

ORDINANCE NO. 72-26

**AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A PIPELINE
RELOCATION AGREEMENT WITH COLUMBIA GAS OF OHIO, INC. IN
CONNECTION WITH THE CHESTER ROAD WIDENING PROJECT AND TO
APPROPRIATE THE FUNDS NECESSARY TO COMPLETE THE PROJECT
AND DECLARING AN EMERGENCY.**

WHEREAS, Council, on April 27, 2026 passed Ord. No. 34-26 authorizing an agreement with R-7 Motors, Inc. to improve a section of Chester Road, east of Jaycox Road up to and including the Heider Ditch culvert; and

WHEREAS, part of this improvement project involves the relocation of a Columbia of Ohio gas pipeline on the southside of Chester Road; and

WHEREAS, in an effort to facilitate the opening of two new automobile dealerships on the R-7 Motors site on or before 2028, the city needs to enter into an agreement with Columbia of Ohio for the relocation of the gasline; and

WHEREAS, Council, having reviewed the terms of the pipeline relocation agreement finds it to be in the best interests of the health, safety, and welfare of the citizens of Avon to authorize the Mayor to enter into said agreement with Columbia Gas of Ohio, Inc. in connection with the Chester Road Widening Improvement project.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
AVON, LORAIN COUNTY, OHIO:**

Section 1 - That the Mayor is hereby authorized and directed to execute a Pipeline Relocation Agreement with Columbia Gas of Ohio, Inc. for the relocation of gas utility facilities necessary for the Chester Road Widening Project, between Jaycox Road and Heider Ditch.

Section 2 - That the agreement shall be in substantially the form presented to Council, with such revisions as may be approved by the Director of Law.

Section 3 – That the Director of Finance is hereby authorized to make payments from the Chester Road Widening Phase 4 Fund No. 487 per the agreement.

Section 4 - That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 5 - That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety, and welfare of the citizens of the City of Avon, the immediate emergency being the necessity to enter into a Pipeline Relocation

Ordinance No. 72-26 (Con't)

Agreement with Columbia Gas of Ohio, Inc. in connection with the Chester Road Widening Project; therefore this Ordinance shall be in full force and effect immediately upon its passage by this Council and approval by the Mayor.

PASSED: June 22, 2026 DATE: June 22, 2026

By: Brian Fischer
Brian Fischer, President of Council

DATE APPROVED BY THE MAYOR: June 23, 2026

Bryan K. Jensen
Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior
John A. Gasior, Law Director
City of Avon, Ohio

ATTEST:

Barbara Brooks
Barbara Brooks, Clerk of Council

POSTED: June 25, 2026
Electronically and at City Hall as
Provided by Council

Prepared by:

John A. Gasior, Esq.
Law Director

I, Barbara J. Brooks, Clerk of the Council of the City of Avon, Ohio, hereby certify this document to be a true and exact copy of Ordinance No. 72-26, passed by the Council of said City on June 22, 2026.

IN WITNESS WHEREOF, I have on this 23rd day of June 2026, affixed my signature and official seal.

Barbara J. Brooks
Barbara J. Brooks, Clerk of the Council
of the City of Avon, Ohio

Job Order Number(s): 4000098446

PIPELINE RELOCATION AGREEMENT

This Pipeline Relocation Agreement (this "Agreement") is made as of the June 15, 2026 (the "Effective Date"), by and between Columbia Gas of Ohio, Inc., an Ohio corporation with offices at 290 West Nationwide Boulevard, Columbus, Ohio 43215 ("Columbia"), and the City of Avon, an Ohio municipal corporation, with offices at 36080 Chester Road, Avon, Ohio 44011 (the "City"). Columbia and City are each a "Party" and collectively referred to as the "Parties."

RECITALS

- A. Columbia owns and operates a 12-inch diameter high pressure pipeline, located along the Southerly Right-of-Way of Chester Road between Jaycox Road and Lear-Nagle Road, in the City of Avon, Lorain County, Ohio; and
- B. The City 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. The City requests relocation of Columbia's pipeline and any related pipeline facilities as follows (collectively, the "Work"):
 - A. Installation of approximately 2,180 feet of 12-inch diameter high pressure main line in newly acquired easements obtained by or on behalf of the City; and**
 - B. Abandonment of approximately 2,177 feet of existing 12-inch diameter high pressure main line currently located within private easements held by Columbia located parallel to the existing northerly Right-of-Way line and existing Southerly Right-of-Way line of Chester Road; and**
 - C. Existing natural gas pipelines to be abandoned in place.**

The City shall pay one hundred percent (100%) of all direct and indirect costs associated with the Work.

- 2. The Parties agree the projected costs to complete the Work is **One Million, Seven Hundred-five Thousand, One Hundred Eighty-six, and 80/100 U.S. Dollars (\$1,705,186.80)** (the "Cost"). Upon execution of this Agreement and appropriation of the funds by Avon City Council, the City shall deposit the sum of one-half of the Cost (*i.e.*, **\$852,593.40**) to Columbia (the "Deposit"). For the avoidance of doubt, Columbia will not commence the Work until appropriation of the funds by Avon City Council and submission of the Deposit to Columbia. The Cost of the Work includes all direct and indirect costs including, but not limited to, internal costs and overhead, permit fees, materials, contractor mobilization, and labor. The City

acknowledges and agrees that the Cost is based upon both the information available and circumstances known to Columbia as of the Effective Date. The City further agrees and acknowledges that the Cost may be increased, pursuant to the provisions of this Agreement. If the City cancels or postpones its contemplated construction project or other activity, then the City shall reimburse Columbia for all costs (direct and indirect) expended or obligated at the time of cancellation or postponement, including all costs which may have to be expended to restore the City's, Columbia's, or any third party's premises to their original condition, all such amounts to be deducted from the Deposit, including costs necessary for Columbia to perform the Work. Notwithstanding any other provision of this Agreement, if the Work is not completed within six (6) months of the execution of this Agreement, then Columbia reserves the right to reasonably increase the Deposit to accommodate costs expended towards the Cost. Upon notice from Columbia, the City 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 City 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 and any invoicing related to outstanding balances towards the Cost shall be sent to Columbia, attention of **Adam Woodie**, at **3101 North Ridge Road – East, Lorain, Ohio 44055**.

3. Upon execution of this Agreement by both Parties and the receipt of the Deposit from the City, then Columbia agrees to begin plans for the Work. 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 Work until such time as it 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, the City agrees to enter into a Right of Way Agreement with Columbia, on Columbia's standard form agreement, in which the City shall grant to Columbia all necessary easements or rights of way on property owned by the City at no cost to Columbia. The City 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 Work and this Agreement shall be terminated at the sole discretion of Columbia if either of the following events occur: (i) City 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, the City shall be responsible for all costs expended by Columbia and/or which Columbia is obligated to expend in connection with the Work and the termination of such project.

5. To the extent any portion of the Work occurs on the City's property or property it or an affiliate controls, the City at its own expense, shall perform the following: (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 City and/or others at or about the property; (iii) notify Columbia of any condition on or about the property which could affect the Work; (iv) cooperate with Columbia to obtain all necessary approvals, site plan reviews, permits, required for Columbia to perform the Work; (v) not erect or allow any dwellings, garages, out-buildings, pools, decks, man-made bodies of water, trees or other vegetation (no trees or vegetation in excess of five feet (5')), leach beds, septic tanks, unapproved utility installations (no utility facilities within one foot (1') of Columbia's pipeline facilities), or any other obstruction of any kind (collectively, the "Encroachments") over or within **five (5) feet** on either side of Columbia's pipeline facilities that unreasonably restricts Columbia's access to its pipeline facilities, in Columbia's commercially reasonable discretion, unless otherwise agreed to in writing by the Parties; (vi) not place or permit to be placed any Encroachments within a temporary construction easement **twenty (20) feet** in width and adjoining all sides of the permanent right of way area for the relocated pipeline until completion of the Work 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 Work, and this Agreement shall be terminated at the discretion of Columbia if the City fails to satisfy its obligations as set forth in this section. In the event of such termination, the City shall be responsible for all costs expended by Columbia and/or which Columbia is obligated to expend in connection with the Work and the termination of such project.
6. Upon completion of the Work, Columbia shall, within a reasonable time, submit to the City a statement showing the actual costs of the Work that may be up to but not exceeding an additional fifteen percent (15%) of the Cost (*i.e.*, **\$1,960,964.82**). Any such costs which exceed the Deposit, up to and exceeding the Cost, shall be payable by the City within thirty (30) days of receipt of invoice and notice from Columbia, subject to appropriation of the funds by the Avon City Council. However, in the event Avon City Council fails or refuses to appropriate funds pursuant to this Section 6 for costs exceeding the Deposit, up to and exceeding the Cost, then Columbia possesses the rights to reinstall and reconnect facilities for gas operations in exact locations as the previously abandoned facilities pursuant to Section 1B this Agreement.
7. To the extent allowed by law, and except to the extent of Columbia's gross negligence or willful misconduct, the City shall release 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 to the extent arising out of the City's breach of this Agreement. In no event shall either party be liable to the other 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 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, in any way related to or arising from this Agreement shall be brought and heard only in a court of competent jurisdiction located in Lorain County, Ohio. This Agreement contains the entire agreement between the Parties concerning the Work, and no modification of this Agreement will be binding unless approved in writing by both Parties. The City 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 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 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. The City 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 City 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. 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.
11. 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 the City. Notwithstanding the foregoing and to the extent reasonably practical and feasible, all provisions of this Agreement shall survive the termination or expiration of this Agreement.

PARTIES' EXECUTION

The Parties caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

CITY:

CITY OF AVON

Ohio municipal corporation



Authorized Signature

Bryan K. Jensen

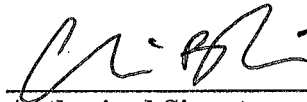
Print Name

Mayor

Title

COLUMBIA GAS OF OHIO, INC.

Ohio corporation



Authorized Signature

Christopher Blair

Print Name

Team Leader Engineering

Title

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