

ORDINANCE NO. 2023-0-022

**AN ORDINANCE CONSISTENT WITH ORDINANCE NO. 2021-0-011
ESTABLISHING UNIFORM RATES FOR PIPELINES TO ENABLE MISSISSIPPI RIVER
TRANSMISSION, LLC, RELATING
TO PARCEL NUMBERS 14-1-15-30-00-000-003, 14-1-15-07-00-000-013 AND
14-1-15-08-00-000-005 TO ENTER ALONG, UPON AND
OVER AND USE OF THE LAND, LEVEES AND EASEMENTS OF THE
METRO EAST SANITARY DISTRICT IN MADISON AND
ST. CLAIR COUNTIES, ILLINOIS**

WHEREAS, the Board of Commissioners of the Metro East Sanitary District, owner of rights and in control of certain lands, levees and easements in Madison and St. Clair Counties, Illinois, does from, time to time, grant licenses to various entities for specific limited purposes subject to management and control by the Metro East Sanitary District; and

WHEREAS permission to use by the Licensee is a privilege which can be enjoyed by the Licensee according to an agreement affecting such use between the Metro East Sanitary District and the licensing entity and monetary consideration is required for such permission to be granted by the Metro East Sanitary District; and

WHEREAS, the Metro East Sanitary District desires to establish a schedule of fees for various licensing upon, along and across the lands, levees and easements of the Metro East Sanitary District; and

WHEREAS, the Metro East Sanitary District must review, monitor and inspect any use by outside entities over, above and upon the lands, levees and easements of the Metro East Sanitary District, and the Metro East Sanitary District realizes any license or permit granted subjects Metro East Sanitary District various risks, liabilities and individual concerns considering the integrity of the lands, levees and easements of the Metro East Sanitary District;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE METRO EAST SANITARY DISTRICT, A MUNICIPAL CORPORATION OF MADISON AND ST. CLAIR COUNTIES, STATE OF ILLINOIS, AS FOLLOWS:

**ARTICLE I
SCHEDULE OF FEES FOR ANY TYPE OF PIPELINE
CROSSING METRO EAST SANITARY
DISTRICT LANDS, LEVEES AND EASEMENTS**

SECTION 1:

- A. The owner of the pipeline shall furnish Metro East Sanitary District information of the name of each company that will perform work installing, maintaining or repairing the pipeline and shall furnish Metro East Sanitary District with information on the status of the operation pipeline

annually from the date of installation. The status information annually to be given to Metro East Sanitary District shall be, but not limited to, whether the pipeline is still being used, repaired, abandoned, who owns the same, and any other information requested by Metro East Sanitary District. Prior to any Company performing any work on Metro East Sanitary District property, that owner and Company shall fully execute and comply with the terms and conditions of the MESD Right of Entry Application and Agreement.

SECTION 2: All owners and operators of pipelines including, but not limited to, water, oil, gas, liquid gas, gasoline, fuel oils of any kind or pipelines carrying any other substance, using any portion of the Metro East Sanitary District lands, levees and easements, shall pay an annual fee as follows: for pipes 0-12 inches in diameter the rate of \$6.50 per linear foot; for pipes 13-24 inches in diameter the rate of \$9.50 per linear foot; for pipes 25-36 inches in diameter the rate of \$12.50 per linear foot; for pipes 36 inches or greater in diameter the rate of \$15.00 per linear foot. The first installment shall be paid at the time Licensee accepts this License and shall cover the next twelve (12) months. Each succeeding installment shall cover the next twelve (12) month period and shall be paid not later than the anniversary date of the Effective Date of this License. Interest shall accrue on any late payment at the rate of twelve percent (12%) per annum. The annual fee shall remain constant for the first five (5) years of this License and shall then increase an additional \$3.00 per linear foot for the five years thereafter beginning with year six (6). Beginning with year eleven (11) the rate shall subsequently increase an additional \$3.00 per each linear foot for the next five-year period. Beginning with year sixteen (16) the rate shall subsequently increase an additional \$3.00 per each linear foot for the next five-year period. After 20 years the annual rate shall increase 3% per year from the amount charged in year 20 of the license. All other owners and operators and their contractor(s) shall also, prior to any work being performed, fully execute and comply with the terms and conditions of the aforementioned MESD Right of Entry Application and Agreement.

Enable Mississippi River Transmission, LLC shall pay \$320,927.09 which amounts to the net present value of the fee for this license subject to the remaining terms and conditions of Section 2. (\$6.50/foot at 2,041 feet for a four-inch pipeline per attached Exhibits.

Enable Mississippi River Transmission, LLC shall pay \$14,175.00 as the Temporary Easement fee for this license subject to the remaining terms and conditions of Section 2. (\$.81/foot at 17,500 feet)

SECTION 3: That any work performed as stated or construction planned shall be done subject to the approval of the designated Engineer of the Metro East Sanitary District and, when required, the United States Army Corps of Engineers, who shall be represented on the work site, from time to time by an inspector authorized by the Executive Director of the Metro East Sanitary District. The expense of such shall be negotiated by the applicant. All work shall not interfere with the MESD use of property and work performed shall not damage MESD property and if so licensee shall be responsible for damages.

SECTION 4: That any owner or operator seeking access as fully stated above upon written notice from the Executive Director of the District, shall as soon as practicable and only after approval from the USACE, relocate, without cost to the District any part of its pipeline, wherever same may interfere with the construction, maintenance, or repairs necessary to protect the Metro East Sanitary

District's lands, levees and easements and such subsidiary work as may be hereafter required, to enable the District to perform such work without hindrance or delay. Removal and restoration is the only form of abandonment acceptable to the Metro East Sanitary District without prior negotiation; however, lands, levees and easements and the areas in the immediate vicinity of the lands, levees and easements are subject to the regulations of the requirements of the United States Army Corps of Engineers, which may choose the method of abandonment as the cost of the owner.

That at any time in the future the pipeline becomes abandoned or shall no longer be used for the purpose constructed, the owner shall give thirty (30) days written notice to the District of said abandonment. Then, upon thirty (30) days written notice from the District, the owner shall be required to remove all items which have been placed upon the land, levees or easements of the District in conjunction with the construction, operation and maintenance of the pipeline herein provided for, without cost to the District. Pipelines and conduits may be abandoned in place by fully grouting the line with the approval of Metro East Sanitary District and when required, approval of the USACE. All abandonment procedures must be approved by the District and meet with all requirements of the USACE.

SECTION 5: That any work done by the licensee and their contractor(s) shall be done in a workmanlike manner, in compliance with any and all applicable building and construction codes, and fully maintained during the term stated in the license of the licensee at the expense of the licensee, its successors and assigns.

SECTION 6: That anyone seeking to construct, replace, or repair a pipeline on the lands, levees and easements of the Metro East Sanitary District, shall give the Metro East Sanitary District at least five (5) days written notice prior to any non-emergency work done at such site and again must fully execute and comply with the terms and conditions of the MESD Right of Entry Application and Agreement.

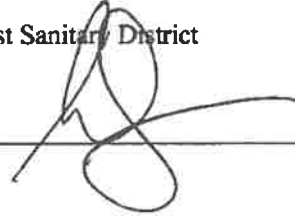
SECTION 7: That any owner, operator and any contractor performing work on their behalf seeking access to the land, levees or easements of the Metro East Sanitary District for pipelines shall, in addition to fully executing and complying with the terms and conditions of the Metro East Sanitary District Right of Entry Application and Agreement, indemnify and save harmless the Metro East Sanitary District from any and all liability of whatsoever kind or character or claims therefor, on behalf of any person, firm or corporation, for any injuries or alleged injuries to person or property that may arise or be alleged to arise on account of installing, laying, maintaining, repairing and operating said pipelines and all rights granted are subject to the lawful use by the Metro East Sanitary District and any owner, operator and contractor performing work on their behalf using the lands of the Metro East Sanitary District for pipeline or conduit purposes shall reimburse the Metro East Sanitary District for any sum or sums that it may be compelled to expend in defending itself associated with the pipeline.

SECTION 8: This Ordinance shall be in full force and effect from and after its passage and approval and written acceptance thereof being filed with the Clerk of the Metro East Sanitary District.

Passed: December 19, 2023.

Metro East Sanitary District

President



Attest:

Clerk





Accepted: December 19, 2023

Enable Mississippi River Transmission, LLC

By: _____

Its: _____



Sr. Director - Land & ROW