

Office of the City Manager 5555 Perimeter Drive • Dublin, OH 43017-1090 Phone: 614.410.4400 • Fax: 614.410.4490



- To: Members of Dublin City Council
- From: Dana L. McDaniel, City Manager
- Date: July 21, 2020
- **Initiated By:** Paul A. Hammersmith, P.E., Director of Engineering/City Engineer Michael S. Sweder, P.E., Interim Engineering Manager
 - Re: Ordinance No. 17-20 Authorizing the City Manager to Execute Necessary Conveyance Documents to convey perpetual gas line easements and temporary construction easements to Columbia Gas of Ohio, Inc., and to accept payment for the same.

Summary

Columbia Gas of Ohio, Inc. ("Columbia") approached the City and requested two perpetual gas line easements and associated temporary construction easements over the following parcels located in Franklin County: 273-001905-00 and 273-001896-00; and on the following parcel located in Union County: 3900010040000 (together, "the City's Property") as depicted on the attached location map. Columbia needs the easements in order to upsize and improve its system in the area and to service new developments near the City's property. The City worked with Columbia to first and foremost confirm that the easements and gas line on the City's Property will not affect any current or future improvements or development, and the City—through its Engineering and Economic Development Divisions—has confirmed these easements will not be an impediment to any future development on the parcels.

The easement agreements, which include legal descriptions and legal surveys depicting the location and size of the easements, are attached hereto for convenience and reference.

The City requested that Columbia compensate the City for these easements. Accordingly, Columbia provided the City with appraisal reports for the easements. The City retained its own appraisers to review Columbia's appraisal reports. Ultimately, the parties agreed to compensation of \$130,738 for the various easement rights.

Recommendation

Staff recommends adoption of Ordinances No. 17-20, at the second reading/public hearing on August 10, 2020, as this ordinance authorizes the City Manager to execute all necessary conveyance and contract documents to formally convey the easements to Columbia and accept compensation of the same.

RECORD OF ORDINANCES

BARRETT	BROTHERS	- DAYTON,	OHIO

Form 6220S

17-20 *Ordinance No.*

Passed_

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE NECESSARY CONVEYANCE DOCUMENTS TO CONVEY PERPETUAL GAS LINE EASEMENTS AND TEMPORARY CONSTRUCTION EASEMENTS TO COLUMBIA GAS OF OHIO, INC., AND TO ACCEPT PAYMENT FOR THE SAME.

WHEREAS, Columbia Gas of Ohio, Inc. ("Columbia") requested perpetual gas line easements and associated temporary construction easements over the following parcels located in Franklin County: 273-001905-00 and 273-001896-00; and the on the following parcel located in Union County: 3900010040000 (together, "the City's Property") for the construction of a gas line; and

WHEREAS, Columbia needs the requested easements to upsize and improve its system in the area and to service new developments near the City's Property; and

WHEREAS, Columbia had the easements appraised; and the City engaged a real estate appraiser to review Columbia's appraisal; and

WHEREAS, based on that review, it was determined and agreed that Columbia shall pay to the City \$130,738 for the easements.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Dublin, Delaware, Franklin, and Union Counties, State of Ohio, _____ of the elected members concurring that:

Section 1. The City Manager is hereby authorized to execute all necessary documents to convey the perpetual gas line easements and temporary construction easements to Columbia Gas of Ohio, Inc., and to accept a payment of \$130,738 for the same.

Section 2. Council further hereby authorizes and directs the City Manager, the Director of Law, the Director of Finance, the Clerk of Council, or other appropriate officers of the City to take any other actions as may be appropriate to implement this Ordinance without further legislation being required.

Section 3. This Ordinance shall take effect in accordance with 4.04(b) of the Dublin Revised Charter.

Passed this ______ day of ______, 2020.

Mayor - Presiding Officer

ATTEST:

Clerk of Council

City of Dublin





Portion above reserved for County Recorder, Engineer and Auditor's Offices Use

PERPETUAL GAS LINE EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT

THIS PERPETUAL GAS LINE EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT (the "Easement Agreement") is made and entered into this 18th day of 2020, by and between the CITY OF DUBLIN, OHIO, ("Grantor"), an Ohio municipal corporation whose tax mailing address is 5200 Emerald Parkway, Dublin, Ohio 43017, and COLUMBIA GAS OF OHIO, INC. ("Grantee"), with principal offices at 290 West Nationwide Boulevard, Columbus, Ohio 43215.

BACKGROUND INFORMATION

WHEREAS, Grantor owns the real property identified as Franklin County parcel numbers 273-001905-00 and 273-001896-00 and conveyed to Grantor pursuant to Instrument Numbers 201202020015716 and 200710300187803, in the Franklin County Recorder's Office (the "Grantor's Property"); and

WHEREAS, Grantee desires a perpetual easement for the right to lay pipelines, including lateral pipeline connections, together with service connections, and to operate and maintain, repair, replace, or change the size of its pipes under and through those portions of the Grantor's Property depicted on the attached Exhibit A (the "Permanent Easement Area"); and

WHEREAS, Grantee desires a temporary easement rights for initial construction purposes only under and through those portions of the Grantor's Property depicted on the attached Exhibit A (the "Temporary Easement Area"); and

WHEREAS, Grantor is granting a perpetual easement through and under the Permanent Easement Area and a temporary easement through and under the Temporary Easement Area for the benefit of Grantee upon the terms and conditions set forth in this Easement Agreement.

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STATEMENT OF AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the foregoing Background Information and as follows:

Grant of Permanent Easement. Grantor conveys and grants to Grantee, its agents, 1. employees, independent contractors, and successors and assigns, a perpetual, non-exclusive easement through and under the Permanent Easement Area to lay pipelines, including lateral pipeline connections, together with service connections, and to operate and maintain, repair, replace, or change the size of its pipes and remove same, together with valves and other necessary appurtenances. All pipes, pipelines, service connections, valves, and other necessary appurtenances shall be buried so as not to interfere with the present use of the land. Grantee, as soon as reasonably practicable after installation of the pipes, including any alterations and repairs thereto, shall cause the Permanent Easement Area to be restored to its former condition as nearly as is reasonably practicable. Grantor has the right to enter on the Permanent Easement Area for any purpose provided such entry by Grantor does not in any way impair or hinder the rights granted to Grantee in this Easement Agreement. Grantor may construct above-ground improvements within the Permanent Easement Area, including, but not limited to, shared-use paths, sidewalks, and shrubbery. Grantee has the reasonable right of ingress and egress over limited portions of Grantor's Property to the extent such ingress and egress is essential and reasonable to exercise Grantee's rights under this Easement Agreement.

2. Grant of Temporary Easement. Grantor conveys and grants to Grantee, its agents, employees, independent contractors, and successors and assigns, a temporary, non-exclusive easement through and under the Temporary Easement Area only for purposes of the initial construction pipes and other facilities to be constructed within the Permanent Easement Area. The temporary easement shall expire upon the sooner of: (1) substantial completion of the construction within the Permanent Easement Area; or (2) six (6) months from the date this Easement Agreement is recorded with the County Recorder's Office. The expiration of the temporary easement shall be automatic; the parties are not required to file any additional documentation or agreements to memorialize the automatic expiration of the temporary easement. Grantee shall cause the Temporary Easement Area to be restored to its former condition as nearly as is reasonably practicable. Grantor has the right to enter on the Temporary Easement Area for any purpose provided such entry by Grantor does not in any way impair or hinder the rights granted to Grantee in this Easement Agreement. Grantor may construct above-ground improvements within the Temporary Easement Area, including, but not limited to, shared-use paths, sidewalks, and shrubbery.

3. <u>Relationship of Parties</u>. Nothing contained herein shall be deemed or construed by the parties or by any third party as creating the relationship of principal and agent, of partnership or of joint venture between the parties, it being understood and agreed that no provision contained herein or any act of the parties hereto shall be deemed to create any relationship other than grantor and grantee of the rights and easements set forth herein.

4. <u>Waiver</u>. Except to the extent that a party may have otherwise agreed in writing, no waiver by such party of any breach of the other party of any of its obligations, agreements, or covenants hereunder shall be deemed to be a waiver of any subsequent breach of the same or of any other covenants, agreements or obligations, nor shall any forbearance by a party to seek a remedy for any breach by the other party be deemed a waiver of any rights or remedies with respect to such breach or any similar breach in the future.

5. <u>Severability</u>. In the event any provision of this Easement Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

6. <u>Captions and Pronoun Usage</u>. The captions and section numbers in this Easement Agreement are for convenience only and shall not be deemed to be a part hereof. The pronouns used herein shall be considered as meaning the person, number, and gender appropriate under the circumstances at any given time.

7. <u>Governing Law</u>. This Easement Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

8. <u>Modification</u>. Unless otherwise provide, this Easement Agreement, or any easement rights or covenant set forth herein, may not be amended, terminated, rescinded or otherwise modified, in whole or in part, except by a written instrument executed by the parties hereto and recorded with the Recorder's Office, Franklin County, Ohio with reference made to this Easement Agreement.

9. <u>Benefit</u>. This Easement Agreement and the permanent easement rights conveyed herein shall run with the land and inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, representatives, successors and assigns. The temporary easement rights within the Temporary Easement Area shall not run with the land nor inure to the benefit of nor be binding upon the parties hereto after it is automatically terminated.

10. <u>Authority</u>. Grantor and Grantee represent and warrant that they have the full right and authority to enter into this Easement Agreement.

11. <u>Indemnification</u>. Grantee agrees to indemnify, defend, and hold harmless Grantor from and against any and all losses, liabilities, claims and damages, costs and expenses (including reasonable attorneys' fees and costs) arising from Grantor's construction, operation, maintenance, repair, and/or replacement of the pipeline.

{SIGNATURES ON THE FOLLOWING PAGE}

Executed this 18th day of June, 2020.

GRANTOR:

City of Dublin, Ohio, an Ohio municipal corporation

GRANTEE:

Columbia Gas of Ohio, Inc., an Ohio corporation for profit

Dana L. McDaniel, City Manager

By: Chert VMoong Its: Print name:

{ACKNOWLEDGEMENTS ON THE FOLLOWING PAGE}

State of Ohio)County of Franklin) SS:

BE IT REMEMBERED, that on this _____ day of ______, 2020, before me, the subscriber, a Notary Public in and for said county and state, personally came Dana L. McDaniel, City Manager of the CITY OF DUBLIN, OHIO, an Ohio municipal corporation, who acknowledged the signing thereof to be his free act and deed for and on behalf of the municipal corporation.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

Notary Public

STATE OF OHIO) COUNTY OF Frankly) SS:

BE IT REMEMBERED that on this 18th day of 1000, 2020, before me, the subscriber, a Notary Public in and for said County, personally came the above named **Robert V Mooney**, the **VP-Eve Const-Serv**on behalf of Grantee, Columbia Gas of Ohio, Inc., in the foregoing, and acknowledged the signing of the same to be his/her voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, on the day and year last aforesaid.

Notary Public

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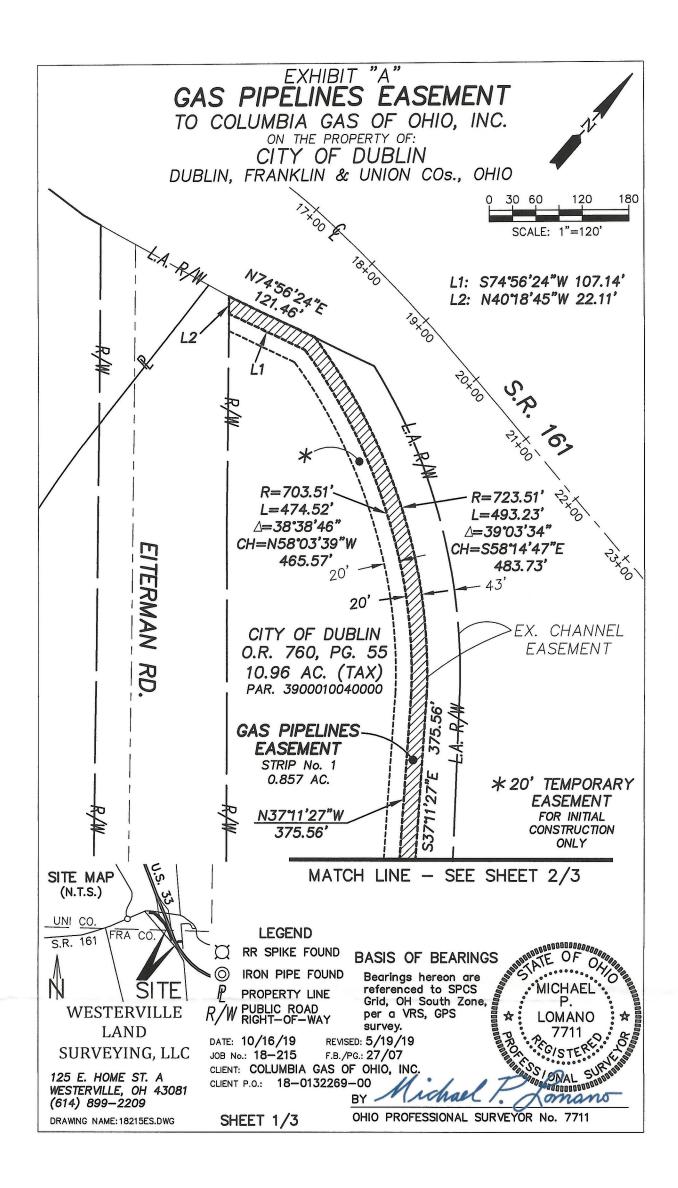
This Instrument Prepared By: Frost Brown Todd LLC One Columbus 10 West Broad Street Columbus, Ohio 43215

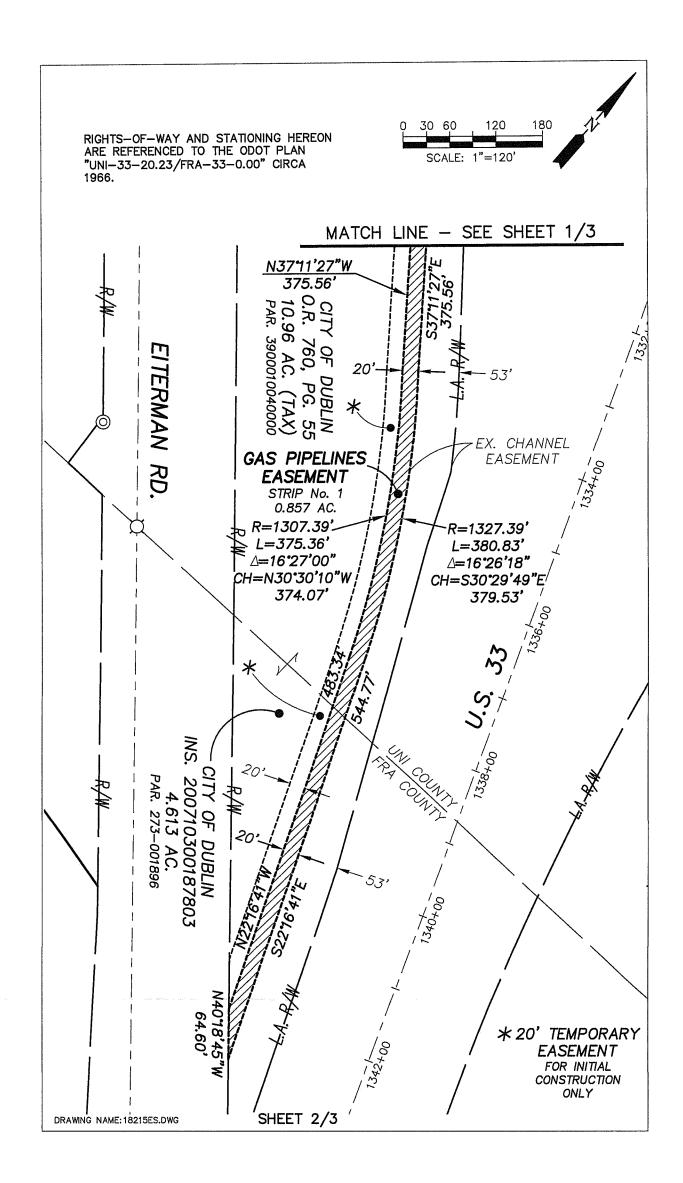


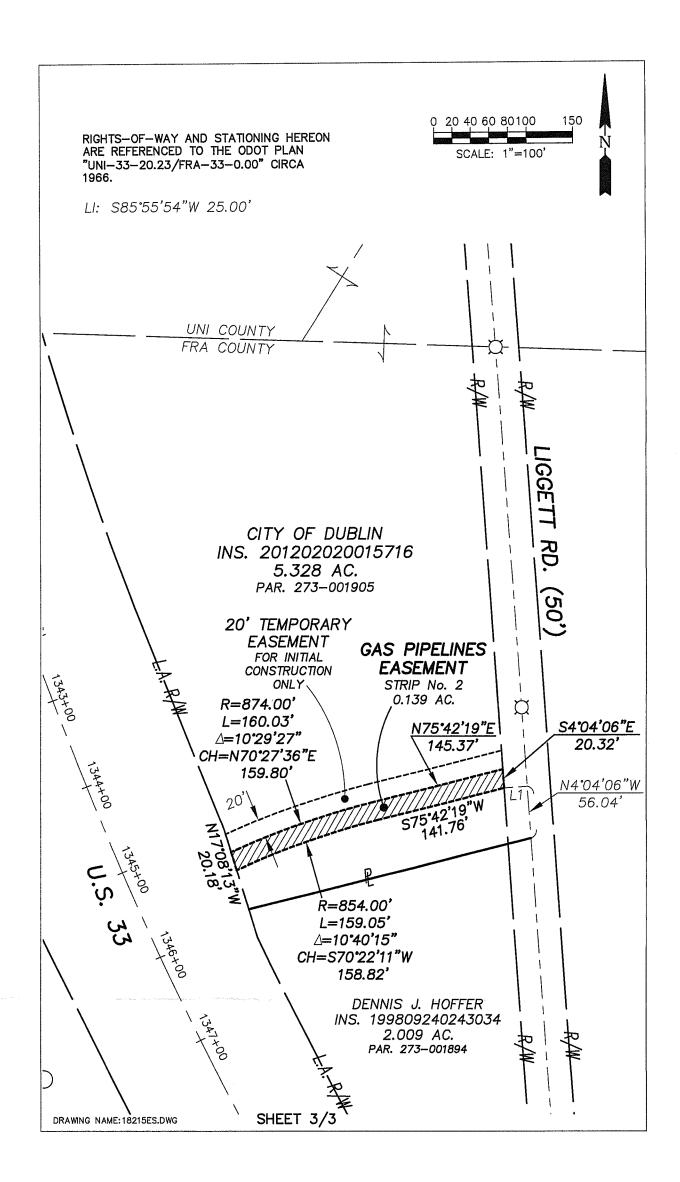
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Eve D. Kelly Notary Public In and For the State of Ohio Recorded in Delaware County My Commission Expires 21 November 2022

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Portion above reserved for County Recorder, Engineer and Auditor's Offices Use

PERPETUAL GAS LINE EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT

THIS PERPETUAL GAS LINE EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT (the "Easement Agreement") is made and entered into this 10th day of 2020, by and between the CITY OF DUBLIN, OHIO, ("Grantor"), an Ohio municipal corporation whose tax mailing address is 5200 Emerald Parkway, Dublin, Ohio 43017, and COLUMBIA GAS OF OHIO, INC. ("Grantee"), with principal offices at 290 West Nationwide Boulevard, Columbus, Ohio 43215.

BACKGROUND INFORMATION

WHEREAS, Grantor owns the real property identified as Union County parcel number 3900010040000, having a Union County map number of 1460000015000, and conveyed to Grantor pursuant to O.R. 760, Page 055, in the Union County Recorder's Office (the "Grantor's Property"); and

WHEREAS, Grantee desires a perpetual easement for the right to lay pipelines, including lateral pipeline connections, together with service connections, and to operate and maintain, repair, replace, or change the size of its pipes under and through those portions of the Grantor's Property depicted on the attached Exhibit A (the "Permanent Easement Area"); and

WHEREAS, Grantee desires a temporary easement rights for initial construction purposes only under and through those portions of the Grantor's Property depicted on the attached Exhibit A (the "Temporary Easement Area"); and

WHEREAS, Grantor is granting a perpetual easement through and under the Permanent Easement Area and a temporary easement through and under the Temporary Easement Area for the benefit of Grantee upon the terms and conditions set forth in this Easement Agreement.

STATEMENT OF AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the foregoing Background Information and as follows:

Grant of Permanent Easement. Grantor conveys and grants to Grantee, its agents, 1. employees, independent contractors, and successors and assigns, a perpetual, non-exclusive easement through and under the Permanent Easement Area to lay pipelines, including lateral pipeline connections, together with service connections, and to operate and maintain, repair, replace, or change the size of its pipes and remove same, together with valves and other necessary appurtenances. All pipes, pipelines, service connections, valves, and other necessary appurtenances shall be buried so as not to interfere with the present use of the land. Grantee, as soon as reasonably practicable after installation of the pipes, including any alterations and repairs thereto, shall cause the Permanent Easement Area to be restored to its former condition as nearly as is reasonably practicable. Grantor has the right to enter on the Permanent Easement Area for any purpose provided such entry by Grantor does not in any way impair or hinder the rights granted to Grantee in this Easement Agreement. Grantor may construct above-ground improvements within the Permanent Easement Area, including, but not limited to, shared-use paths, sidewalks, and shrubbery. Grantee has the reasonable right of ingress and egress over limited portions of Grantor's Property to the extent such ingress and egress is essential and reasonable to exercise Grantee's rights under this Easement Agreement.

Grant of Temporary Easement. Grantor conveys and grants to Grantee, its agents, 2. employees, independent contractors, and successors and assigns, a temporary, non-exclusive easement through and under the Temporary Easement Area only for purposes of the initial construction pipes and other facilities to be constructed within the Permanent Easement Area. The temporary easement shall expire upon the sooner of: (1) substantial completion of the construction within the Permanent Easement Area; or (2) six (6) months from the date this Easement Agreement is recorded with the County Recorder's Office. The expiration of the temporary easement shall be automatic; the parties are not required to file any additional documentation or agreements to memorialize the automatic expiration of the temporary easement. Grantee shall cause the Temporary Easement Area to be restored to its former condition as nearly as is reasonably practicable. Grantor has the right to enter on the Temporary Easement Area for any purpose provided such entry by Grantor does not in any way impair or hinder the rights granted to Grantee in this Easement Agreement. Grantor may construct above-ground improvements within the Temporary Easement Area, including, but not limited to, shared-use paths, sidewalks, and shrubbery.

3. <u>Relationship of Parties</u>. Nothing contained herein shall be deemed or construed by the parties or by any third party as creating the relationship of principal and agent, of partnership or of joint venture between the parties, it being understood and agreed that no provision contained herein or any act of the parties hereto shall be deemed to create any relationship other than grantor and grantee of the rights and easements set forth herein.

4. <u>Waiver</u>. Except to the extent that a party may have otherwise agreed in writing, no waiver by such party of any breach of the other party of any of its obligations, agreements, or covenants hereunder shall be deemed to be a waiver of any subsequent breach of the same or of any other covenants, agreements or obligations, nor shall any forbearance by a party to seek a remedy for any breach by the other party be deemed a waiver of any rights or remedies with respect to such breach or any similar breach in the future.

5. <u>Severability</u>. In the event any provision of this Easement Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

6. <u>Captions and Pronoun Usage</u>. The captions and section numbers in this Easement Agreement are for convenience only and shall not be deemed to be a part hereof. The pronouns used herein shall be considered as meaning the person, number, and gender appropriate under the circumstances at any given time.

7. <u>Governing Law</u>. This Easement Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

8. <u>Modification</u>. Unless otherwise provide, this Easement Agreement, or any easement rights or covenant set forth herein, may not be amended, terminated, rescinded, or otherwise modified, in whole or in part, except by a written instrument executed by the parties hereto and recorded with the Recorder's Office, Union County, Ohio with reference made to this Easement Agreement.

9. <u>Benefit</u>. This Easement Agreement and the permanent easement rights conveyed herein shall run with the land and inure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, representatives, successors and assigns. The temporary easement rights within the Temporary Easement Area shall not run with the land nor inure to the benefit of nor be binding upon the parties hereto after it is automatically terminated.

10. <u>Authority</u>. Grantor and Grantee represent and warrant that they have the full right and authority to enter into this Easement Agreement.

11. <u>Indemnification</u>. Grantee agrees to indemnify, defend, and hold harmless Grantor from and against any and all losses, liabilities, claims and damages, costs and expenses (including reasonable attorneys' fees and costs) arising from Grantor's construction, operation, maintenance, repair, and/or replacement of the pipeline.

{SIGNATURES ON THE FOLLOWING PAGE}

Executed this 18th day of June,

GRANTOR:

City of Dublin, Ohio, an Ohio municipal corporation

GRANTEE:

Columbia Gas of Ohio, Inc., an Ohio corporation for profit

2020.

By: 190

Dana L. McDaniel, City Manager

{ACKNOWLEDGEMENTS ON THE FOLLOWING PAGE}

State of Ohio)County of Franklin) SS:

BE IT REMEMBERED, that on this _____ day of _____, 2020, before me, the subscriber, a Notary Public in and for said county and state, personally came Dana L. McDaniel, City Manager of the CITY OF DUBLIN, OHIO, an Ohio municipal corporation, who acknowledged the signing thereof to be his free act and deed for and on behalf of the municipal corporation.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

Notary Public

STATE OF OHIO) COUNTY OF Franklin) SS:

BE IT REMEMBERED that on this <u>10</u> day of <u>June</u>, 2020, before me, the subscriber, a Notary Public in and for said County, personally came the above named **Robert V. Mcone**, the <u>VP-Engineering</u> on behalf of Grantee, Columbia Gas of Ohio, Inc., in the foregoing, and acknowledged the signing of the same to be his/her voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal, on the day and year last aforesaid.

Notary Public

This Instrument Prepared By: Frost Brown Todd LLC One Columbus 10 West Broad Street Columbus, Ohio 43215 BRANCE STATIS

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Eve D. Kelly Notary Public In and For the State of Ohio Recorded in Delaware County My Commission Expires 21 November 2022

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