



## **PUBLIC NOTICE**

### **REQUEST FOR PERMISSION TO MODIFY A U.S. ARMY CORPS OF ENGINEERS PROJECT UNDER SECTION 408**

**U.S. ARMY CORPS OF ENGINEERS  
CHICAGO DISTRICT**

**PUBLIC NOTICE/APPLICATION NUMBER: 20-10 Horner Park**

**COMMENT PERIOD BEGINS: 28 May 2020**

**COMMENT PERIOD ENDS: 26 June 2020**

U.S. Army Corps of Engineers, Chicago District  
231 S. LaSalle Street, Suite 1500  
Chicago, IL 60604

#### **REQUESTER**

Chicago Park District  
541 N Fairbanks, Chicago, IL 60611

#### **PROPOSED ACTION**

The Chicago Park District (CPD) is proposing to alter the topography of a section of the USACE Section 206 Horner Park Project located at the northwest corner of Irving Park Road and the North Branch of the Chicago River. Proposed actions include construction of an earthen coil mound measuring 12 feet tall and 90 feet in diameter. The mound would be planted using short stature native plant species similar to those used in the USACE Section 206 project, installation of four native trees, and construction of mulch pathways to provide access from existing trails to the proposed mound. A detailed description of this proposal is provided on page 2 of this notice.

## **LOCATION OF PROPOSED ACTION**

Location: Chicago, Illinois; Horner Park

Interested parties are hereby notified that a request for permission to modify a Federal project has been received for the activity described herein and as shown on the attached drawings. You are invited to provide your comments by **26 June 2020** on the proposed work, which will become part of the record and will be considered in the decision on the request. Permission will be issued or denied under Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408).

### **Written comments shall be mailed to:**

U.S. Army Corps of Engineers, Chicago District,  
Attn: Colin Smalley, CELRC-ORD-R  
231 South LaSalle Street, Suite 1500  
Chicago, Illinois 60604-1437

### **Electronic comments may be sent to:**

[Colin.C.Smalley@usace.army.mil](mailto:Colin.C.Smalley@usace.army.mil)

It should be noted that ALL comments received by this office (via hard copy or electronic) must be received by the close of the public notice period.

## **PROJECT DESCRIPTION**

The USACE Section 206 Horner Park project was completed in 2018. The purpose of the project was to restore the natural features of the North Branch Chicago River and its riparian zone at Horner Park within the constraints of the current system. The project included removal of invasive species followed by restoration of riparian and upland oak savanna habitat. The completed project provides valuable habitat for a wide variety of insects and wildlife. Presently CPD has proposed a project that would have a permanent modification to the original restored Section 206 areas within Horner Park. The proposed modified will be planted using native species plant plugs consistent with the original restored project.

Chicago Public Arts Group, American Indian Center, and Horner Park Advisory Council have been collaborating with Chicago Park District staff to develop construction plans to install an earthen mound near Irving Park Road and the Chicago River. This mound was designed by local artist Santiago X, to celebrate the role of Native-American communities that lived in and traveled through the region along with their relationship with the regional river system. The mound would be approximately 12' tall and 90' in diameter, and would be planted with short stature native plants, many of which were used elsewhere in the Section 206 Horner Park Project. As such, this modification would primarily be a topography change, retaining the ecosystem and habitat intent of the Section 206 project. In addition to construction of the earthen mound, mulch pathways similar to those already in place throughout the park will be installed to allow visitors to walk around and view the mound from all sides. Natural areas temporarily impacted by construction of the mound and pathways will be restored using native species plant plugs following the planting plan from the Section 206 project. Concept

photos and the grading plan for the proposed project area attached at the end of this notice.

### **ANTICIPATED ENVIRONMENTAL IMPACTS**

Based on an initial review of the documentation provided by the CPD, it does not appear that the proposed project would result in any significant adverse environmental impacts within the footprint of the Horner Park Section 206 Project. After receiving public comments, the Corp will complete a National Environmental Policy Act (NEPA) document evaluating the impacts associated with the request.

### **REGULATORY AUTHORITY AND JURISDICTION**

This request will be reviewed according to the provisions of Section 14 of the Rivers and Harbors Act of 1899

### **EVALUATION FACTORS**

The decision whether to grant the requested permission for project modification under Section 408 will be based on several factors. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. Review of the requests for modification will be reviewed by a USACE technical review team considering the following factors:

- 1) Impair the Usefulness of the Project Determination. The review team will determine if the proposed alteration would limit the ability of the project to function as authorized, or would compromise or change any authorized project conditions, purposes or outputs. The decision whether to approve a request for modification would be based on a determination of no impairments.
- 2) Injurious to the Public Interest Determination. Proposed alterations will be reviewed to determine the probable impacts, including cumulative impacts, on the public interest. Factors that may be relevant to the public interest may include, but are not limited to, such things as conservation, economic development, historic properties, cultural resources, environmental impacts, water supply, water quality, flood hazards, floodplains, residual risk, induced damages, navigation, shore erosion or accretion, and recreation. This evaluation will consider information received from the interested parties, including tribes, agencies, and the public. The decision whether to approve the requested modification will be determined by the consideration of whether benefits are commensurate with risks associated with the proposed modification. If the potential detriments are found to outweigh the potential benefits, then it may be determined that the proposed alteration is injurious to the public interest.
- 3) Environmental Compliance. A decision on a Section 408 request is a Federal action, and therefore subject to the National Environmental Policy Act (NEPA) and other environmental compliance requirements. While ensuring compliance is the responsibility of USACE, the requester is responsible for providing all information that the USACE district identifies as necessary to satisfy all applicable Federal laws, executive orders, regulations, policies, and ordinances. NEPA and other analysis completed to comply with other environmental statutes

(e.g. Endangered Species Act) should be commensurate with the scale and potential effects of the activity that would alter the USACE project. The district will work with the requester to determine the requirements, which will be scaled to the likely impacts of the proposed alteration and should convey the relevant considerations and impacts in a concise and effective manner.

All factors that may be relevant to the proposal will be considered, including the potential cumulative effects associated with the proposed project. The review will consider whether the proposed project is injurious to the public interest, and its potential impact to the usefulness of the Federal project. Policy and legal compliance will also be considered.

The USACE is also soliciting comments from the public, Federal, state and local agencies, Indian tribes, and other interested parties in order to consider and evaluate the potential impacts of the proposed activity. Once this office completes a review of the comments received, it will determine whether to provide permission to modify the project under Section 408.

To prepare this decision, comments are taken into consideration to assess impacts on the public interest factors listed above, as well as endangered species, historic properties, water quality, and general environmental effects. Comments will be used in the preparation of environmental compliance documentation as required by NEPA.

## **PRELIMINARY EVALUATION OF SELECTED FACTORS**

### **INJURIOUS TO THE PUBLIC INTEREST DETERMINATION**

It has been determined that the proposed alteration to the Horner Park Section 206 Project to construct an earthen coil mound and connecting pathways will not be injurious to the public interest. All areas impacted temporarily for construction will be restored using the Section 206 planting plan as a guide and the earthen mound will be planted using short stature native species, so the alteration will not affect any of the public interest factors. Consequently, factors relevant to the public interest including conservation, economic development, historic properties, cultural resources, environmental impacts, water quality, flood hazards, residual risk, and induced damages, etc. are not changed by the alteration. All of these public interest factors were evaluated under NEPA and documented in the original project's environmental assessment (EA) during the pre-authorization phase of the project, and remain unchanged by the proposed alteration.

### **USEFULNESS OF THE PROJECT**

It has been determined that the proposed alteration would have no deleterious impact on the usefulness of the Horner Park 206 project. The proposed earthen coil mound would be planted using native species communities similar to the ones that are currently planted within the footprint of the proposed mound.

### **ENVIRONMENTAL COMPLIANCE**

An initial review of the documentation provided by the applicant, CPD, and the final integrated EA for the Horner Park 206 project has been completed. The report and FONSI for the original federal project can be found at the following urls:

<https://www.lrc.usace.army.mil/Portals/36/docs/projects/hornerpark/Tab%2002%20-%20Final%20Detailed%20Project%20Report%20and%20EA%2029JAN13ver2.pdf> and <https://www.lrc.usace.army.mil/Portals/36/docs/projects/hornerpark/Tab%2003%20-%20Signed%20FONSI.pdf> Based on this initial review, it is anticipated that the applicant's request will not have a significant effect on the human or natural environment within the footprint of the Section 206 project. After receiving public comments, the Corps will complete a NEPA analysis which sets forth its analysis of the potential impacts associated with the request.

### **ENVIRONMENTAL IMPACT STATEMENT**

A preliminary determination has been made that an environmental impact statement will not be required for the proposed work. At this time, it is anticipated that an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) will be completed by the Corps for this proposed request.

### **SUMMARY**

It should be noted that materials submitted as part of the Section 408 request become part of the public record and are thus available to the general public under the procedures of the Freedom of Information Act (FOIA). Individuals may submit a written request to obtain materials under FOIA or make an appointment to view the project file at the Chicago District Corps of Engineers, Office of Counsel.

Interested parties wishing to comment on the proposed activity must do so in writing no later **26 June 2020**. It is presumed that all parties receiving this notice will wish to respond to this public notice; therefore, a lack of response will be interpreted as meaning that there is no objection to the project as described.

If you have any questions, please contact Mr. Colin Smalley, Section 408 Program Manager, by telephone at 312-846-5538 or via email at [Colin.C.Smalley@usace.army.mil](mailto:Colin.C.Smalley@usace.army.mil).

FOR THE DISTRICT COMMANDER:

### **ORIGINAL SIGNED**



Susanne J. Davis, P.E.  
Chief, Planning Branch



## Concept Images





TREE FOR REMOVAL,  
TYPICAL

EXISTING CONCRETE  
PARK PATH

ACCESS PATH ENTRY,  
OPENING IN FENCE,  
TYPICAL

EXISTING TREE TO  
REMAIN, TYPICAL

NEW MULCH PATH, 4'  
WIDTH TO MATCH  
EXISTING TRAILS, TYPICAL

EARTHWORK MOUND,  
90' DIAMETER, 40%  
SLOPE MAX.

EXISTING CONTOUR  
LINES, TYPICAL

PROPOSED CONTOUR  
LINES, TYPICAL

EXISTING MULCH TRAIL  
TO REMAIN, TYPICAL

FENCE AT OAK SAVANNAH  
BOUNDARY, TO REMAIN

CONCRETE SIDEWALK IN  
PARKWAY TO REMAIN,  
TYPICAL

