

ORDINANCE NO. 2024-0-025

AN ORDINANCE GRANTING PERMISSION, RIGHT AND AUTHORITY TO CONSTRUCT, OPERATE AND MAINTAIN A GRAIN LOADING SYSTEM, UPON, OVER AND ACROSS THE LEVEE OF THE METRO EAST SANITARY DISTRICT AND GRANTING THE RIGHT OF ACCESS AND AN EXIT RAMP ALONG A ONE HUNDRED TWENTY-FIVE FOOT (125') SECTION OF ROADWAY ON A PORTION OF THE LEVEE PROPERTY BELONGING TO THE METRO EAST SANITARY DISTRICT

WHEREAS, Bunge – SCF Grain, LLC is desirous of acquiring the right, privilege and authority to construct, operate and maintain a second grain loading conveyor system, consisting of steel towers, trusses and grain conveying apparatus supported on concrete footings and piles, for the purpose of conveying grain upon, over and across certain right-of-way lands of the Metro East Sanitary District at the location set forth in the document attached hereto marked as Exhibit “A” and made part hereof, for a distance of One Hundred Twenty Five Feet (125’), more or less, over and across the levee of the Metro East Sanitary District, under such terms and conditions as the Metro East Sanitary District may, from time to time prescribe, subject to approval by the U.S. Army Corps of Engineers and any other agency with oversight on the premises and

WHEREAS, Bunge – SCF Grain, LLC desires the limited use of a roadway right-of-way over a portion of the levee owned by Metro East Sanitary District, along with a land side exit ramp, as detailed by Exhibit attached hereto and made part hereof, and

WHEREAS, the Metro East Sanitary District desires to grant to Bunge – SCF Grain, LLC the authority and right for such requests,

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:

SECTION 1: The right, permission and authority is hereby granted to Bunge – SCF Grain, LLC, and their successors and assigns, to construct, operate and maintain, at its expense, a

second grain loading conveyance system consisting of steel towers, trusses and grain conveying apparatus supported on concrete footings on piles, for the sole purpose of conveying apparatus supported on concrete footings on piles, for the sole purpose of conveying grain, upon, over and across the right-of-way lands of the Metro East Sanitary District for a distance of One Hundred Twenty-Five Feet (125') more or less, as more fully set forth in Exhibit "A" attached hereto and made a part hereof, subject to approval of the plans by personnel of the Metro East Sanitary District an approval by the U.S. Army Corps of Engineers and any other necessary agency.

SECTION 2: The right, permission and authority is hereby granted to Bunge- SCF Grain, LLC for the limited vehicular use of a land side exit ramp over and across the levee of the Metro East Sanitary District as designated in Exhibit attached hereto and made part hereof, which exit ramp shall be maintained a the expense of Bunge- SCF Grain, LLC in accordance with the regulations of the U.S. Army Corps of Engineers or any other regulatory agent and at the direction of an inspector designed by the Executive Director of the Metro East Sanitary District.

SECTION 3: The construction, operation and maintenance of said grain loading system shall be in conformity with all requirements of public authority of the United States of America, (Department of the Army Corps of Engineers), the State of Illinois and any other regulatory agency, and shall not, in any matter, interfere with any future construction, maintenance or repair of the levee in connection therewith of the Metro East Sanitary District.

SECTION 4: All work required to be done, or which might be done, shall be done under the direction, supervision, and approval of an authorized inspector of the district. Any alterations, relocations, or removals, which may be required for the Metro East Sanitary District to maintain and operate the levee and complete the mission of Metro East Sanitary District, shall be made at the sole expense of Bunge – SCF Grain, LLC.

SECTION 5: That anyone seeking to construct, replace, perform maintenance or 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 as well as a completed and approved Right of Entry Application 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 Agreement.

SECTION 6: It is further agreed that, if for any reason associated with the protection of the levees of the Metro East Sanitary District, and in the fulfillment of its mission to protect the

citizens of Madison and St. Clair Counties, Illinois, it becomes necessary to require Bunge – SCF Grain, LLC to move its structures, Bunge – SCF Grain, LLC will, at its expense, remove and/or relocate its structure and alter its access route as set forth in Exhibits attached hereto and part hereof.

SECTION 7: Bunge – SCF Grain, LLC, shall maintain in full force and effect, at its own cost and expense, a commercial general umbrella liability insurance policy, with a limit of not less than TWO MILLION DOLLARS (\$2,000,000.00) for each occurrence naming Metro East Sanitary District as an insured under the CGL and umbrella insurance, if any, for any and all injury or damages arising out of any work done by Bunge – SCF Grain, LLC and its contractors, agents and all other persons or entities used by Bunge – SCF Grain, LLC on the heretofore described grain elevator structure and any roadway and landside ramp improvements along an upon the area for which permission is hereby granted, pursuant to an additional insured endorsement which shall be in a form acceptable to the Metro East Sanitary District. The insurance shall apply as primary insurance with respect to any other insurance or self-insurance program afforded to the Metro East Sanitary District and there shall be no endorsement or modification of this insurance to make excess over other available insurance of the Metro East Sanitary District; alternately, if the CGL and an umbrella, if any, insurance states that it is an excess or pro rata, it shall be endorsed to be primary with respect to the Metro East Sanitary District.

SECTION 8: Bunge – SCF Grain, LLC shall indemnify, defend and hold harmless the Metro East District, its Officials, Boards, Commission and Commissioners, agents and employees, from and against any and all claims, suits, judgements, costs, attorney fees, damages or other relief arising out of the or resulting from, existing out of or through, or alleged to arise out of the improvements specified herein above, including but not limited to the roadway, landslide ramp and conveyance structure and its components which are the subject of this permit, but shall not be required to indemnify Metro East Sanitary District for negligence or willful misconduct on the part of the Officials, Boards, Commissioners, agents or employees of the Metro East Sanitary District and nothing herein shall affect the duty of the Bunge – SCF Grain, LLC, to defend Metro East Sanitary District.

SECTION 9: The right, privilege and authority herein granted to Bunge – SCF Grain, LLC shall continue for a period of fifty (50) years; provided, however, nothing contained in this Ordinance shall be construed as granting any exclusive right or franchise.

SECTION 10: As compensation for the granting of the permit by the Metro East Sanitary District to Bunge – SCF Grain, LLC, Bunge – SCF Grain, LLC agrees to pay the Metro East Sanitary District, the sum of FOUR THOUSAND ONE HUNDRED THIRTY TWO

DOLLARS AND 81/100 (\$4132.81) shall be paid annually on the first day of January beginning January 1, 2025 and on January 1st every year thereafter for the first two (2) years of this agreement. Beginning the 3rd through the seventh year of this Agreement, there shall be added the sum of FIFTEEN PERCENT (15%) so that the compensation will be FOUR THOUSAND SEVEN HUNDRED FIFTY-TWO DOLLARS AND 73/100 (\$4752.73) for the five (5) years following. Thereafter, there shall be added FIFTEEN PERCENT (15%) every (5) five years added cumulatively to the previous amount added until conclusion of the total years of this agreement.

SECTION 11: At the termination of this agreement – Bunge – SCF Grain, LLC agrees to remove, at its expense, its grain carrying apparatus, steel towers, trusses, concrete footings on piles and restore the area in a similar condition as it was prior to construction, subject to the direction of an authorized agent or engineer designated by the Executive Director of the Metro East Sanitary District.

SECTION 12: 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, provided that written acceptance is filed within twenty (20) days from the date of this Ordinance by Bunge – SCF Grain, LLC.

Approved

December 17

, 2024



President – Metro East Sanitary District

Attest:



Clerk



Bunge – SCF Grain, LLC
Representative

12/17/2024
Date