

Job Order No. 21-85270

Pipeline Relocation Agreement

This Pipe Relocation Agreement (“Agreement”) is made as of the 2nd of February, 2022, by and between Columbia Gas of Kentucky, Inc., a Kentucky corporation with offices at 2001 Mercer Rd. Lexington, KY 40511, hereinafter referred to as “Columbia,” and the Lexington-Fayette Urban County Government (LFUCG), hereinafter referred to as “Requestor,” with offices at 125 Lisle Industrial Ave. STE. 180, Lexington, KY 40511. Columbia and Requestor are each a “Party” and collectively referred to as “the Parties.”

RECITALS

- A Columbia owns and operates a six (6) inch pipeline, located at 1901 Appomattox Road and 1000 Della Drive, in Lexington, Fayette, Kentucky.
- B 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: **Columbia Gas will remove from service all gas main in conflict with the Wolf Run Trunk E sanitary sewer project near Appomattox Road and Della Drive in Lexington Kentucky, until such time as construction associated with the Wolf Run Trunk E sanitary sewer project has progressed past the conflict area. The removal of gas main shall consist of approximately 250 feet of 6 inch plastic main, which shall be placed back into service after construction has progressed past the conflict area.** Requestor shall pay one hundred percent (100%) of any and all direct and indirect costs associated with the pipeline relocation.
2. Upon execution of this Agreement, Requestor shall deposit the sum of **\$14,786.00** (the “Deposit”) with Columbia, which sum is an estimated cost of relocating Columbia’s pipeline. Said cost of relocation includes any and all direct and indirect costs including, but not limited to, cost of right-of-way acquisition, internal costs and overhead, 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 Section 2 and Section 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 six (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. Columbia is not responsible for any Requestor losses of any kind resulting from events beyond Columbia's reasonable control, work delays or cancellation, or delay or refusal by any third party to issue any necessary permit or approval. The Deposit shall be sent to Columbia, attention of **David N. Lemons**, at **2001 Mercer Rd., Lexington, KY 40511**.

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, permits, and approvals have been secured and all material, labor and other resources are 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. 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 conditions (e.g., rock, hazardous materials, etc.), or delay or denial of any necessary permit or approval.
4. Upon Columbia's request, Requestor agrees to enter into a Right of Way Agreement with Columbia, on Columbia's standard form agreement, 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 indemnify and 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; (iv) cooperate with Columbia to obtain all necessary approvals, site plan reviews, permits, required for Columbia to carry out its work and obligations hereunder; (v) not erect or allow any dwellings, garages, out-buildings, pools, decks, man-made bodies of water, pavement and other hard surfaces, trees, shrubbery, leach beds, septic tanks, unapproved utility installations, or any other obstruction of any kind ("Encroachment") over or within the area in which said pipeline is located or otherwise reduce or inhibit Columbia's access to the pipeline unless agreed to in writing by Columbia; (vi) not place or permit to be placed any Encroachment within a temporary construction easement around and adjoining the permanent right of way area for the relocated pipeline until completion of the relocation and all restoration work by Columbia; and (vii) not to reduce the ground cover over the pipeline unless agreed to in writing by Columbia. 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 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 third 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 Kentucky 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 Lexington, Fayette County, Kentucky. 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 prior, 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. This Agreement is entered into solely for the benefit of the Parties and is not intended to confer third-party beneficiary status on any other entity or person. Nothing in this Agreement shall be deemed to constitute a joint venture, partnership, or any similar arrangement between the Parties.
9. 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, electronic and pdf signatures to this Agreement shall be legally binding and considered in all manner and respects as original signatures.
10. To the extent permitted by law, the terms of this Agreement shall be kept confidential by the Requestor, except to the extent that any information must be disclosed to a third party to comply with the valid order or subpoena of any court, legislative or executive body or regulatory agency having valid jurisdiction, or as may be otherwise required by federal, state, or local law, expressly including, but not limited to, the Kentucky Open Records Act.
11. All notices, demands and other communications required or permitted to be given under this Agreement shall be in writing and shall be effective upon receipt when: personally delivered; mailed by registered or certified United States mail, postage prepaid, return receipt requested; or sent by Federal Express or other nationally recognized courier, postage prepaid, to the parties at the addresses set out in the open paragraph of this Agreement, or at such other address as a respective party may designate from time to time pursuant to a notice duly given hereunder to the other party.
12. Unless otherwise terminated earlier in accordance with the terms of this Agreement, this Agreement shall remain in full force and effect until full and complete payment of all amounts

due under this Agreement have been paid by Requestor Notwithstanding the foregoing, Sections 2, 4, 5, 7-12 shall survive the termination or expiration of this Agreement.

[Remainder of Page Intentionally Blank. Signature Pages to Follow.]

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

REQUESTOR

Linda Gorton

Authorized Signature

Linda Gorton

Print Name

Mayor

Title

COLUMBIA GAS OF Kentucky, INC.

David N. Lemons

Authorized Signature

David N. Lemons

Print Name

Senior Field Engineer

Title