



Office of the City Manager
5200 Emerald Parkway • Dublin, OH 43017
Phone: 614-410-4400

Memo

To: Members of Dublin City Council
From: Dana L. McDaniel, City Manager 
Date: February 19, 2015
Initiated By: Megan O'Callaghan, PE, Director of Public Service
Mandy K. Bishop, PE, Bridge Street District Program Management Consultant

Re: Resolution No. 23-15 - Authorizing the City Manager to Enter into a Pipeline Relocation Agreement with Columbia Gas of Ohio, Inc. to Relocate Pipeline for the Construction of the SR 161 / Riverside Drive Intersection Improvement

Summary

The City of Dublin ("City") is preparing to improve the intersection of State Route 161 and Riverside Drive ("Project"). The Project provides for the construction of a multi-lane roundabout with appropriate pedestrian facilities. The southbound bypass lane will be retained and a shared use path will be incorporated in the underpass area to provide a north/south connection adjacent to the river. The project also builds a shared use path connection on the east side of Riverside Drive between the intersection and Martin Road.

Staff has worked closely with Columbia Gas of Ohio, Inc. ("Columbia Gas") to design and relocate Columbia Gas facilities along Riverside Drive in order to construct the Project. Columbia Gas has agreed to relocate thirty (30) feet of 2" gas line that exists in an easement owned by Columbia Gas outside of the right-of-way of Riverside Drive. The relocation is needed due to the construction of the shared use path connection to Martin Road. The estimated cost to perform this relocation is \$18,519. Columbia Gas requires advance deposit of these funds.

Recommendation

Staff recommends approval of Resolution 23-15, authorizing the City Manager to enter into a Pipeline Relocation Agreement in substantially the same form as attached, accept the estimated relocation costs, and authorize Columbia Gas to advance utility relocation in order to build the Project.

RECORD OF RESOLUTIONS

Dayton Legal Blank, Inc., Form No. 30045

23-15

Resolution No. _____

Passed _____

, 20 _____

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PIPELINE RELOCATION AGREEMENT WITH COLUMBIA GAS OF OHIO, INC. TO RELOCATE PIPELINE FOR THE CONSTRUCTION OF THE SR 161/ RIVERSIDE DRIVE INTERSECTION IMPROVEMENT

WHEREAS, the City of Dublin's adopted 2015-2019 Capital Improvements Program includes the construction of the SR 161/Riverside Drive Intersection Improvement; and

WHEREAS, the City of Dublin has worked closely with Columbia Gas of Ohio, Inc. to lower Columbia Gas of Ohio, Inc. facilities along Riverside Drive in order to construct the SR 161/Riverside Drive Intersection Improvement; and

WHEREAS, the City of Dublin has agreed to assume one hundred percent (100%) of the cost to relocate the underground facilities as Columbia Gas of Ohio, Inc. facilities are currently located outside of existing right-of-way in an easement, wholly owned by Columbia Gas of Ohio, Inc.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Dublin, _____ of its elected members concurring, that:

Section 1. The City Manager is hereby authorized to enter into a Pipeline Relocation Agreement for the payment of the costs to relocate pipeline for construction of a shared use path as part of the SR 161/Riverside Drive Intersection Improvement project, in substantially the same form as attached, with changes not inconsistent with this Resolution and not substantially adverse to this City and which shall be approved by the City Manager and Director of Finance. The approval of changes thereto by those officials, and their character as not being substantially adverse to the City, shall be evidenced conclusively by their execution thereof.

Section 2. The City Manager, the Clerk of Council, the Director of Law, the Director of Finance, Director of Public Service, Director of Engineering or other appropriate officers of the City are hereby authorized to prepare and sign all agreements and instruments and to take any other actions as may be appropriate to implement this Resolution. The City Manager and the Director of Finance are also authorized, for and in the name of the City, to execute any amendments to the Pipeline Relocation Agreement, which amendments are not inconsistent with the Resolution and not substantially adverse to this City.

Section 3. This Resolution shall take effect upon adoption in accordance with Section 4.04(a) of the Revised Charter.

Passed this _____ day of _____, 2015.

Mayor - Presiding Officer

ATTEST:

Clerk of Council

Pipeline Relocation Agreement

This Pipe Relocation Agreement (“Agreement”) is made as of the 26th of January, 2015, by and between Columbia Gas of Ohio, Inc., an Ohio corporation with offices at 3550 Johnny Appleseed Ct. Columbus, OH 43231, hereinafter referred to as “Columbia,” and City of Dublin, whose address is 5800 Shier-Rings Rd. Dublin, OH 43016, hereinafter referred to as “Requestor.” Columbia and Requestor are each a “Party” and collectively referred to as “the Parties.”

Witnesseth

WHEREAS, Columbia owns and operates a 2 inch pipeline, located on the east side of Riverside Dr., South of State Route 161, in Dublin, Franklin County, Ohio; and

WHEREAS, Requestor wishes to have a portion of the pipeline and any related pipeline facilities relocated in order to permit certain construction or other activity in the vicinity of said pipeline, and Columbia is willing to relocate a portion of the pipeline subject to the conditions set forth below.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and intending to be legally bound, the Parties hereby agree as follows:

1. Requestor requests relocation of Columbia’s pipeline and any related pipeline facilities as follows: relocation of approximately 30-feet of 2-inch plastic gas main via open cut to allow for the construction of a wall as part of the SR 161/Riverside Dr. roundabout project. Requestor shall pay one hundred percent (100%) of any and all direct and indirect costs associated with the pipeline relocation.

2. Requestor shall deposit the sum of \$18,519.00 (the “Deposit”) with Columbia, which sum is an estimated cost of relocating Columbia’s pipeline. Said cost of relocation shall include any and all costs including, but not limited to, cost of right-of-way acquisition, permit fees, materials, contractor mobilization, and labor. Requestor acknowledges and agrees that the Deposit is based upon both the information available and circumstances known to Columbia as of the date of the execution of this Agreement. Requestor further agrees and acknowledges that the Deposit may be increased, pursuant to this Paragraph 2 and Paragraph 3 below. If Requestor cancels or postpones its contemplated construction project or other activity, Requestor shall reimburse Columbia for all costs (direct and indirect) expended or obligated at the time of cancellation or postponement, including costs which may have to be expended to restore the Requestor’s, Columbia’s or any third party’s premises to their original condition, all such amounts to be deducted from the Deposit. Any such costs which exceed the Deposit shall be payable by Requestor immediately upon notice from Columbia. Notwithstanding any other provision of this Agreement, if the pipeline relocation is not completed within 6 months of the execution of this Agreement, Columbia reserves the right to increase the Deposit. Upon notice from Columbia, Requestor shall promptly pay such additional sum to Columbia. Columbia may

retain the Deposit until the completion of the work contemplated under this Agreement. Unless otherwise required by law or order of any governmental body having jurisdiction over Columbia, Columbia shall not be required to pay interest, carrying charges, or any other amounts related to the Deposit.

3. Upon execution of this Agreement by both Parties and the receipt of the Deposit from Requestor, Columbia agrees to begin plans for said pipeline relocation. Columbia will physically relocate said pipeline and any related pipeline facilities as mutually agreed only when all necessary rights-of-way have been secured and all material is available. Columbia will not commence the relocation project until such time as such pipeline relocation work will not impair the operation of Columbia's gas distribution system or its service to its customers. Columbia is not responsible for any Requestor losses of any kind resulting from work delays or cancellation, or delay or refusal by a governmental entity to issue any necessary permit. This Agreement may be suspended, the Deposit amount may be increased by Columbia, or the terms of this Agreement renegotiated by Columbia, due to adverse digging or soil (e.g. ledge, hazardous materials, etc.) conditions, or delay or denial of necessary permits.

4. Upon Columbia's request, Requestor agrees to enter into a Right of Way Agreement with Columbia in which Requestor shall grant to Columbia all necessary easements or rights of way on property owned by Requestor at no cost to Columbia. Requestor agrees to hold Columbia harmless from any and all claims, liens or encumbrances upon the easements or rights of way granted pursuant to such Right of Way Agreement. Requestor shall also cooperate with and compensate Columbia for acquiring any necessary easements or rights of way on property owned by third parties that are not in a public street or way. Columbia shall not be obligated to undertake the pipeline relocation and this Agreement shall be terminated at the sole discretion of Columbia if: (i) Requestor fails to timely enter into the Right of Way Agreement with Columbia, referenced above; or (ii) Columbia is not able to obtain necessary third party easements or rights of way upon terms and conditions (including cost) agreeable to Columbia. In the event of such termination, Requestor shall be responsible for all costs expended by Columbia and/or which Columbia is obligated to expend in connection with the relocation project and the termination of such project. Any such costs which exceed the Deposit shall be payable by Requestor immediately upon notice from Columbia.

5. To the extent any portion of the pipeline relocation occurs on Requestor's property or property it or an affiliate controls, the Requestor at its own expense, shall (i) respond to reasonable requests of Columbia, its representatives and any governmental authorities or administrative agencies to provide all necessary information describing the physical characteristics of the property, including surveys, site elevations, legal and other required investigations and the like which it may have now or in the future; (ii) mark and identify for Columbia, the correct locations of all underground facilities (e.g., septic systems, sprinkler systems, water lines electric lines, propane tanks and lines, etc.) owned by the Requestor and/or others at or about the property; (iii) notify Columbia of any condition on or about the property which could affect the work contemplated hereunder; and (iv) cooperate with Columbia to obtain all necessary approvals, site plan reviews, permits, required for Columbia to carry out its work and obligations hereunder. Columbia shall not be obligated to undertake the pipeline relocation and this Agreement shall be terminated at the discretion of Columbia if Requestor fails to satisfy

its obligations as set forth in this Section 5. In the event of such termination, Requestor shall be responsible for all costs expended by Columbia and/or which Columbia is obligated to expend in connection with the relocation project and the termination of such project. Any such costs which exceed the Deposit shall be payable by Requestor immediately upon notice from Columbia.

6. Upon completion of said pipeline relocation, Columbia shall, within a reasonable time, submit to Requestor a statement showing the actual cost thereof. If the actual (direct and indirect) cost of said pipeline relocation is more than the amount of the Deposit, Requestor shall promptly pay the difference between the actual costs and the Deposit, to Columbia. Requestor will make such reimbursement payment to Columbia within thirty (30) days of receipt of the invoice. Late payments will bear interest at a rate of 1.0% a month, which equals an annual percentage rate of 12%. If the actual cost is less than the amount of the Deposit, Columbia shall promptly return to Requestor the difference between the Deposit and the actual costs.

7. To the extent allowed by law, and except and to the extent of Columbia's gross negligence or willful misconduct, Requestor shall indemnify and hold harmless Columbia, its parent, subsidiary, affiliate corporations, its owner, agents, officers, directors and employees, contractors and subcontractors and each of them, from and against any and all losses, damages, and/or liability for claims, demands, suits or causes of action in law or in equity for damages and injury, including death, attorneys' fees, costs, expenses of every kind and nature whether to persons or property, arising out of or in any manner related to the relocation and/or replacements of the pipeline and any related pipeline facilities hereunder. Requestor further agrees to defend all such claims, demands, suits or causes of action at its own costs and expense without reimbursement from Columbia. In no event shall Columbia be liable to the Requestor or any other party for any indirect, consequential, punitive, or special damages, by reason of any services performed, or undertaken to be performed hereunder.

8. All questions with respect to the interpretation and construction of this Agreement and the rights and liabilities of the Parties hereunder shall be determined in accordance with the applicable laws of Ohio without regard to the law of conflicts or any choice of law provisions that would direct the application of the laws of another jurisdiction. Any legal action or in any way related to or arising from this Agreement shall be brought and heard only in a court of competent jurisdiction located in the Franklin County, Ohio. This Agreement contains the entire agreement between the Parties concerning the relocation work, and no modification of this Agreement will be binding unless approved in writing by both Parties. Requestor may not assign this Agreement without express written consent from Columbia. Such consent may be withheld by Columbia in its sole discretion. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid such provision shall be deemed modified so as to be no longer invalid and, all of the remaining provisions of this Agreement shall remain in full force and effect. The recitals set forth in this Agreement are an integral part hereof and shall have the same contractual significance as any other language contained in this Agreement. No provision of this Agreement shall be interpreted more or less favorably towards either Party because its counsel drafted all or a portion hereof.

Requestor represents and warrants that it has requisite authority to enter into this Agreement and that its representative signing this Agreement is authorized to bind and obligate the Requestor to

the terms of this Agreement. This Agreement may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, but all of which together shall constitute one instrument. Facsimile and pdf signatures to this Agreement shall be legally binding and considered in all manner and respects as original signatures.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

WITNESS:

REQUESTOR

Signature

Authorized Signature

Print Name

Title

WITNESS

COLUMBIA GAS OF OHIO, INC.

Signature

Authorized Signature

Print Name

Title