Sec 28	Twp 38N	Rng 8E	3rd PM
Twp	Aurora		Co Kane
	WO		
		PIN 15-2	28-201-005

GRANT OF EASEMENT EASEMENT AGREEMENT

THIS INDENTURE, made and entered into	_, 2019, by and between
Chicago Title Land Trust Company, under Trust Agreement dated	December 9, 1998 and
known as Trust 123685-02 (hereinafter sometimes referred to as "	Grantor") and the City of
Aurora, Illinois, an Illinois municipal corporation, 44 E. Downer Pla	ce, Aurora, IL 60605
(hereinafter sometimes referred to as "Grantee"):	

## WITNESSETH:

WHEREAS, Grantee has requested Grantor to grant unto it a non-exclusive perpetual easement to install, construct, reconstruct, operate, maintain, alter, repair, replace and remove a traffic signal controller cabinet with associated concrete foundation, underground conduits and electric cables, and a portion of concrete sidewalk with detectable warning and concrete curb and gutter (collectively, "Facility") in, under, upon and across certain real property owned by Grantor in Kane County, Illinois (hereinafter more fully described).

WHEREAS, Grantor, insofar as it has the right so to do, is willing to grant unto Grantee a non-exclusive perpetual easement for said Facility, but only upon the terms, covenants and conditions hereinafter set forth:

NOW, THEREFORE, in consideration of ten and 0/100 (\$10.00) dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in further consideration of the mutual covenants and agreements hereinafter set forth, Grantor hereby grants, without warranty of title, unto Grantee, its successors and assigns, a non-exclusive perpetual easement to install, construct, reconstruct, operate, maintain, alter, repair, remove and replace said Facility in, under, upon, through and across:

THAT PART OF LOT 7 IN BLOCK 2, IN WAGONER'S ADDITION TO WEST AURORA AND VACATED RIVER STREET AS DESCRIBED IN DOCUMENT NUMBER 743751, MORE PARTICULARY DESCRIBED AS FOLLOWS: BEGINNING AT THE CAPPED IRON PIPE FOUND AT THE INTERSECTION OF THE NORTHEASTERLY LINE OF PRAIRIE STREET, FORMERLY FIRST STREET (SAID PRAIRIE STREET BEING A 66.00 FOOT WIDE RIGHT OF WAY), SAID NORTHEASTERLY LINE OF PRAIRIE STREET ALSO BEING THE SOUTHEASTERLY LINE OF SAID LOT 7, AND THE NORTHWESTERLY LINE OF RIVER STREET AFTER VACATION AS DESCRIBED IN DOCUMENT NUMBER 743751 (SAID RIVER STREET BEING A 66.00 FOOT WIDE RIGHT OF WAY); THENCE NORTH 56 DEGREES 13 MINUTES 17 SECONDS WEST, ON AN ASSUMED BEARING, ALONG SAID

NORTHEASTERLY LINE OF PRAIRIE STREET, 31.00 FEET; THENCE SOUTH 83 DEGREES 24 MINUTES 30 SECONDS EAST, 28.44 FEET; THENCE NORTH 35 DEGREES 07 MINUTES 08 SECONDS EAST, PARALLEL WITH SAID NORTHWESTERLY LINE OF RIVER STREET, 31.00 FEET; THENCE SOUTH 56 DEGREES 13 MINUTES 17 SECONDS EAST, 6.00 FEET TO SAID NORTHWESTERLY LINE OF RIVER STREET; THENCE SOUTH 35 DEGREES 07 MINUTES 08 SECONDS WEST, ALONG SAID NORTHWESTERLY LINE OF RIVER STREET, 44.00 FEET TO THE POINT OF BEGINNING, IN THE CITY OF AURORA, KANE COUNTY, ILLINOIS.

Easement Premises being depicted on	and which is
attached hereto as Exhibit A and made a part hereof.	

The easement for said Facility herein granted by Grantor to Grantee is granted solely for the purpose of installing, constructing, reconstructing, operating, maintaining, altering, repairing, replacing and removing the Facility over and across the easement premises and upon the following additional terms, covenants and conditions, which Grantee, for and on behalf of itself, its successors and assigns, expressly acknowledges, undertakes and agrees to fulfill and discharge, to-wit:

- 1. The easement herein granted shall be exercised by Grantee in a manner that will not in Grantor's sole judgement unreasonably interfere with the present or future installations or operations of Grantor upon the premises. In the event that Grantor shall hereafter decide to alter or relocate its present facilities at this location or shall decide to construct additional facilities at this location, and in the event any of the Facility constructed by Grantee pursuant to this Easement Agreement shall interfere with such proposed use of the premises of Grantor, Grantor shall deliver to Grantee a written notice describing such proposed use and stating that said Facility of Grantee will interfere with such proposed use. This notice shall be accompanied by an itemized list of any estimated additional costs to be incurred by Grantor if Grantor alters its proposed use to avoid interference with said Facility. Upon receipt of such notice and itemization of additional costs, Grantee shall have the option of either (1) notifying Grantor within 10 days of the receipt of such notice that it elects to relocate said Facility, at its sole cost and expense, within a period of 60 days to another location on the property of Grantor mutually agreed upon by the parties hereto; or, (2) notifying Grantor within ten days of the receipt of such notice that it elects to pay Grantor for all actual additional costs to be incurred by Grantor, along with overhead costs as determined by Grantor. In the event Grantee shall elect to relocate said Facility, Grantee shall promptly take all steps necessary to complete such relocation within a reasonable time, and in no event later than 60 days from the date of such notice. In the event Grantee shall elect to reimburse Grantor for the actual additional costs to be incurred by Grantor, this amount shall be paid to Grantor within 60 days of Grantor's request for reimbursement. Notwithstanding anything to the contrary, Grantee agrees that Grantor shall be fully reimbursed for any actual additional costs, including overhead costs as determined by Grantor, regardless of the amount identified in the estimate, Grantee acknowledging that the estimate is provide as a courtesy and is not intended to bind the Grantor.
- 2. No work shall be commenced, performed, or made on and/or to the Premises without Grantor's prior written consent and approval which may be withheld in Grantor's reasonable discretion. In connection with seeking Grantor's approval, Grantee shall submit to Grantor a complete, accurate and final set of plans and specifications detailing the location of, and the method of installation and construction of, the proposed Facilities and improvements. Any and all subsequent changes, alterations and other changes to Grantee's work, or proposed work, on the Premises must also be submitted to Grantor for Grantor's written approval, which may be

withheld in Grantor's reasonable discretion.

3. Except for routine maintenance, operation and inspection of said Facility, and except in an emergency, all construction, reconstruction, installation, maintenance, repair and removal work to be performed by Grantee on the premises, shall be performed at such time as shall have been approved in advance by Grantor. Notice of any such proposed work shall be given Grantor as least forty-eight (48) hours prior to the proposed commencement thereof. In no event shall any activity that includes excavation or blasting, in any form, be considered routine for purposes of this easement.

All such work shall be performed in the presence of a representative of Grantor in a manner satisfactory to such representative. Grantor may, at its option, perform any protective work which it deems necessary to insure the safety of its facilities in the area of Grantee's proposed work, or it may request Grantee to perform such work. In the event it elects to perform such work, Grantor shall make a reasonable effort to complete any such protective work prior to Grantee's proposed time for commencement of its work, but in the event such protective work cannot be completed by Grantor prior to Grantee's proposed time for commencement of work, Grantee shall postpone the commencement of such work until such time as Grantor has completed any such protective work. The expense of such protective work and the cost of Grantor's on-site representative(s) shall be borne by Grantee.

- 4. Grantee shall reimburse Grantor for any costs or expenses, sustained or incurred in connection with any damage or injury to Grantor or to any property of Grantor in the course of Grantee's activities on the premises, including, but not limited to, the construction, reconstruction, operation, maintenance, alteration, repair, replacement or removal of Grantee's Facility.
- 5. All installation, construction, reconstruction, operation, repair, replacement or removal work performed by Grantee pursuant to the easement granted by this indenture shall conform to the following rules and regulations:
  - a. EXCEPT AS OTHERWISE PROVIDED HEREIN, NO WORK IS TO BE DONE ON GRANTOR'S PREMISES WITHOUT GRANTOR'S REPRESENTATIVE BEING PRESENT, THE COST OF WHICH REPRESENTATIVE SHALL BE REIMBURSED BY GRANTEE.
  - b. Grantee's use and occupation of the Easement Premises shall be subject to and comply with any current or future land use condition or restriction contained in an applicable No Further Remediation letter from the Illinois EPA.
  - c. There shall be no blasting in connection with any excavation.
  - d. NO bore pit will be permitted on Grantor's property without the prior written approval of Grantor.
  - e. NO materials shall be stored or stockpiled on Grantor's property.
  - f. Prior to the start of construction, 48 hours notice shall be given to Northern Illinois Gas Company's Asset Protection Department at 800-730-6114 (Prompt 8) (or such notice as may be directed by Grantor).

- g. Natural drainage of the premises shall not be impaired. Upon completion of said work, Grantee shall remove from the premises all unused excavated material, including the rock and debris, and shall replace all back-filling material in a neat and workman like manner. Grantee shall leave the premises and any adjacent property used by it in connection with the construction, reconstruction, maintenance, alteration, repair, replacement or removal of said Facility, in a neat, clean and orderly condition, and restore the premises to the condition it was in prior to commencement of Grantee's activities.
- h. Grantee shall put these specifications including all items "a" through "f" on all final "approved for construction" drawings
- 6. Grantee shall furnish, upon completion, to Grantor, an engineering drawing accurately showing the installed location of its Facility.
- 7. Grantee agrees to obtain at its sole cost and expense such permits, licenses or other authority which may be required from the Federal Government, State of Illinois, the County of Kane, and any other authorities having jurisdiction, before using said premises for the purpose herein proposed and agrees to comply with any strictly observe any and all laws, rules, statutes and regulations of any such authorities. Grantee represents to Grantor that as except as set forth in writing to Grantor, Grantee is entitled, where appropriate, under Sections 401 and 404 of the Federal Clean Water Act, to rely on existing nationwide permits for the construction of its Facility and that no specific permits for the occupation over or under any wetlands are required therefore. Grantee further agrees to use erosion control methods in order to prevent any construction material or debris from filing any wetlands area, and if any construction material or debris reaches wetlands area, the same shall be removed.

Grantee hereby covenants that the use and operation of the premises by Grantee will at all times comply with any and all applicable laws, including, without limitation, Environmental Laws, and that Grantee shall not cause or permit any Hazardous Material to be introduced to or handled on the premises. As used herein, the term "Environmental Laws" shall mean and refer to all applicable laws, ordinances, requirements and regulations (including consent decrees and administrative orders) relating to public health and safety and protection of the environment and the term "Hazardous Material" shall mean and refer to any hazardous substance or any pollutant or contaminant defined as such in (or for purposes of) the Comprehensive Environmental Response, Compensation, and Liability Act, any so-called "Superfund" or "Superlien" law, the Toxic Substance Control Act, or any other Federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect, or any other hazardous, toxic or dangerous waste, substance or material (including, without limitation, asbestos and poly-chlorinated biphenyls and petroleum and its by-products).

8. Grantee shall at all times, and under all circumstances, indemnify, defend, protect and save harmless, Grantor, its affiliates, parent company, directors, officers, employees, successors and assigns, from and against any and all liability, damages, losses, claims, demands, actions and causes of action whatsoever (including any reasonable costs, expenses and attorneys' fees which may be incurred in connection therewith) whether or not the claim, demand or action asserted may be meritorious, and which results from or is alleged to result from, or which arises out of or in connection with, or is alleged to arise out of or in connection with, the breach of Grantee of any covenant in this Easement Agreement, or the non-

compliance by Grantee of any applicable law (including, without limitation, Environmental Laws) at the premises or the installation, construction, reconstruction, operation, maintenance, alteration, repair, replacement, use, removal or existence of said Facility by Grantee upon the premises, or the existence of the non-exclusive perpetual easement granted Grantee hereunder; provided, however, that in the event any such claim, damage, loss, demand, action or cause of action is asserted against Grantor, Grantor shall furnish Grantee with written notification thereof and Grantee shall conduct the defense thereof before any court, board, commission or other governmental body exercising jurisdiction therein with counsel acceptable to Grantor and at Grantee's expense. No settlement or compromise of any such claim, damage, loss, demand, action or cause of action shall be made unless agreed to by Grantor, in writing. Grantor, its successors and assigns, shall not be liable to Grantee, or Grantee's successors and assigns, for any damages or injuries to any persons or to said Facility or any other property of Grantee situated or located in, on, about or upon the property subjected to this easement, except to the extent that injuries or damages are caused by the willful misconduct or gross negligence of Grantor, its successors or assigns.

The foregoing indemnification, defense and hold harmless obligations shall survive any termination of this Easement Agreement. The acts of the respective employees, representatives, agents or contractors of Grantor or Grantee, as the case may be, shall be deemed to constitute the acts of Grantor and Grantee respectively for the purposes of this Section 8.

9. Unless otherwise agreed to in writing, Grantee will, at its own expense, carry and maintain during this Agreement the insurance coverage (with companies satisfactory to Grantor in amounts no less than what is specified below. All insurance policies or bonds required by this Agreement will be issued by insurance companies licensed to do business within the state of Illinois and any other state in which the Services are to be performed with an A.M. Best Rating of not less than "A- VII." Grantee is also responsible for ensuring that its subcontractors comply with the insurance requirements of this Section.

Grantee agrees to waive, and will require its insurers to waive in writing, all rights of subrogation against Grantor, its directors, officers, and employees because of any payment made under such insurance policies. Grantee shall not assert against Grantor, and hereby waives to the extent legally possible to do so, any claims for any losses, damages, liabilities and expenses (including attorney fees and disbursements) incurred or sustained by Grantee or another, to the extent the same are covered by the types of insurance required in this Section or, if providing more coverage, the coverage actually carried by Grantee. Grantee shall cause all policies to contain a waiver of subrogation clause. The provisions of this paragraph are intended to restrict recovery, as against Grantor, to the insurance required to be maintained and to waive fully, for the benefit of Grantor, any rights and/or claims that might give rise to a right of subrogation by any insurance carrier. In no event may any insurance carrier of Grantee seek to recover against Grantor through a subrogated claim. Grantee shall notify Grantor of any material change or cancellation of such policies with at least thirty (30) days prior written notice. "Material change" shall be defined for the purpose of this Section as follows: (i) a change from providing insurance through an A.M. Best rated insurer to using a self-insurance program; (ii) a reduction in limits resulting in Grantee not being able to meet the insurance requirements set forth in this Section; (iii) a change in coverage types from occurrence to claims-made coverage; (iv) a change in any policy that would prohibit Grantee from designating Grantor as additional insured as required by this Section; or (v) a change in any policy that would prohibit waiver of subrogation as required by this Section; or (vi) a change to the expiration date of the policy. In the event of cancellation of any insurance required on the part of Grantee hereunder, Grantee shall obtain replacement insurance with a properly licensed insurer as soon as possible which insurance shall be effective and in full force and effect as of or earlier than the effective time of cancellation of the cancelled insurance, to the effect that there shall be no lapse in coverage. All policies except Professional Liability and Worker's Compensation must be endorsed to name as additional insureds: Commonwealth Edison Company, Northern Illinois Gas Company and their parents, affiliated companies, officers, directors and employees. Grantee will notify Grantor of any losses or damages arising out of work performed under this Agreement for which a claim might be made against Grantor.

On or prior to the execution of this Agreement, and on an annual basis and at any time coverage is renewed thereafter, and upon a "Material Change" or replacement of a cancelled policy, Grantee will provide Grantor with a certificate of insurance evidencing such required coverage. Unless otherwise notified in writing by Grantor, Grantee will provide a copy of such certificate to Grantor and send a copy to Southern Company Gas, Insurance Compliance, P.O. Box 12010-AR. Hemet, California 92546-8010. Grantee will not commence work until all of the insurance required herein will have been obtained and approved by Grantor. In the event that any of the liability insurance policies required under this Agreement are written on a claims made basis, Grantee warrants that any retroactive date applicable to coverage under such policy precedes the Effective Date of this Agreement and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years after the expiration of this Agreement. To the extent that Grantee or its subcontractors utilize deductibles in conjunction with the insurance required by this Agreement, all deductible expenses will be assumed by Grantee or its subcontractors and will be considered as the Grantee's or its subcontractors' expenses and not part of the normal expenses associated with this Agreement. To the extent any insurance required of Grantee herein overlaps with coverage maintained by Grantor, Grantee's insurance shall be deemed primary and non-contributory. The insurance provisions of this Agreement are not intended to diminish or limit any indemnification obligations on the part of Grantee as expressly set forth in this Agreement. Additionally, the limits required below are intended as minimum limits and do not serve to cap the Grantee's liability or insurance policies requirements.

## **Workers' Compensation:**

(A) Workers' Compensation:	Statutory
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(B) Employer's Liability:

(1) Bodily Injury by Accident, for Each Accident: \$1,000,000

(2) Bodily Injury for Each Employee by Disease: \$1,000,000

(3) Policy Limit for Bodily Injury by Disease: \$1,000,000

## **Commercial General Liability:**

Written on a per occurrence basis to include coverage for: Broad Form Property Damage; Bodily Injury; Personal Injury; Blanket Contractual Liability; Products/Completed Operations.

(A) Per Occurrence: \$1,000,000

(B) General Aggregate: \$2,000,000

(C) Personal & Adv Injury per Occurrence: \$1,000,000

(D) Fire Legal Liability per Occurrence: \$100,000

(E) Medical Expense per Person per Occurrence: \$5,000

This policy will be primary and non-contributory.

## **Automotive Liability:**

Such policy will include coverage for all vehicles owned, hired, non-owned and borrowed by Contractor in the performance of the Services covered by this Agreement.

Combined Single Limit: \$1,000,000

**Excess Liability/Umbrella** 

(A) Per Occurrence: \$10,000,000

(B) General Aggregate: \$10,000,000

**Environmental/Pollution Liability -** Contractors Pollution Liability for this contract is acceptable

(A) Per Occurrence: \$5,000,000

(B) General Aggregate: \$5,000,000

• The Certificate of Insurance must include the following information:

Certificate holder Address:

Southern Company Gas Attn: Insurance Compliance P O Box 12010-AR Hemet, CA 92546-8010

The initial Insurance Certificate must be sent to the above address and electronically to the following address: dgadzal@southernco.com

Renewal Certificates of Insurance must be submitted to:

Southern Company Gas Attn: Insurance Compliance P O Box 12010-AR Hemet, CA 92546-8010

- 10. In the event Grantee, its successors, or assigns, cease operation of its Facility the easement granted herein shall cease and terminate automatically without the necessity of any notice to or by Grantee ("Automatic Termination"). In the event of any termination or expiration of the Easement Agreement, Grantee, shall, within 30 days of request by Grantor and in a form acceptable to Grantor in its sole discretion, provide Grantor with a properly executed release of this easement. For purposes of this Easement Agreement, and without limiting any other determination of Automatic Termination, including non-use for a shorter time period, Automatic Termination shall be deemed to occur if Grantee does not use the Facility for the purposes provided herein for a period of twelve (12) consecutive months. In addition to the foregoing, if Grantee intends to cease operation of its Facility it shall notify Grantor in writing within 30 days of such cessation, and this Easement Agreement will terminate on delivery of Grantee's cessation notice.
- 11. In the event Grantee, its successors or assigns, fail to fulfill and discharge any of its obligations herein, or fail to comply with the terms and conditions hereof, and in the event such failure or non-compliance shall continue for a period of thirty (30) days after written notice to it of such failure or non-compliance, then and in that event, at the option of Grantor, the easement granted hereunder shall terminate and Grantee's rights hereunder shall be of no further force and effect, in addition to all other remedies available to Grantor.
- 12. In the event this easement is terminated for any reason whatsoever, Grantee shall, at its expense, within 90 days of such termination, remove its Facility, or if Grantee does not exercise this right, and is not requested to do so by Grantor, said Facility shall immediately become the property of Grantor without liability or obligation on its part to account to Grantee therefor.
- 13. In the event the premises shall be assessed for taxes at a greater amount than at which the premises would be assessed were it not for the facilities of Grantee maintained hereon, Grantee shall, upon demand, reimburse Grantor for such additional amount of taxes as Grantor shall be obligated to pay on account of such increased assessment.
- 14. Notwithstanding anything to the contrary in this easement, Grantee shall not be entitled to rely on Grantor's approval of plans or directions regarding construction to excuse its compliance with the obligations contained herein. Grantee acknowledges and agrees that Grantor's approval or direction shall not constitute a waiver of any remedies, nor act to place any liability on the Grantor for Grantee's work. Grantee shall at all times be obligated to conduct its work without: (i) interfering with Grantor's property; (ii) endangering Grantor's installations; and, (iii) endangering the safety of any persons or property on or near the premises.
- 15. Any notice herein provided to be given shall be deemed properly given if in writing and delivered personally or mailed to Grantor in care of:

Manager Real Estate Land Services Department Nicor Gas Company P.O. Box 190 Aurora, Illinois 60507 or to Grantee: City of Aurora Director of Public works 44 E. Downer Place Aurora, IL 60505

or to such other persons or addresses as the parties may from time to time designate.

- 16. Prior to any digging on the subject property, including easement area, the Grantee shall call JULIE, (800) 892-0123, and to Northern Illinois Gas Company's Asset Protection Department at 800-730-6114 (Prompt 8) (or such notice as may be directed by Grantor) for a location of facilities on the property.
- 17. This indenture shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this indenture to be executed by their proper officers, thereunto duly authorized and their respective corporate seals to be hereto affixed, as of the day and year first above written.

GRANTOR:
Chicago Title Land Trust Company,
under Trust Agreement dated December 9, 1998 and known as Trust 123685-02
GRANTEE:
Signature
Printed Name
Title

STATE OF ILLINOIS )				
OUNTY OF)				
Notarization of Grantee Signature				
I,, a Notary Public in and for said County and residing in the County of do hereby certify that, personally known to me to be the san				
whose name is subscribed to the foregoing instrument, appeared before me this and acknowledged that they signed, sealed and delivered said instrument as the voluntary act for the uses and purposes therein set forth.				
Given under my hand and notarial seal on, 2	2019.			
Notary Public:				

My Commission Expires: \_\_\_\_\_

This Document Prepared By: Land Services Department Nicor Gas P.O. Box 190 Aurora, IL 60507

