



## Legislation Text

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**File #:** 2453-2016, **Version:** 1

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### **BACKGROUND:**

The City owns real property located in the vicinity of State Route 315 and Olentangy River Road, Columbus, Ohio 43235 {Franklin County Tax Parcel(s) 250-005695} ("Property" via O.R.V. 16036, Pg. E18, Recorder's Office, Franklin County, Ohio). The Property is managed by the Recreation and Parks Department (CRPD).

The Ohio Power Company, an Ohio corporation doing business as American Electric Power ("AEP"), has electric utility facilities already burdening portions of the Property described and recorded in Deed Book 1937, Page 308, and Deed Book 1937, Page 309, Recorder's Office, Franklin County, Ohio ("Existing Easements"). AEP shares the Existing Easements with XO Communications Services, LLC, a Delaware limited liability company ("XO"), in order for XO to maintain fiber optic communication facilities. The Ohio Department of Transportation (ODOT) is improving certain portions of the public right-of-way of Interstate 270 and State Route 315, which requires AEP and XO to relocate their respective utility facilities onto other certain portions of the Property. Accordingly, AEP and XO jointly request subsurface electric and communications utility easement rights to burden an additional portion of the Property in order to jointly install certain underground electric facilities, fiber optic communications facilities, and associated appurtenances for the distribution, delivery, and service of electrical energy, communications, and impulses ("New Easement"). AEP and XO will jointly share the same proposed easement area described in the New Easement.

CRPD reviewed and supports granting AEP and XO the New Easement in consideration that (i) the New Easement supports electricity services in the vicinity of the Property, (ii) granting the New Easement will foster intergovernmental cooperation for ODOT to improve the public right-of-way of Interstate 270 and State Route 315, (iii) AEP and XO will appropriately restore the areas affected by the New Easement to the written satisfaction of CRPD, (iv) AEP is monetarily compensating the City Seven Thousand and 00/100 U.S. Dollars (\$7,000.00), (v) AEP is releasing and terminating certain portions of the Existing Easements, and (vi) XO is monetarily compensating the City Forty-one Thousand and 00/100 U.S. Dollars (\$41,000.00).

### **CONTRACT COMPLIANCE:**

Not applicable.

### **FISCAL IMPACT:**

Not applicable.

### **EMERGENCY JUSTIFICATION:**

Emergency action is requested so as to not hinder ODOT's improvement of the public right-of-way of Interstate 270 and State Route 315, which will preserve the public peace, health, property, safety, and welfare.

To authorize the director of the Recreation and Parks Department to execute and acknowledge any documents, as approved by the City Attorney and in total monetary consideration of \$48,000.00, necessary to jointly grant to the Ohio Power Company d.b.a. AEP and XO Communications Services, LLC an electric and communications utility easement to burden portions of the City's real estate located in the vicinity of State Route 315 and Olentangy River Road, Columbus,

Ohio 43235; and to declare an emergency. (\$0.00)

**WHEREAS**, the City intends to support electric and communications services in the vicinity of its real estate located at State Route 315 and Olentangy River Road, Columbus, Ohio 43235 {Franklin County Tax Parcel(s) 250-005695} (*i.e.* Property); and

**WHEREAS**, the City intends to support ODOT's improvement of the public right-of-way of Interstate 270 and State Route 315 by granting AEP and XO an subsurface utility easement rights to relocate their existing electric and communications utility facilities onto other certain portions of the Property (*i.e.* New Easement); and

**WHEREAS**, the City intends to grant AEP and XO the New Easement in consideration that AEP will appropriately restore the areas affected by the New Easement to the written satisfaction of CRPD; and

**WHEREAS**, the City intends to grant AEP rights to the New Easement in consideration of monetary compensation from AEP in the amount of Seven Thousand and 00/100 U.S. Dollars (\$7,000.00); and

**WHEREAS**, the City intends to grant AEP rights to the New Easement in consideration of AEP releasing and terminating certain portions of its existing easements rights described and recorded in Deed Book 1937, Page 308, and Deed Book 1937, Page 309, Recorder's Office, Franklin County, Ohio (*i.e.* Existing Easements); and

**WHEREAS**, the City intends to grant XO rights to the New Easement in consideration of monetary compensation from XO in the amount of Forty-one Thousand and 00/100 U.S. Dollars (\$41,000.00); and

**WHEREAS**, the City intends for the director of the Recreation and Parks Department (*i.e.* CRPD) to execute and acknowledge any documents necessary to quit claim grant the New Easement jointly to AEP and XO; and

**WHEREAS**, the City intends for the City Attorney to preapprove of all documents executed by City personnel pursuant to authority granted by this ordinance; and

**WHEREAS**, an emergency exists in the usual daily operations of the Department of Recreation and Parks in that it is immediately necessary to authorize the granting of the New Easement to AEP and XO in order for ODOT to timely and efficiently complete its improvement of the public right-of-way of Interstate 270 and State Route 315 without delay, which will preserve the public peace, property, health, welfare, and safety; **now, therefore,**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS, OHIO:**

**SECTION 1.** That the director of the Recreation and Parks Department (CRPD) is authorized to execute and acknowledge any documents necessary to quit claim grant jointly to the Ohio Power Company, an Ohio corporation doing business as AEP (*i.e.* AEP), XO Communications Services, LLC, a Delaware limited liability company (*i.e.* XO), and AEP and XO's successors and assigns a subsurface electric and communications utility easement to burden the 0.262 acre tract and portions of the City's real estate located in the vicinity of State Route 315 and Olentangy River Road, Columbus, Ohio 43235 {Franklin County Tax Parcel(s) 250-005695} (*i.e.* Property) described and depicted in the three (3) page attachment, Exhibit-A, which is made a part of this ordinance and fully incorporated for reference as if rewritten, in order for AEP and XO to install certain underground electric utility line(s), fiber optic cable and communication line(s), and associated appurtenance(s) for the transmission, distribution, and service of electrical energy, communications, and impulses (*i.e.* New Easement).

**SECTION 2.** That the granting of the New Easement to AEP is contingent upon the City's receipt of consideration in the form of monetary compensation of Seven Thousand and 00/100 U.S. Dollars (\$7,000.00), which will be deposited with CRPD's Permanent Improvement Fund 7747.

**SECTION 3.** That the City granting the New Easement to AEP is contingent upon AEP releasing and terminating a portion of its existing easement rights burdening the Property that are described and recorded Deed Book 1937, Page 308, and Deed Book 1937, Page 309, Recorder's Office, Franklin County, Ohio (*i.e.* Existing Easements) as indicated in the one (1) page attachment, Exhibit-B, which is made a part of this ordinance and fully incorporated for reference as if rewritten.

**SECTION 4.** That the granting of the New Easement to XO is contingent upon the City's receipt of consideration in the form of monetary compensation of Forty-one Thousand and 00/100 U.S. Dollars (\$41,000.00), which will be deposited with CRPD's Permanent Improvement Fund 7747.

**SECTION 5.** That the granting of the New Easement to AEP is also contingent upon AEP and XO appropriately restoring the portions of the Property affected by the New Easement to the written satisfaction of CRPD.

**SECTION 6.** That the City Attorney is required to preapprove all documents executed by the City pursuant to this ordinance.

**SECTION 7.** That this ordinance, for the reasons stated in the preamble, which are made a part of this ordinance and fully incorporated as if rewritten, is declared an emergency measure and shall take effect and be in force from and after this ordinance's passage and approval by the Mayor, or ten (10) days after this ordinance's passage if the Mayor neither approves nor vetoes this ordinance.