

## **RELOCATION AGREEMENT**

This Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 2020 between COUNTY OF LAKE, a body politic and corporate, with offices at 600 W Winchester Road, Libertyville, Illinois 60048 (the "COUNTY") and NORTHERN ILLINOIS GAS COMPANY D/B/A NICOR GAS COMPANY, licensed to do business in the State of Illinois, with offices at 1844 Ferry Road, Naperville, Illinois 60563 (the "COMPANY")

### **WITNESSETH:**

WHEREAS, the COUNTY desires to construct certain road improvements at the intersection of Fairfield Road (CO HWY 49) & Monaville Road (CO HWY 55) in Lake Villa, Illinois (hereinafter referred to as the "PROJECT") under County Section 15-00120-06-CH; and

WHEREAS, in order to allow for the PROJECT, the COUNTY desires COMPANY to relocate and protect certain of its facilities, a portion of which are located within private easements that have superior rights to the County's right of way ("Private Easement Facilities");

WHEREAS, this Relocation Agreement shall govern the COMPANY's relocation of the Private Easement Facilities, all in accordance with COMPANY Work Order plans 129239/329239/429239 (hereinafter referred to as "WORK") attached hereto by reference thereto; and

WHEREAS, the COMPANY has estimated the cost of the WORK to be \$160,000; and

WHEREAS, the WORK is eligible for reimbursement to COMPANY, with the COUNTY responsible for 100% of the actual cost of the WORK (COMPANY acknowledges that other portions of COMPANY relocation work necessary for the PROJECT, not governed by this agreement, are not reimbursable); and

WHEREAS, COMPANY is willing to relocate its facilities in such manner provided that the COMPANY is assured rights to reimbursement for the cost of the WORK, without any setoff or withholding for COUNTY construction adjustments or delays, and future costs the COMPANY may incur if the COMPANY is required to make any future relocation or adjustment to the facilities relocated pursuant to this Relocation Agreement (after relocation the Private Easement Facilities will be referred to as the "Relocated Facilities"); and

WHEREAS, the COUNTY is willing to commit to provide COMPANY such reimbursement rights.

NOW, THEREFORE, for and in consideration of the promises and of the mutual covenants and Agreements as hereinafter contained, the parties hereto agree as follows:

### **INCORPORATION**

All recitals set forth above are incorporated herein and made part hereof, the same constituting the factual basis for this Agreement.

### **SCOPE OF WORK**

COMPANY shall provide the COUNTY with detailed drawings for the WORK (including surveys and other engineering services), and any required specifications for the relocation and protection of its facilities.

COMPANY then shall protect and or relocate its facilities in substantial accordance with the drawings and specifications.

For those easements held by the COMPANY in which the facilities were relocated pursuant to this Relocation Agreement, the COMPANY shall take actions necessary to vacate those easements in reasonable time after the WORK is complete.

COMPANY shall, within a reasonable time upon request from the COUNTY, provide the COUNTY with an estimate of the anticipated construction schedule work the WORK.

**COMPENSATION**

The total preliminary estimated cost of the Work eligible for reimbursement by the COUNTY is \$160,000 with the COUNTY responsible for 100% of the actual cost as follows:

<u>Location</u>	<u>Estimate</u>	<u>Work Order</u>
Fairfield Rd & Monaville Rd	\$160,000	129239/329239/429239

COMPANY, upon completion of the work, shall promptly render to the COUNTY a detailed statement of its portion of the costs, including overhead costs. The COUNTY shall reimburse the COMPANY for 100% of the amount billed, even if the billed amount exceeds the preliminary estimate set forth above. Payment shall be made in full by the COUNTY within 60 days of receipt of statement. COMPANY shall endeavor to provide the COUNTY with notice if the costs of the WORK are anticipated to exceed the estimate, provided that COMPANY shall not be liable, and the COUNTY shall have no recourse, for any failure by the COMPANY to provide such notice. The COUNTY shall not setoff or withhold payment to the COMPANY based on any construction adjustments or delays as the COMPANY make no representation or warranty as to the utility relocation schedule.

**MODIFICATION OR AMENDMENT**

The parties may modify or amend terms of this Agreement only by a written document duly executed by both parties.

**ENTIRE AGREEMENT**

This Agreement, including matters incorporated herein, contains the entire Agreement between the parties.

There are no other covenants, warranties, representations, promises, conditions or understandings; either oral or written, including any representation or warranty to as to Company's relocation schedule, other than those contained herein.

This Agreement may be executed in one or more counterparts, each of which for all purposes shall be deemed to be an original and all of which shall constitute the same instrument.

In event of any conflict between the terms or conditions of this Agreement and terms or conditions found in any attachment hereto, the terms and conditions of this Agreement shall prevail.

This Agreement may not be assigned by either party without the prior written consent of the other party, which consent shall not be unreasonably withheld.

The Agreement shall be binding upon the parties hereto, their successors and assigns.

## **SEVERABILITY**

In the event, any provision of this Agreement is held to be unenforceable or invalid for any reason, the enforceability thereof shall not affect the remainder of the Agreement. The remainder of this Agreement shall be construed as if not containing the particular provision and shall continue in full force, effect, and enforceability, in accordance with its terms.

## **GOVERNING LAW**

This Agreement shall be governed by the laws of the State of Illinois as to both interpretation and performance.

## **NOTICES**

Any required notice shall be sent to the following addresses and parties:

Nicor Gas Company  
1844 Ferry Road  
Naperville, Illinois 60563-9600  
ATTN: Greg Stiglic, Director - Engineering

Lake County Division of Transportation  
600 W. Winchester Road  
Libertyville, Illinois 60048  
ATTN: Shane Schneider, Director of Transportation/County Engineer

All notices required to be given under terms of this Agreement shall be in writing and either (a) served personally during regular business hours; (b) served by facsimile transmission during regular business hours; or (c) served by certified mail, return receipt requested, properly addressed with postage prepaid. Notices served personally or by facsimile transmission shall be effective upon receipt and notices served by mail shall be effective upon receipt as verified by the United Postal Service. Each party may designate a new location for service of notification by serving notice thereof in accordance with the requirements of this Paragraph, and without compliance to the amendment procedures set forth herein.

## **INDEMNIFICATION**

Nothing contained herein shall be construed as prohibiting the COUNTY, its officials, directors, officers, agents and employees, from defending through the selection and use of their own agents, attorneys and experts, any claims, suits, demands, proceedings and actions brought against them.

The COUNTY agrees to assume all risk or liability for damage to any property or facilities of the COMPANY resulting from the COUNTY's activities upon those portions of the COMPANY's right-of-way which consist of private easement(s) with superior rights to the County's right-of-way. The COUNTY further agrees to indemnify, defend and hold harmless the COMPANY for any and all liability, claims, suits, actions and proceedings, including costs, fees and expense of defense arising from damages to property or injury to or death of any person resulting from the COUNTY's activities upon those portions of the COMPANY's right-of-way which consist of private easement(s) with superior rights to the County's

right-of-way except to the extent damage, injury or death results from the COMPANY's negligence.

COUNTY'S indemnification of the COMPANY for claims arising from or during the WORK shall survive the termination, or expiration, of this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate counterparts, each of which shall be considered as an original by their duly authorized officers as of the dates below indicated.

EXECUTED by COMPANY, this \_\_\_\_ day of \_\_\_\_\_, 2020.

NORTHERN ILLINOIS GAS COMPANY  
D/B/A NICOR GAS COMPANY

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

ADOPTED by the LAKE COUNTY BOARD, this \_\_\_\_ day of \_\_\_\_\_, 2020.

ATTEST

\_\_\_\_\_  
COUNTY CLERK

\_\_\_\_\_  
CHAIRMAN, LAKE COUNTY BOARD

Recommended for Execution

\_\_\_\_\_  
Shane E. Schneider, P.E.  
Director of Transportation/County Engineer