CORPS OF ENGINEERS,
ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND ILLINOIS HISTORIC PRESERVATION AGENCY
REGARDING
REHABILITATION, REPAIR, AND LONG-TERM MAINTENANCE OF
CHICAGO HARBOR LOCK,
CHICAGO, COOK COUNTY, ILLINOIS
14 May 2001**

WHEREAS, the U.S. Army Corps of Engineers, Chicago District (Corps) proposes a program of rehabilitation, repair, and long-term maintenance of structures owned by the Metropolitan Water Reclamation District of Greater Chicago and managed by the Corps at the Chicago Harbor Lock, due to deterioration of structures essential to safe operation of the lock as a recreational, navigational, environmental, and flood control facility; and

WHEREAS, the Corps has determined that the proposed work will have an effect on a property eligible for inclusion on the National Register of Historic Places, and has consulted with the Illinois Historic Preservation Agency (SHPO) and Advisory Council on Historic Preservation (Council) pursuant to Section 800.14 of the regulations (36 CFR 800) implementing Section 106 of the National Historic Preservation Act (16 USC 470f); and

WHEREAS, all work to be completed shall meet the *Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings* (U.S. Department of the Interior, National Park Service, 1992); and

WHEREAS, the Corps proposes to develop and implement mitigation as required, in consultation with the SHPO and in compliance with 36 CFR 800, the National Historic Preservation Act (16 USC 470f), the *Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings*, and the National Park Service's standards for HABS/HAER (Historic American Building Survey/Historic American Engineering Record) documentation;

WHEREAS, the project area ("made land", consisting of urban fill placed on the former bed of Lake Michigan in the 20th century) contains no intact or significant archaeological material; and

WHEREAS, the Corps and SHPO have determined that certain activities (replacing gate operating machinery, long-term routine maintenance of non-contributing elements, and repair of lock walls, lock gates, motors, operating machinery, bubbler system, electrical systems, control panels, emergency generator, communications system, and navigation aids) would have no adverse effect on historic properties, and may be undertaken by the Corps without further consultation with the SHPO or Council; and

WHEREAS, no comments were received from agencies, interested parties, or general public in response to a 12 August 1999 draft of this programmatic agreement, attached to an environmental assessment circulated in November 1999 for 30-day public review as part of the scoping process required by the National Environmental Policy Act (NEPA) and in accordance with 36 CFR 800.14; and

WHEREAS, completion of plans/specifications is scheduled for July 2001 (rehab of east gates), July 2002 (rehab of west gates), and July 2003 (rehab of lock walls and control house); the first phase of major rehabilitation (construction) is scheduled to commence in November 2001; funding (a total of approximately \$18,135,000) is available for plans and specifications during fiscal years 2001-2003 and for construction during fiscal years 2001-2004; and major rehabilitation is scheduled for completion in April 2004; and

WHEREAS, execution of this programmatic agreement will streamline individual project reviews and ensure timely implementation of project activities;

NOW, THEREFORE, the Corps, Council, and SHPO agree that the undertaking shall be implemented in accordance with 36 CFR 800, in order to take into account effects of the rehabilitation, repair, and maintenance of the Chicago Harbor Lock, as follows

STIPULATIONS

I. Coordination of Reviews

A. The Corps shall consult the SHPO prior to initiating the following activities, unless otherwise agreed:

1. construction of a new control building on north lock wall;
2. replacement of walkways and railings on gates;
3. replacement or repair of A-frames and B-frames on gates;
4. relocation and modification of electrical cables, transformers, gate motors, control panels, gate timing controls, and electrical distribution equipment;
5. maintenance activity affecting contributing elements:
 maintenance/repair of structures and attached equipment; and
 painting exterior surfaces of structures.
6. removal of storage building (a non-contributing element) on north lock wall;
7. removal of "halfway house" (a non-contributing element) on the north lock wall; and
8. replacing mechanical/cam gate timing controls with electronic controls.

B. Activities Exempt from Consultation: the Corps may undertake the following activities without further consultation with the SHPO:

1. replacement of gate operating machinery (pinion gears, shafts or struts, bearings, key-ways, guide rollers);
2. long-term routine maintenance activity affecting only non-contributing elements;
3. lubrication, inspection, and repair of lock walls, lock gates, motors, operating machinery, bubbler system, electrical systems, control panels, emergency generator, communications system, and navigation aids.

II. Treatment

A. The Corps shall develop all plans, specifications, and treatment plans in accordance with the *Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings*, to the extent feasible.

B. Rehabilitation: Prior to initiation of rehabilitation activities, the Corps shall submit plans and specifications to the SHPO for review; the SHPO will respond to the Corps within 30 calendar days of receipt. Should the SHPO recommend modifications, the Corps shall submit revised plans to the SHPO; the SHPO will respond to the Corps within 30 calendar days of receipt of revised plans and specifications. Should the Corps propose modifications to plans and specifications previously approved by the SHPO, the Corps shall submit the proposed modifications to the SHPO; the SHPO will respond to the Corps within 30 days of the proposed modifications. If the Corps determines that recommended changes cannot be made, the Corps shall fully document the reasons and consult with the SHPO in accordance with Stipulation IV, to develop mitigation measures based upon with the *Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings* (U.S. Department of the Interior, National Park Service, 1992).

C. Site Improvement: Prior to initiation of site improvement activities, the Corps shall submit plans and specifications to the SHPO for review; the SHPO will respond to the Corps within 30 calendar days of receipt. Should the SHPO recommend modifications, the Corps shall submit revised plans to the SHPO; the SHPO will respond to the Corps within 30 calendar days of receipt of revised plans and specifications. Should the Corps propose modifications to plans and specifications previously approved by the SHPO, the Corps shall submit the proposed modifications to the SHPO; the SHPO will respond to the Corps within 30 days of the proposed modifications. The Corps may, in consultation with the SHPO propose a finding of no adverse effect when the effects of proposed site improvement do not meet the criteria of 36 CFR Section 800.5(a)(1), or when site improvement plans are modified or conditions are imposed to avoid adverse effects. If the Corps determines that recommended changes cannot be made, the Corps shall fully document the reasons and consult with the SHPO in accordance with Stipulation IV, to develop mitigation measures based upon the *Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings*(hereinafter the "*Standards*"). Site improvement will include the following activities:

1. removal of the storage building (a non-contributing element) on north lock wall;
2. removal of "halfway house" (a non-contributing element) on the north lock wall; and
3. replacing mechanical/cam gate timing controls with electronic controls.

D. New Construction: The Corps shall develop preliminary design plans in consultation with the SHPO to ensure, to the extent that it is feasible, that new construction is compatible with the architectural character of the Chicago harbor Lock. Final plans and specifications will be submitted to the IHPA prior to initiation of construction; the SHPO shall respond to the Corps within 30 calendar days of receipt. If the SHPO determines that the design does not meet the *Standards* and would result in an adverse effect, the Corps shall consult with the SHPO to modify the design. If after consultation it is determined that the design cannot conform to the *Standards*, then mitigation measures will be developed in accordance with Stipulation IV and the *Standards*.

E. Modification of Plans: If the Corps modifies plans already approved by the SHPO, the modified plans and specifications will be submitted to the SHPO prior to initiation of construction; the SHPO shall respond to the Corps within 15 calendar days of receipt. If the SHPO determines that the modified plans do not meet the *Standards* and would result in an adverse effect, the Corps shall consult with the SHPO to modify the design. If after consultation it is determined that the modified design cannot conform to the *Standards*, then mitigation measures will be developed in accordance with Stipulation IV and the *Standards*.

F. Emergencies: should the need to take emergency action (in case of fire, structural or mechanical failure, natural disaster, or other emergencies or hazards defined in the lock's operating manual) preclude a 30-calendar-day SHPO review of proposed work, the Corps shall notify the SHPO within five calendar days of making the decision to undertake emergency action; the SHPO shall comment within seven calendar days of receiving notification from the Corps.

G. Post-Review Discoveries: In accordance with 36 CFR Section 800.13(b), if previously unknown or undocumented historic properties are discovered during project activities, the Corps shall cease or cause to stop any activity having an effect, and consult with the SHPO to determine if additional investigation is required. If further investigations are required, any treatment or mitigation plan will be performed in accordance with Stipulation II (Coordination of Reviews) and Stipulation III (Reporting) of this agreement. If both Corps and SHPO determine that no further investigation is needed, project activities may resume with no further action required. Any disagreement between Corps and SHPO concerning the need for further investigation will be handled pursuant to Stipulation IV(Dispute Resolution) of this agreement.

III. Reporting

The Corps shall submit a written semi-annual "compliance status" report on activities carried out pursuant to this PA, to the SHPO, the Council, and, upon request, to other consulting parties, in January and July of each year, until the end of construction is certified by the District Engineer, Chicago District.

IV. Dispute Resolution

A. Should the SHPO object to the Corps response regarding proposed activities (listed in stipulation II) or implementation of this PA, the Corps shall consult with the SHPO to resolve the objection. If the Corps determines that the objection cannot be resolved through consultation, the Corps shall forward all documentation relevant to the objection to the Council, including the Corps' proposed response to the objection. Within 30 calendar days of receipt of all pertinent documentation, the Council shall

1. advise the Corps that the Council concurs in the Corps' proposed response, whereupon the Corps will respond to the objection in a manner acceptable to both SHPO and Advisory Council; or
2. provide the Corps with recommendations, which the Corps shall consider in accordance with 36 CFR Section 800.7 and Section 110(1) of the National Historic Preservation Act before reaching its final decision.

B. Should the Council not exercise one of the above options, the Corps shall assume the Council's concurrence in the Corps' proposed response. The Corps' responsibility to carry out all other actions under this agreement that are not the subjects of dispute shall remain unchanged.

V. Public Notification

The Corps shall notify the public of any future proposed mitigation measures at the Chicago Harbor Lock by incorporating pertinent information in future environmental assessments circulated for public review in accordance with the National Environmental Policy Act. If, at any time during implementation of the measures stipulated in this PA, an objection pertaining to this PA or historic preservation is raised by a member of the public, the Corps shall notify the parties to

this PA and take the objection into account, consulting with the objector and the SHPO and Council, as appropriate.

VI. Amendment

This programmatic agreement may be amended only at the request of the Council, the Corps, or the Illinois SHPO. If an amendment is requested, the Corps shall consult with the other parties to this PA to consider such an amendment in accordance with 36 CFR 800.6©(7).

VII. Termination

If the Corps determines that it cannot implement the terms of this PA, or if the Council or SHPO determine that the PA is not being properly implemented, the Corps, Council, or SHPO may propose to the other parties to this PA that it be terminated. The party proposing to terminate shall so notify all parties to this PA, explaining reasons for termination and affording the other parties 30 calendar days to seek alternatives to termination. The parties shall then consult verbally or in writing. Should such consultation fail, the Corps, Council, or SHPO may then terminate the PA by so notifying all parties. Should this PA be terminated, the Corps shall comply with Section 106 of the National Historic Preservation Act on a case-by-case basis for all outstanding activities, and shall consult in accordance with 36 CFR 880.14 to develop a new PA, or request the comments of the Council pursuant to 36 CFR 800.4-6 regarding ongoing activities.

VII. Duration

This PA shall be in effect until the end of construction is certified by the District Engineer, Chicago District.

Execution and implementation of this Agreement demonstrates that the Corps has taken into account the effect of the proposed program on historic properties and afforded the Council an opportunity to comment on the effect.

U.S. ARMY ENGINEER DISTRICT, CHICAGO
By: Mark A. Roncoli
COL Mark A. Roncoli, District Engineer

Date: 4 JUN 01

ILLINOIS STATE HISTORIC PRESERVATION AGENCY
By: William Wheeler
William Wheeler, State Historic Preservation Officer

Date: 7-20-01

ADVISORY COUNCIL ON HISTORIC PRESERVATION
By: _____
John M. Fowler, Executive Director

Date: _____

APPENDIX A

CHICAGO HARBOR LOCK: DESCRIPTION OF HISTORIC PROPERTY

HISTORIC PROPERTY

The historic property is defined as those structures of the Chicago Harbor Lock complex (see attached map) dating from 1936-1950, or which are at least 50 years old.

CONTRIBUTING ELEMENTS

The contributing elements (see attached map) of the historic property are the north lock wall; south lock wall; guide walls; gates; gate blocks; and four control houses.

NON-CONTRIBUTING ELEMENTS

Non-contributing elements (see attached map) are the storage building and "halfway house" on north lock wall; gate operating machinery (pinion gears, shafts, struts, bearings, key-ways, guide rollers); and mechanical/cam gate timing controls.