

FIRST AMENDMENT TO OPTION AND LAND LICENSE AGREEMENT BETWEEN THE CITY OF TOLEDO
AND COLUMBIA GAS OF OHIO, INC.
FOR THE MAUMEE RIVERFRONT-RIVERFRONT NORTHWEST
L.W.C.F.
PROJECT NO. 39-00632

This FIRST AMENDMENT TO OPTION AND LAND LICENSE AGREEMENT (the "Amendment") made this _____ day of _____, 2025, by and between the CITY OF TOLEDO OHIO, a municipal corporation, One Government Center, Toledo, Ohio 43604, (the "City"), and COLUMBIA GAS OF OHIO, INC., having an office at 290 West Nationwide Boulevard, Columbus, Ohio 43215 (the "Company"), amends and supplements the Right-of-Way License Agreement dated September 26, 1991 and recorded in the Lucas County, Ohio Records at 91-409A12 (the "Original License").

RECITALS

WHEREAS, by the Original License, attached hereto as "Exhibit A", as City, licensed to Company, pursuant to **Ordinance No. 629-91**, certain property known as Maumee Riverfront, Riverfront Northwest, L.W.C.F. Project No. 39-00632 as legally described in "Exhibit B" to the Original License; and

WHEREAS, this Amendment to amend and supplement the Original License has been approved and executed by the City Pursuant to Ordinance No. _____, passed by Toledo City Council on the _____ day of _____, 20____, and approved by the Mayor on the _____ day of _____, 20____ (the "Ordinance"); and

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for the benefits to be derived from execution of this Amendment, the Parties agree as follows:

1. **Incorporation of Recitals and Original License.** The recitals stated above and in the Original License, are incorporated into this Amendment as if fully rewritten herein.
2. **Capitalized Terms.** Unless otherwise defined herein, the capitalized terms used in this Amendment shall have the same meaning as used in the Original License.
3. **Amendments.** The Original License is hereby amended as follows:
 - A. **Substitution of Designated City Officials or Departments in Original License Agreement.** For the purpose of the License Agreement as Amended, "Mayor" shall be substituted for "City Manager" and the "Director of Parks and Youth Services" shall be substituted for "Director of Natural Resources".
 - B. **Rent and Terms.** Section 2 of the Original License is hereby deleted in its entirety and the following is substituted in lieu thereof:

"2. The Company agrees to pay Thirteen Thousand Thirty-One Dollars and 23/100 (\$13,031.23) and the City agrees to accept such sum as consideration for the right-of-way license, as amended. The Company agrees to pay said amount upon the execution of this Amendment. The term of the License Agreement, as amended, shall be for a period of thirty (30) years, effective the 26th day of September, 2021 and ending the 25th day of September, 2051. Make payment to: City of Toledo. Mail payment to: City of Toledo, Department of Economic Development-Real Estate, 1 Government Center, Suite 2250, Toledo, OH 43604.

C. **Insurance.** The first paragraph of Section 10 of the Original License is hereby deleted, and the following are substituted in lieu thereof:

“10. During the Term, the Company shall obtain and keep in full force and effect, at its sole expense, workers’ compensation insurance (with a waiver of subrogation endorsement reasonably acceptable to the City); commercial general liability insurance (with contractual liability endorsement), including personal injury and property damage in the amount of \$3,000,000 per occurrence combined single limit for personal injuries and death of persons and property damage occurring in or about the Licensed area, plus umbrella coverage of at least \$5,000,000 per occurrence. Such policies shall (a) include the City as an additional insured, (b) issued by an insurance company licensed to do business in the State of Ohio with a Best’s Guide Insurance Rating of A VII, or better, an otherwise acceptable to the City in its reasonable discretion, (c) provide that such insurance may not be canceled unless thirty (30) days’ prior written notice is first given to the City, and (d) certificates of insurance be delivered to the City by the Company before the commencement of the Term.”

The second and third paragraphs of Item 10 of the Original License is retained as written.

D. **Licensed Area Covenants.** New Section 20 to be added to Amendment as follows:

“20. The Company shall not construct or make any improvements to the Licensed area without the City’s prior written consent, which may be withheld in the City’s sole discretion. The Company shall (i) keep the Licensed area free of debris resulting from the Company’s use of the Licensed area during the Term; (ii) except as otherwise expressly permitted in writing by the City, promptly repair any damage to the Licensed area; and (iii) secure all property used by the Licensee on the Licensed area or brought to the Licensed area by the Licensee in a safe manner. The Licensee shall not engage in any activity that is reasonably foreseeable to cause damage to the Licensed area unless the Company has first obtained the City’s express written consent to such activity, which may be withheld or conditioned as determined by the City in its sole discretion. In no event shall the Licensee undertake any activities on the Licensed area that could cause damage or injury to or disturb persons not participating in the Purposes or to such persons’ property, such persons or property to include without limitation, the general public and adjacent owners and the property of either. Upon termination of this Agreement, by revocation or otherwise, the Company, shall clear all debris and improvements resulting from the Company’s use of the Licensed area and to surrender the Licensed area to the City in the condition in which it was delivered, ordinary wear and tear excepted. If the Company fails to perform its obligations under this Section 9, City many, but is not required to, perform such obligations on behalf of the Company, and the Company shall immediately reimburse the City for any costs related thereto. If City elects to perform such obligations, during a period prior to the formal abandonment of the pipeline, it shall avoid all activities that would touch or damage the pipeline. In no event shall the City be responsible for any property of Licensee located at or removed from the Licensed area.”

E. **Maintenance.** New Section 21 to be added to Amendment as follows:

“21. Prior to commencement of any subsequent maintenance of the Facility during the term of this Agreement, Company, or its contractor if it employs one, shall furnish the City with an original protective Liability Insurance Policy naming the City as the named insured and having a limit of not less than a combined single limit of \$2,000,000 each occurrence and \$6,000,000 aggregate. Such policy shall be written using Insurance Services Offices Form Numbers CG 00 35 01 10 01.”

F. Indemnity Provisions. New Section 22 to be added to Amendment as follows:

“22. Without hereby waiving any claim of sovereign immunity with respect to persons other than City, the Company shall defend, with counsel approved by the City in its reasonably based discretion, and shall indemnify and hold harmless the City and City’s officers, directors, agents, employees, and consultants (collectively, the “City Parties”) from and against any actual damages, losses, claims, liens, assessments, taxes, fines, fees, expenses, liabilities, injuries, and other expenses of any nature whatsoever, including reasonably attorney’s fees and costs (“Indemnity Costs”), resulting or arising from the Company’s use, operation or maintenance of the licensed area, or from any activity, work or thing done by the Company or its agents in or about the Licensed area, or arising or resulting from any breach or default by the Company of its obligations under this agreement, but not if caused by the acts, negligence, gross negligence or willful misconduct of City Parties. The covenants contained in this paragraph shall survive the expiration or earlier termination of this Amendment for period not to exceed two (2) calendar years. Notwithstanding anything contained to the contrary in any other provision of this Agreement, the parties agree that the indemnification obligations of Company, including obligations for assumed liabilities and retained liabilities, and the recovery by the City of any losses suffered or incurred by it as a result of any breach or nonfulfillment by Company of any of its representations, warranties, covenants, agreements, or other obligations under this Agreement, shall be limited to actual damages and shall not include or apply to, nor shall the City be entitled to recover, any indirect, consequential, special, exemplary, punitive, or other similar damages (including any damages on account of lost profits or opportunities or business interruption or diminution in value) suffered or incurred by the City, except to the extent such losses are in the context of and demanded in a third party claim.”

G. Governing Law. New Section 23 to be added to Amendment as follows

“23. The License Agreement, as amended, shall be governed by the construed in accordance with the laws of the State of Ohio and any action or proceeding arising from this Agreement shall be commenced in a court of competent jurisdiction located in Lucas County, Ohio.

H. Miscellaneous. New Section 24 to be added to Amendment as follows:

“24. This Amendment may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same document. No amendments, modifications or variations of the terms and conditions of this Amendment shall be valid unless the same are in writing and signed by the Parties. Wherever used in this Amendment, the singular shall be deemed to include the plural, and vice versa, and the use of any gender shall be deemed to include all others. Captions in this Amendment are included for convenience of reference only, are not a part of this License Agreement, and will not be used in interpreting or construing this Amendment.

I. Conflict between Original License and Amendment. New Section 25 to be added to Amendment as follows:

“25. The Parties agree that the terms contained in the Original License and this Amendment make up the entire agreement between Parties. The Parties further agree that in the event of conflicting language, the Amendment shall take precedence over the supersede the Original License.

IN WITNESS WHEREOF, City and Company have each executed this Amendment as of the day and year first set forth above.

City of Toledo, Ohio
a municipal corporation,

Signature: _____
Print Name: Wade Kapszukiewicz
Title: Mayor, City of Toledo
Date: _____

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Department of Law

Department of Economic Development

Date

Date

Department of Parks and Youth Services

Date

ACKNOWLEDGEMENT

On this ____ day of _____, 2025, before me, the undersigned Notary Public, personally appeared Wade Kapszukiewicz, Mayor of the City of Toledo, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

Print Name: _____

My commission expires: _____

[SEAL]

SIGNATURES COMMENCE ON FOLLOWING PAGE]

COMPANY
Columbia Gas of Ohio, Inc.

By: _____

Title: _____

Signature: _____

Print Name: _____

Date: _____

ACKNOWLEDGEMENT

STATE OF OHIO)
)
COUNTY OF _____)

On this _____ day of _____, 2025, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public
Print Name: _____
My commission expires: _____

[SEAL]

EXHIBIT A

Original License, dated September 26, 1991, Record #91 409A12 (attached)

PARENT PARCEL(S)

The Parent Parcel consists of the entire legal taxable lot owned by the City as described in a deed (or deeds) to Landlord of which the Licensed Premises is a part thereof with such Parent Parcel(s) being described below:

Street address: 3300 N. Summit St.
3526 N. Summit St.
City, State, Zip: Toledo, OH 43611
Parcel No.: 11-07391, 11-09664