

ORDINANCE NO. 2021-0-011

AN ORDINANCE AMENDING ORDINANCE NOS. 2011-0-007, 2013-0-007, 2017-0-011 AND ORDINANCE NO. 2021-0-001 ESTABLISHING UNIFORM RATES FOR PIPELINES TO A LICENSEE 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: 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. Failure to report annually may result in terminating this license or a fee of

\$2,500.00. 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 subsequently 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.

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 thirty (30) days written notice from the Executive Director of the District, shall relocate, without cost to the District any part of its pipeline, wherever same may interfere with the construction, maintenance, or repair of the 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 are 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.

The following is the form of acceptance to be executed by

"The terms and provisions of Ordinance No. _____ of the Metal East Sanitary

District, passed on the 21st day of September 2021 and approved on the day 21st of September 2021 are hereby accepted and said _____ does hereby agree to the terms, provisions and conditions hereof'

Passed: September 21, 2021.

Approved: September 21, 2021.

Metro East Sanitary District

President

Attest:

Amy Parkinson
Clerk