

**ACCESS EASEMENT  
AGREEMENT**

Document Number

Document Name

Recording Area

Name and Return Address:

Attn: Rozan Simoni  
COFCO International Grains US LLC  
425 South Financial Place, Suite 3600  
Chicago, IL 60605

Parcel Identification Numbers (PINs)

4633999720 and 4639996210

This is not homestead property.

**THIS PAGE IS PART OF THIS LEGAL DOCUMENT – DO NOT REMOVE.**

This information must be completed by submitter: document title, name & return address, and PIN (if required). Other information such as the granting clause, legal description, etc., may be placed on this first page of the document or may be placed on additional pages of the document.

## **ACCESS EASEMENT AGREEMENT**

THIS ACCESS EASEMENT AGREEMENT (this “**Agreement**”) is made and entered into as of \_\_\_\_\_, 2022, by and between the City of Milwaukee, a municipal corporation of the State of Wisconsin, acting by and through its Board of Harbor Commissioners (the “**Grantor**”) and COFCO International Grains US LLC, a Delaware limited liability company (the “**Grantee**”).

### **Recitals**

A. Grantor owns the fee simple interest in that certain parcel of land in the City of Milwaukee, Wisconsin, which is legally described on **Exhibit A** attached hereto (the “**Easement Parcel**”).

B. Grantee owns the fee simple interest in that certain parcel of land in the City of Milwaukee, Wisconsin, which is legally described on **Exhibit B** attached hereto (the “**Benefited Parcel**”). The Easement Parcel and the Benefited Parcel are sometimes collectively referred to herein as the “**Properties**.”

C. Grantor desires to grant and Grantee desires to obtain an easement for ingress and egress over, upon, and across the Easement Parcel, for the benefit of the Benefited Parcel, as more fully set forth below.

In consideration of the mutual promises contained in this Agreement, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee agree as follows:

### **Agreements**

1. **Grant of Easement.** Grantor hereby grants to the Grantee, its heirs, successors, and assigns, a perpetual, non-exclusive, and except as provided herein, irrevocable easement appurtenant to the Benefited Parcel, for motor vehicle and pedestrian ingress and egress over upon and across the Easement Parcel, to provide access to and from the Benefited Parcel to the public roadway commonly known as East Bay Street along the existing roadway on the Easement Parcel as described and depicted on the attached **Exhibit C-1** and **Exhibit C-2** (collectively, the “**Roadway**”). Grantor binds itself and its heirs, successors, and assigns to warrant and defend the title to the Roadway in Grantee and its heirs, successors, and assigns against every person whomsoever claiming the Roadway, or any part thereof. Grantor and Grantee (and their heirs, successors, and assigns) are sometimes referred to herein individually as a “**Party**” and collectively as the “**Parties**.” Each Party’s non-exclusive use of the Roadway shall not unreasonably interfere with usage by the other Party. Any proposed improvements to the Roadway by the Grantee, including signage, shall require prior written approval by the Grantor. This easement shall run until January 1, 2043, unless superseded by a written agreement between the Parties. If performance under this Agreement becomes precluded by an operation of local, state, or federal law or relevant regulation, for example if such Roadway is declared a public right of way by the City of Milwaukee, Grantor may have the right to revoke this easement on reasonable notice to Grantee.

2. **Character of Rights.** The easement is appurtenant to and runs with the Properties, and portions thereof as appropriate to maintain the Benefited Parcel's access to the Roadway, whether or not the easement is referenced or described in any conveyance of the Properties, or any portion thereof. The easement is for the benefit of the Parties and the heirs, successors and assigns of the Parties who at any time own the Properties or any interest therein (as applicable, the "**Holders**").

3. **Exceptions and Warranty by Grantor.** Each party hereto takes and receives the rights, titles and interests granted herein subject to all validly existing easements, leases, rights-of-way, and prescriptive rights, whether of record or not, and all presently recorded and validly existing restrictions, reservations, covenants, conditions, and other instruments that affect the Properties (the "**Exceptions**"). Grantor warrants that there are no Exceptions that would prohibit or in any way impair Grantee's rights to the Roadway granted by this Agreement.

4. **Maintenance and Repair.** The Roadway shall be maintained and repaired by Grantor for and on behalf of Grantee and the cost and expense thereof shall be paid as follows: seventy-five percent (75%) by Grantee and twenty-five percent (25%) by Grantor, provided, however that Grantee shall not be liable for any costs not previously agreed to in writing, or any other costs or expenses which may have been incurred as a result of any prior agreement among the Parties herein with respect to the Roadway. Grantee shall be responsible for all snow removal on the Roadway in Grantee's sole discretion and at Grantee's sole expense. Grantor shall be responsible for all brush and debris removal, at Grantor's sole expense, provided, however, that such brush or debris is exclusively on the Easement Parcel. Grantor's work required by this Section 4 shall be to a similar standard and in no event lesser standard than that maintained by surrounding public roadways. By way of example only, if the Roadway is in need of asphalt repair or replacement, such work shall be completed to City of Milwaukee Department of Public Works' standards. Grantor shall perform any necessary maintenance and repairs within sixty (60) days of written notice by Grantee of such defect, unless such defect cannot be reasonably repaired within such time, at Grantor's sole discretion, or such repairs are delayed by a force majeure. If after providing reasonable notice to the Grantor of needed repair or maintenance work, the Grantor for any reason fails to do the work required by this Section 4 within the applicable cure period, Grantee, in Grantee's reasonable discretion and without incurring continued responsibility therefor, may perform Grantor's maintenance and/or repair work and Grantor shall be responsible for the payment of its aforementioned share of the cost of performing such maintenance and/or repair work for which it provides prior approval for Grantee to perform which approval will not be unreasonably withheld. If, as a result of a single occurrence, any portion of the Roadway is damaged or destroyed by the Grantee, its successors, or assigns, the Grantee shall be solely responsible to repair and restore the damaged area in a timely, workmanlike manner, using the same type and quality materials that meet the Grantor's design standards and guidelines and as approved by the Grantor in writing. The Grantee agrees to reimburse the Grantor for any property damage to the Grantor's premises that may arise from construction, maintenance, or use of the Roadway.

5. **Indemnification.** Each Party shall indemnify and hold the other Party, its officers, directors, and employees harmless against and from any and all claims, demands,

actions, suits, damages, judgments, orders, liabilities or expenses, arising out of or on account of any damages or injuries to any person or persons or to property on or about the Roadway resulting from the other Party's, its employees, agents, invitees, or customers' use of the Roadway.

6. **Public Records.** This Agreement and certain documents relating hereto are, or may be, subject to Wisconsin's Public Records Law (see Wis. Stat. Ch. 19, Subch. II, and, in particular Wis. Stat. 19.36(3), which includes records produced or collected under this Agreement). Grantee shall, and agrees to cause others under its control, or with whom Grantee contracts concerning this Agreement, if any, to cooperate with the City in the event any of them receive a request under Wisconsin's Public Records Law for this Agreement or for any record relating to, or produced or collected under this Agreement which is subject to the Public Records Law.

7. **No Public Dedication.** This Agreement shall not be construed to create a public street or right of way, or to dedicate any portion of the Easement Parcel or Roadway to public use, but there shall be no limitation upon the use to be made thereof by Grantee, its lessees, licensees, employees, or invitees, as the case may be.

8. **Binding Effect.** This Agreement binds and inures to the benefit of the Parties and their respective heirs, successors, and assigns.

9. **Choice of Law.** This Agreement shall be construed under the laws of the State of Wisconsin, without regard to choice-of-law rules of any other jurisdiction. Venue is in the county in which the Roadway is located.

10. **Attorneys' Fees.** If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing Party shall be entitled to reasonable attorneys' fees, costs, and necessary disbursements in addition to any other relief to which such Party may be entitled.

11. **Counterparts.** This Agreement may be executed in any number of counterparts with the same effect as if all signatory Parties had signed the same document. All counterparts shall be construed together and will constitute one and the same instrument.

12. **Waiver of Default.** It is not a waiver of or consent to default if the non-defaulting Party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this Agreement does not preclude pursuit of other remedies in this Agreement provided by law.

13. **Further Assurances.** Each Party agrees to execute and deliver any additional documents and instruments and to perform any additional acts necessary or appropriate to perform the terms, provisions, and conditions of this Agreement and all transactions contemplated by this Agreement.

14. **Integration.** This Agreement contains the complete agreement of the Parties regarding the rights of access and the obligations of maintenance with respect to the Roadway and this Agreement and cannot be varied except by written agreement of the Parties. The Parties agree that there are no oral agreements, representations, or warranties that are not expressly set forth in this Agreement.

15. **Legal Construction.** If any provision in this Agreement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the Parties, the unenforceability will not affect any other provision hereof, and this Agreement will be construed as if the unenforceable provision had never been a part of the Agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Section headings in this Agreement are for reference only and are not intended to restrict or define the text of any section. This Agreement will not be construed more or less favorably between the Parties by reason of authorship or origin of language.

16. **Notice.** Any communication, notice, or demand of any kind whatsoever which either Party may be required or may desire to give to or serve upon the other shall be in writing and delivered by a nationally recognized overnight courier service with proof of delivery, by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

Grantor: Port Milwaukee  
2323 S. Lincoln Memorial Drive  
Milwaukee, WI 53207  
Attn: Brian Kasprzyk  
Email: (Courtesy only) brian.kasprzyk@milwaukee.gov

With copy to: Milwaukee City Attorney's Office  
Assistant City Attorney Alex Carson  
841 N. Broadway, Suite 716  
Milwaukee, WI 53202  
Email: (Courtesy only) acarso@milwaukee.gov

Grantee: Attn: Legal Department  
COFCO International Grains US LLC  
425 South Financial Place, Suite 3600  
Chicago, IL 60605  
Email: (Courtesy only): rozansimoni@cofcointernational.com

Any Party may change its address for notice by written notice given to the other in the manner provided in this Section 14. Any such communication, notice or demand shall be deemed to have been duly given or served on the date personally served, if by personal service, or three (3) days after being placed in the U.S. Mail, if mailed. Counsel for a Party may give or receive notice or demand on behalf of such Party, and such notice or demand shall be treated as being sent or received by such Party.

17. **Recitals.** The recitals in this Agreement are represented by the Parties to be accurate, and constitute a part of the substantive Agreement.

18. **Time.** Time is of the essence. Unless otherwise specified, all references to “days” mean calendar days. Business days exclude Saturdays, Sundays, and legal public holidays on which banks in the State of Wisconsin are obligated to be closed to the transaction of normal banking business. If the date for performance of any obligation does not fall on a business day, the date for performance will be the next following regular business day.

19. **No Merger.** Absent express written intent by the Parties to effect a merger, there shall be no merger of the easement or any rights granted herein with the fee simple estate of either Easement Parcel or Benefited Parcel by reason of the fact that any one or all of such estates may be held, directly or indirectly, by or for the account of any person or entity which shall hold an interest in the easement granted herein.

20. **Authority.** The Parties have full capacity, right, power and authority to execute, deliver and perform this Agreement, and all required action and approvals therefore have been duly taken and obtained. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of the Parties are and shall be duly authorized to sign the same on each respective Party’s behalf and to bind the Party thereto. This Agreement will not result in a breach of, or constitute a default or permit acceleration of maturity under, any indenture, mortgage, deed of trust, loan agreement or other agreement to which either Party is subject.

*[Signature Pages Follow.]*

IN WITNESS WHEREOF, Grantor has executed this Agreement as of the date first set forth above.

**GRANTOR: THE CITY OF MILWAUKEE**

**MAYOR**

\_\_\_\_\_  
Mayor Cavalier Johnson

**CITY CLERK**

\_\_\_\_\_  
James R. Owczarski, City Clerk

**COUNTERSIGNED**

\_\_\_\_\_  
Aycha Sawa, City Comptroller

**CITY ATTORNEY APPROVAL &  
AUTHENTICATION**

Alex Carson, a member in good standing of the State Bar of Wisconsin, hereby authenticates the signatures of the City representatives herein per Wis. Stat. 706.06 so this document may be recorded per Wis. Stat. 706.05(2)(b), and approves those Signatures per MCO 304-21.

By: \_\_\_\_\_

Alex Carson  
Assistant City Attorney  
State Bar No. 1098157

City Common Council Resolution File #

\_\_\_\_\_  
CAO #282804

**BOARD OF HARBOR COMMISSIONERS**

\_\_\_\_\_  
President Timothy Hoelter

**PORT MILWAUKEE**

\_\_\_\_\_  
Jackie Q. Carter, Interim Port Director

*[Grantee Signature Page Follows.]*

**Signature Page to Access Easement Agreement**

**GRANTEE:**

COFCO International Grains US LLC,  
a Delaware limited liability company

By: \_\_\_\_\_

Name: Jeffrey S. Morton

Its: Authorized Signatory

STATE OF ILLINOIS        )  
                                      ) ss.  
COUNTY OF COOK        )

This record was acknowledged before me on December \_\_\_\_, 2022, by Jeffrey S. Morton as Authorized Signatory of COFCO International Grains US LLC, a Delaware limited liability company.

(Stamp)

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**THIS INSTRUMENT WAS DRAFTED BY:**

Alex Carson, Assistant City Attorney  
Office of the City Attorney  
200 E. Wells Street, Room 800  
Milwaukee, WI 53202



**Exhibit A**

**Legal Description of Easement Parcel**

PARTITION LOTS IN SE 1/4 SEC 4-6-22 PART PARTITION LOTS & FILLED LANDS IN SW & SE 1/4 SECS 33-7-22 & NW & NE 1/4 SECS 4-6-22 & VAC STS) BETW LAKE MICHIGAN E LINCOLN AV - UNION PACIFIC RR ROW – MUNI MOORING BASIN - KK RIVER & HARBOR ENTRANCE EXC STS & THOSE PARTS CONVEYED TO MILWAUKEE METROPOLITAN SEWAGE DISTRICT.

Parcel No: 4633999720

## **Exhibit B**

### **Legal Description of Benefited Parcel**

THAT PART OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 6 NORTH, RANGE 22 EAST, AND THAT PART OF LOTS 1 AND 6 IN PARTITION OF THAT PART OF THE NORTHWEST 1/4 OF SECTION 4 LYING WEST OF THE EAST LINE OF SAID 1/4 SECTION AS MADE BY THE CIRCUIT COURT OF MILWAUKEE COUNTY IN 1859 IN A SUIT OF RICHARD P. MARVIN VS. JOHN W. STEWART, ET AL, ALL OF THE ABOVE BEING IN THE CITY OF MILWAUKEE, COUNTY OF MILWAUKEE, STATE OF WISCONSIN, AND BEING MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTH 1/4 CORNER OF SAID SECTION 4; THENCE NORTH 00° 53' 43" WEST ALONG THE NORTH-SOUTH 1/4 LINE 2293.28 FEET TO A CONCRETE MONUMENT MARKING THE POINT OF BEGINNING OF THE LANDS TO BE DESCRIBED; THENCE SOUTH 49° 26' 07" WEST AT RIGHT ANGLES TO THE MOST SOUTHWESTERLY MAIN TRACK OF THE CHICAGO AND NORTH WESTERN RAILWAY COMPANY 31.73 FEET TO A POINT, SAID POINT BEING 8.50 FEET SOUTHWESTERLY, MEASURED AT RIGHT ANGLES FROM THE CENTER LINE OF THE CHICAGO AND NORTH WESTERN RAILWAY COMPANY SPUR TRACK ICC NO. 30, AS SAID SPUR TRACK IS NOW LOCATED; THENCE NORTH 40° 31' 12" WEST AND PARALLEL TO SAID SPUR TRACK 1320.88 FEET TO THE SOUTHERLY FACE OF A BUILDING WALL; THENCE SOUTH 49° 28' 48" WEST 1.00 FEET TO A POINT; THENCE NORTH 40° 31' 12" WEST 156.22 FEET TO A POINT; THENCE NORTH 49° 28' 48" EAST 1.00 FEET TO A POINT; THENCE NORTH 40° 31' 12" WEST AND PARALLEL TO SAID SPUR TRACK 535.57 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF THE KINNICKINNIC RIVER AS ESTABLISHED BY AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF MILWAUKEE, PASSED JUNE 8, 1868 AND APPROVED JUNE 13, 1868; THENCE NORTH 19° 18' 08" EAST ALONG SAID SOUTHEASTERLY LINE OF THE KINNICKINNIC RIVER 444.28 FEET TO A POINT, SAID POINT BEING 425.00 FEET NORTHEASTERLY, MEASURED AT RIGHT ANGLES, FROM SAID MAIN TRACK CENTER LINE, SAID POINT BEING HEREINAFTER REFERRED TO AS POINT "A"; THENCE CONTINUING NORTH 19° 18' 08" EAST 120.00 FEET TO AN ANGLE POINT IN SAID KINNICKINNIC RIVER; THENCE SOUTH 22° 04' 06" EAST 327.14 FEET TO A POINT, SAID POINT BEING 425.00 FEET NORTHEASTERLY, MEASURED AT RIGHT ANGLES, FROM SAID MAIN TRACK CENTER LINE, SAID POINT ALSO BEING 250.00 FEET SOUTH 40° 33' 53" EAST OF SAID POINT "A"; THENCE SOUTH 40° 33' 53" EAST AND PARALLEL TO SAID MAIN TRACK 667.17 FEET TO A POINT; THENCE SOUTH 32° 35' 45" EAST 745.20 FEET TO A POINT, SAID POINT BEING 321.69 FEET NORTHEASTERLY, AS MEASURED AT RIGHT ANGLES, FROM SAID MAIN TRACK CENTER LINE; THENCE SOUTH 17° 12' 07" EAST 632.38 FEET TO THE POINT OF BEGINNING.

Parcel No: 4639996210

## **Exhibit C-1**

### **Legal Description of the Roadway**

LEGAL DESCRIPTION OF ACCESS EASEMENT That part of the Southeast 1/4 of the Northwest 1/4, the Northeast 1/4 of the Southwest 1/4, and Government Lots 3 and 4 in the Southeast 1/4 of Section 4, Township 6 North, Range 22 East, in the City of Milwaukee, Milwaukee County, Wisconsin, bounded and described as follows: Beginning at the South Witness corner to the northeast corner of the Southwest 1/4 of said Section 4; Thence North  $17^{\circ}12'07''$  West 452.09 feet to the beginning of a non-tangent 359.14 foot radius curve to the right whose chord bears South  $27^{\circ}29'24''$  East, 199.61 feet; Thence southeasterly 202.28 feet along the arc of said curve to a point of tangency; Thence South  $11^{\circ}21'17''$  East, 106.34 feet to the beginning of a 450.00 foot radius curve to the left whose chord bears South  $25^{\circ}57'35''$  East, 226.94 feet; Thence southeasterly 229.42 feet along the arc of said curve to a point of tangency; Thence South  $40^{\circ}33'53''$  East, 431.39 feet; thence South  $39^{\circ}16'56''$  East, 456.99 feet to the beginning of a 450.00 foot radius curve to the right whose chord bears South  $34^{\circ}58'36''$  East, 67.57 feet; Thence southeasterly 67.63 feet along the arc of said curve to a point of tangency; Thence South  $30^{\circ}40'16''$  East, 232.84 feet to the westerly right-of-way line of South Carferry Drive; thence South  $0^{\circ}39'52''$  West, 47.28 feet along said westerly line to a northwesterly line of said South Carferry Drive; thence South  $39^{\circ}58'00''$  West, 31.39 feet along said northwesterly line to the northeasterly line of Ingress/Egress Easement recorded as Document No. 6959203, also described as the easterly line of the Chicago & North Western Railway, being the beginning of a non-tangent 3404.82 foot radius curve to the left whose chord bears North  $33^{\circ}49'11''$  West, 799.81 feet; Thence northwesterly 801.66 feet along the arc of said curve and along said northeasterly line of Ingress/Egress Easement recorded as Document No. 6959203, also described as the easterly line of the Chicago & North Western Railway to a point of tangency; Thence North  $40^{\circ}33'53''$  West, 523.19 feet along said northeasterly line of Ingress/Egress Easement recorded as Document No. 6959203, also described as the easterly line of the Chicago & North Western Railway to the point of beginning.

Said easement contains 55,382 square feet of land, more or less.

**Exhibit C-2**

**Depiction of the Roadway**

*[See following page.]*

