

**MEMORANDUM OF AGREEMENT AMONG
THE UNITED STATES ARMY CORPS OF ENGINEERS, CHICAGO DISTRICT,
MAT LIMITED PARTNERSHIP, LLC, AND THE ILLINOIS STATE HISTORIC
PRESERVATION OFFICER, REGARDING DEMOLITION OF AN INDUSTRIAL SITE
AT 2900 S. DAMEN AVE., CHICAGO, ILLINOIS
(SHPO LOG #001070623, LRC-2023-00141)**

WHEREAS, MAT Limited Partnership, LLC (Owner) plans to undertake demolition of an industrial site at 2900 S. Damen Ave. and complete demolition of all buildings at the overall site in Chicago, Illinois; and

WHEREAS, the project requires a Regulatory Program Nationwide Permit verification pursuant to Section 10 of the Rivers and Harbors Appropriations Act of 1899 from the U.S. Army Corps of Engineers, Chicago District (Agency) which is considered an Undertaking subject to review under Section 106 of the National Historic Preservation Act of 1966, as amended, 54 U.S.C. § 306108 (Act), and its implementing regulations (33 CFR 325 Appendix C and 36 CFR Part 800); and

WHEREAS, the Agency has consulted with the Illinois State Historic Preservation Office (SHPO), a Division of the Illinois Department of Natural Resources (IDNR), pursuant to the Act; and

WHEREAS, the SHPO currently resides within IDNR (Office), and the Director of IDNR is the duly designated State Historic Preservation Officer (Officer); and

WHEREAS, the Agency proposes to treat the permit area as a single entity, for the purposes of this consultation; and

WHEREAS, the Agency has defined the Undertaking's Area of Potential Effects (APE) as the area at the Chicago Sanitary and Ship Canal (CSSC) downriver of the project area approximately one mile to California Avenue (Mile Marker 320), and the South Branch of the Chicago River (SBCR) upriver approximately three-quarters of a mile to Loomis Street (Mile Marker 322). This represents the permit area, the extent of the known on-site historic properties, and the viewshed within the CSSC and SBCR of the extant buildings (the grain silos) which are or have been used as a landmark for navigation; and

WHEREAS, on October 3, 2023, the SHPO concurred with the Agency that the two 1906 silo structures (known as Damen Silos) are eligible to be listed on the National Register of Historic Places (NRHP) under criterion A, as 1) for intrinsic local visual interest, visible for miles along I-55, Damen Ave., Ashland Ave., Bubbly Creek, and the South Branch of the Chicago River, 2) a navigation marker along the Chicago River and Bubbly Creek, 3) as a national monument to Chicago's dominance in the grain industry, and under criterion C, as an extant example of early 20th Century slipform construction and emerging concrete technology by the John S. Metcalf Company; and

WHEREAS, within the APE, the Agency has identified six historic properties previously listed on the NRHP or previously determined to be eligible for listing on the NRHP, that are affected by the undertaking: California Avenue, Western Avenue, Damen Avenue, Ashland Avenue, and Loomis Street bridges and the Chicago Sanitary and Ship Canal Historic District (CSSCHD) have been determined eligible to be listed on the NRHP by the Keeper of the NRHP and/or other federal agencies with the concurrence of the SHPO; and

WHEREAS, the CSSCHD is further defined in its nomination document as “the Illinois Waterway river miles 290.0 to 321.7” and as having an eastern extent at the confluence of “the Chicago Sanitary and Ship Canal to the South Branch of the Chicago River... approximately 75 m (246.1 ft) east of the Ashland Avenue Bridge...”; and

WHEREAS, the demolition project will constitute an adverse effect to the two 1906 silos and a not-adverse effect on views from the six historic properties previously listed on the NRHP or previously determined eligible to be listed on the NRHP (the CSSCHD, California Avenue, Western Avenue, Damen Avenue, Ashland Avenue, and Loomis Street Bridges); and

WHEREAS, the public was notified of the Agency’s Undertaking, APE, and effects determinations and given an opportunity to comment on mitigation for the adverse effect in a meeting at the McKinley Park Fieldhouse on February 1, 2024; and

WHEREAS, the Agency has invited and received notification that the following agencies and organizations would like to be consulting parties and therefore be invited signatories to this Memorandum of Agreement (Agreement): the City of Chicago, Landmarks Illinois, Preservation Chicago, and McKinley Park Development Council; and

WHEREAS, the Agency has provided via letter dated July 26, 2024 draft copies of this Agreement and other consultation materials to the following tribal nations, who are also invited signatories to this agreement: Pokagon Band of Potawatomi, Miami Tribe of Oklahoma, Sac and Fox Tribe of Mississippi in Iowa, Ho-Chunk Nation, Forest County Potawatomi Community, and the Delaware Tribe of Indians; and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1) and 36 CFR § 800.10(b), the Agency has notified the Advisory Council on Historic Preservation (ACHP) of the adverse effect determination, and on November 15, 2023, the ACHP notified the Agency of its decision not to participate in the consultation pursuant to 36 CFR§ 800.6(a)(1)(iii); and

NOW, THEREFORE, the Agency, the Owner, and the SHPO agree that the Undertaking shall be implemented in accordance with the following stipulations in this Agreement in order to mitigate the adverse effects of this Undertaking to the NRHP-eligible properties, in proportion to the adverse effect of the Undertaking.

STIPULATIONS

I. MITIGATION

A. The Owner, under the supervision of the Agency, shall place three (3) educational displays or markers on-site. All signage shall be translated into Spanish and Simplified Chinese. The Agency and SHPO will review and approve Owner's plans for on-site display design, content, and placement prior to construction.

1. The first display will memorialize the history and architecture of the Damen Silos property and its relationship to the historical development of the South Branch of the Chicago River. This display shall present and place into context reused wood from the current barge dock surface. The display shall be placed on the Riverwalk of the future site development at the site of the current grain silo and will be designed by the Owner to fit within the landscape design of the Riverwalk while meeting the requirements in this paragraph and in 1.A above.

2. The second display will memorialize the Atchison, Topeka, and Santa Fe Railroad's history and contributions to Chicago and the role of the Chicago River in the development of the economy of Chicago. This display shall present and place into context an architectural artifact or artifacts from the Grain Silo and/or its' barge loading equipment. This display shall be placed on the Riverwalk and will be designed by the Owners to fit within the landscape design of the river level terrace while meeting the requirements in this paragraph and in 1.A above.

3. The third display will memorialize the history and architecture of the intermodal transfer of commodities that historically occurred on this site, including treatments of rail, barge, and truck modes of transportation. This display shall present and put into context the loading ramps along the wall of the Santa Fe Slip that were within Building 3 while meeting the requirements in this paragraph and in 1.A above.

B. The Owner shall preserve and reuse the existing loading ramps that are integrated to the foundation of Building 3 along the Santa Fe Slip. These ramps and a minimum of ten (10) feet of the foundation and slab of the building around each ramp shall be left in place and unaltered after the above-grade portions of the building have been demolished. Any alteration

of the preserved components must be presented with detailed plans and reviewed and approved by the Agency and the SHPO prior to construction.

- C. The Owner shall salvage sufficient materials from the Grain Silo and its barge loading dock to fulfill the requirements in stipulations I.A.1 and I.A.2 above. Salvaged architectural elements shall be carefully dismantled and catalogued, protected from damage during transport and storage, stored in a secure location, prepared for installation, and installed at the new display locations as specified above. The salvaged material will include at a minimum the wooden planks in existence at the time of execution of this agreement that comprise the deck of the barge dock adjacent to the grain silo, as well as the mooring bollards/cleats, along with at least three mechanical or architectural items of interest that are a minimum of three (3) feet in height.
- D. The Owner shall preserve and integrate into future riverwalk plans the existing paving bricks by ensuring that they are left in place and unaltered after the above-grade portions of the buildings have been demolished. In the event the bricks cannot be protected during demolition activities, or if the bricks must be relocated, the bricks shall be carefully dismantled and catalogued, protected from damage during transport and storage, stored in a secure location, prepared for installation, and installed at suitable location(s). The Owner shall provide plans indicating the location(s) where the salvaged bricks will be placed for review and approval by the Agency and the SHPO prior to placement.
- E. Prior to demolition activities, the Owner shall identify to the SHPO and the Agency, the party or parties responsible for any salvage of materials and artifacts, as well as the specific location where the materials and artifacts will be located. This storage location will be made available for inspection to SHPO or the Agency during regular business hours within 48 hours of their inspection request. The Owner will promptly notify the SHPO and the Agency of any relocations of stored materials or artifacts prior to the reuse specified in this Agreement.
- F. The Owner shall provide full opportunity for the Agency and the SHPO to participate in any future negotiations or discussions with the City of Chicago regarding the design of a riverwalk prior to the approval of any Planned Development or any other zoning or redevelopment approval by the City of Chicago, regardless of whether such subsequent development will be an Undertaking under the Act or an activity regulated by the Agency. While participation in these discussions by the SHPO and the

Agency are not mandatory, the Owner shall ensure that the Agency and the SHPO have full opportunity to participate in the process to ensure that the intent of Stipulation A.1 through A.3 above is preserved.

- G. The Owner shall notify the Agency and the SHPO prior to the transfer, sale, or abandonment of any real property at this site. The Owner shall not be released from the obligation to perform under the terms of this agreement and the subsequent permit verification by the Agency unless the Owner has legally transferred the permit according to General Condition 29, "Transfer of Nationwide Permit Verifications" of the 2022 Nationwide Permit General Conditions, and such transfer validation shall include the transferee's explicit agreement to assume the Owner's obligations under this Agreement.

- H. In the event that the Owner (or transferee) has not obtained approval of a Planned Development within seven years of this agreement, the Owner shall propose plans to the City of Chicago and any other necessary regulatory agency to construct and provide public access to a riverwalk and fifty-foot setback along all river frontage of the property. Such plans shall be pursued as to permits, approvals, and similar requirements to their fullest administrative extent. In the event that such plans are denied approval or other required permission from the City of Chicago or any other relevant authority, the Owner shall notify the Agency and the SHPO within 30 days of such denial(s) to initiate amendment of this Agreement.

II. DURATION

This Agreement shall be effective until such time as all of its terms are satisfied, or it is amended or terminated and replaced. Prior to such time, the Agency may consult with the other signatories to reconsider the terms of the Agreement and amend it in accordance with Stipulation VI. The Agency shall notify the signatories as to the course of action it will pursue.

III. POST-REVIEW DISCOVERIES

If potential historic properties are discovered or unanticipated effects on historic properties found, the Agency shall consult with the SHPO immediately and make reasonable efforts to avoid, minimize, or mitigate adverse effects to such properties. In the event of an unanticipated discovery of human remains or burials, the Agency understands and agrees that it shall immediately stop work within the area of discovery, and consult with the SHPO.

IV. MONITORING AND REPORTING

Each year following the execution of this Agreement until it is terminated or all of its terms are satisfied, the Agency shall provide all parties to this Agreement and the ACHP a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in the Agency's efforts to carry out the terms of this Agreement.

V. DISPUTE RESOLUTION

Should any signatory to this Agreement object at any time to any actions proposed or the manner in which the terms of this Agreement are implemented, the Agency shall consult with the signatories to resolve the objection. If the signatories cannot agree regarding a dispute, the signatories shall:

- A. Forward all documentation relevant to the dispute, including any timely advice or comments regarding the dispute from the signatories and consulting parties and the Agency's proposed resolution, to the ACHP. The ACHP shall provide the Agency with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Agency shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and consulting parties, and provide them with a copy of this written response. The Agency will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the Agency may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, Agency shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and consulting parties to the Agreement and provide them and the ACHP with a copy of such written response.
- C. The Agency's and the Owner's responsibility to carry out all other actions subject to the terms of this Agreement that are not the subject of the dispute remain unchanged.

VI. AMENDMENTS

This Agreement may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy is signed by all of the signatories. If the Council was not a signatory to the agreement, and the signatories execute an amended agreement, the agency shall file it with the ACHP.

VII. TERMINATION

If any signatory to this Agreement determines that its terms cannot be or are not being carried out, the signatories shall consult to seek amendment of the agreement in accordance with Stipulation VI. If the agreement is not amended, any signatory may terminate it. If within thirty (30) days an amendment cannot be reached, any signatory may terminate the Agreement upon written notification to the other signatories. The notification shall provide the reasons for terminating.

If this Agreement is terminated, and prior to work continuing on the Undertaking, the Agency shall either execute a Memorandum of Agreement pursuant to 36 CFR § 800.6(c)(1) or request comments of the ACHP under 36 CFR § 800.7. The Agency shall notify all consulting parties of the request.

VIII. COUNTERPARTS; FACSIMILE OR .PDF SIGNATURES

This Agreement may be executed in counterparts, each of which shall be considered an original and together shall be one and the same Agreement. A facsimile or .pdf copy of this Agreement and any signatures thereon will be considered for all purposes as an original.

IX. DISTRIBUTION OF AGREEMENT

Upon the execution of this Agreement and prior to approving the Undertaking, the Agency must transmit to the ACHP the executed Agreement along with the documentation specified in Section 800.11(f).

EXECUTION of this Agreement by signatories and invited signatories, and the SHPO, and the implementation of its terms evidence that the signatories and invited signatories, not including the SHPO, have afforded the ACHP an opportunity to comment on the effects of the Undertaking in compliance with the Act.

[Signature Pages to follow]

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(SHPO LOG #001070623)**

SIGNATORY


U.S. ARMY CORPS OF ENGINEERS, CHICAGO DISTRICT

Signature: _____ Date: 18 December 2024
KENNETH P. ROCKWELL
Colonel
District Engineer

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SIGNATORY

ILLINOIS DEPUTY STATE HISTORIC PRESERVATION OFFICER (SHPO)

By:  _____ Date: 7/26/2024

Anthony Rubano, DSHPO for:
Carey L. Mayer, AIA
Deputy State Historic Preservation
Officer Illinois Department of Natural
Resources

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SIGNATORY

OWNER, MAT LIMITED PARTNERSHIP, LLC

Signature: Michael Fion Date: 7/19/24

Name: Michael Fion

Title: Managing Partner