

RESOLUTION

DT-0092-99

REIMBURSEMENT AGREEMENT
SPRINT COMMUNICATIONS COMPANY L.P.
COUNTY HIGHWAY 43/ COUNTY FARM ROAD
SECTION 94-00179-05-GS

WHEREAS, the County of DuPage (hereinafter "COUNTY") desires to build a grade separation at the Union Pacific Railroad (hereinafter "RAILROAD") on County Highway 43, County Farm Road, Section 94-00179-05-GS (hereinafter "PROJECT"); and

WHEREAS, the RAILROAD owns certain property that the PROJECT will cross; and

WHEREAS, Sprint Communications Company L.P. (hereinafter "SPRINT") has facilities within that certain property that the PROJECT will cross; and

WHEREAS, it is necessary for SPRINT to relocate portions of their facilities to provide vertical clearance for said PROJECT; and

WHEREAS, it is the responsibility of the COUNTY to reimburse SPRINT for the costs to relocate SPRINT facilities within the limits of the RAILROAD property; and

WHEREAS, it is necessary and in the best interest of the COUNTY to execute the attached Reimbursement Agreement with SPRINT; and

NOW, THEREFORE, BE IT RESOLVED by the County Board of DuPage that the Clerk and Chairman of said Board be and they are hereby directed and authorized to execute the Reimbursement Agreement with SPRINT; and

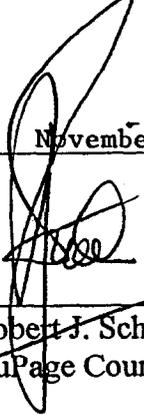
BE IT FURTHER RESOLVED that monies be encumbered and set aside for payment of the COUNTY'S obligations under said Agreement as follows:

<u>FISCAL YEAR</u>	<u>FUND</u>	<u>AMOUNT</u>
1999	41-226 LGT	\$176,509.75

; and

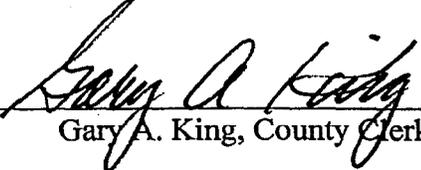
BE IT FURTHER RESOLVED that a certified and original copy of the Resolution and Agreement be sent to Sprint Communication Company L.P. through the DuPage County Division of Transportation, and one copy to the Treasurer, Auditor, Finance Department, State's Attorney's Office Attention: Nancy Carroll Zimmer, and the DuPage County Division of Transportation.

Dated at Wheaton, Illinois this 9th day of November, 1999.



Robert J. Schillerstrom, Chairman
DuPage County Board

ATTEST:



Gary A. King, County Clerk

Ayes: 20
Absent: 4

REIMBURSEMENT AGREEMENT

THIS REIMBURSEMENT AGREEMENT ("Agreement") is made and entered into and effective this 9th day of November, 1999, by and between Sprint Communications Company L. P. (hereinafter referred to as "Sprint"), whose mailing address is 6100 Sprint Parkway, Mail Stop 2A718, Overland Park, Kansas 66215-0001, and DuPage County (hereinafter referred to as "County") whose mailing address is 421 N. County Farm Road, Wheaton, IL. 60187.

WITNESSETH:

WHEREAS, County desires to build grade separation at County Farm Road on the route of the Union Pacific Railroad right of way, ("Project"), and pursuant to its easement, Sprint owns fiber optic cable within the aforementioned right of way.

WHEREAS, as a result of the construction for the Project, it is necessary for Sprint to protect Fiber Optic Cable within the aforementioned right of way, in accordance with, and as more particularly described, in the attached Exhibits A (Engineering Drawing) and B (Scope of Work), and incorporated herein; and,

WHEREAS, Sprint, under the terms hereinafter stated, is willing to protect its fiber optic cable within the Railroad right of way, and to accommodate County's work provided County reimburses Sprint for all of its actual costs in making such modifications.

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained, Sprint hereby agrees to perform the necessary protection work in accordance with the attached Exhibits A and B subject to the following terms and provisions:

1. County agrees that Exhibits A and B represent the Scope of Work requested of Sprint.
2. County shall, at its own expense, inspect any construction by Sprint hereunder, to assure itself that Sprint work is being performed in compliance with the needs of County.
3. County agrees to bear all actual costs incurred by Sprint and relating to the above referenced protection work, including, but not limited to, labor, materials, construction, administrative overhead, engineering review work, taxes and legal fees.
4. The total cost of the fiber optic cable work is estimated to be One Hundred Seventy Six Thousand Five Hundred and Nine Dollars and Seventy-Five Cents (\$176,509.75) (Exhibit C). Final actual costs may be more or less than such estimate, which shall not be construed as a limitation of costs for such project. Sprint shall provide notice within 60 days to County if it becomes obvious to Sprint that the final actual costs will exceed the foregoing by more than fifteen percent (15%).
5. Within 90 days after Sprint pays all of the invoices associated with the Project and the as-built drawings are complete, Sprint shall furnish an accounting of final actual costs and provide County an invoice of the same. County shall pay the full amount of such invoice within thirty (30) days after receipt.
6. County and Sprint mutually agree that all operations and work performed by County above or adjacent to the fiber optic cable location shall be performed in a workmanlike and safe manner and in conformance with all applicable industry standards and government regulations. No work shall be performed within the existing right of way by County, as it relates to the proposed project, until the fiber optic cable modification has been completed as it.
7. Exclusive of Saturday, Sunday and legal holidays, notice shall be given to Sprint by County, at least 48 hours in advance of commencement of any work on or adjacent to the fiber optic cable. Said notice shall be given to Sprint at telephone number 1-800-521-0579.

ARN: 27045
PN: 135385

8. In the event either party breaches any of the terms, covenants or provisions of this Agreement, and the other party commences litigation to enforce any provisions of this Agreement or of the aforesaid easements, the cost of attorney's fees and the attendant expenses will be payable to the prevailing party upon demand.

9. Insofar as it legally may, County agrees to indemnify and hold harmless Sprint, its officers directors, agents and employees from all loss, claims, liability and costs incurred by Sprint, including, without limitation, losses resulting from claims for damages to property or injuries to or death of persons, judgments, court costs and attorney's fees, which arise out of or are claimed to have arisen out of the acts or omissions of County, its contractors, agents, or employees with respect to the Project, including the construction, maintenance, presence on the right of way, or other operations or activities of County.

10. It is expressly understood by the parties hereto that Sprint is not abandoning any right, title or interest it may have in the above described land.

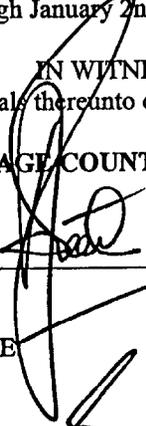
11. This Agreement supersedes every antecedent or concurrent oral and/or written declaration and/or understanding pertaining to the fiber optic cable modification work by and between Sprint and County.

12. The terms of this Agreement shall be binding and inure to the benefits of the parties hereto and their successors and assigns.

13. Notwithstanding anything to the contrary contained herein, Sprint will not be required to perform any cable modification work contemplated by this Agreement during the period of November 15th of any year through January 2nd of the following year.

IN WITNESS WHEREOF, the parties have caused these presents to be executed by their proper officials thereunto duly authorized as of the dates below indicated.

DUPAGE COUNTY

BY: 

TITLE

DATE: Gary A Hoag

WITNESS:

SPRINT COMMUNICATIONS COMPANY L.P.

BY: Brian C. Jordan

Brian C. Jordan

TITLE: Acting Director of Acquisition and Administration

DATE: 11/05/99

WITNESS: John h. Stoddart

