

RESOLUTION NO. 26932

A RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT A PROPOSAL FROM THE TENNESSEE DEPARTMENT OF TRANSPORTATION (TDOT) REGARDING STATE ROUTE 317 (APISON PIKE) FROM OLD LEE HIGHWAY TO STATE ROUTE 321 (OOLTEWAH-RINGGOLD ROAD).

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BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, it is hereby authorizing the Mayor to accept a proposal from the Tennessee Department of Transportation (TDOT) regarding State Route 317 (Apison Pike) from Old Lee Highway to State Route 321 (Ooltewah-Ringgold Road), a copy of which is attached hereto and incorporated herein by reference.

Federal Project Number: STP-317 (14) State Project Number: 33070-2230-14

PROPOSAL OF THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF TENNESSEE TO THE CITY OF CHATTANOOGA, TENNESSEE,

The DEPARTMENT OF TRANSPORTATION of the State of Tennessee, hereinafter "DEPARTMENT", proposes to construct a project in the CITY of CHATTANOOGA, hereinafter "TOWN", designated as State Project Number 33070-2230-14, that is described as S.R. 317 from Old Lee Highway to S.R. 321 (Ooltewah-Ringgold Road), and the CITY agrees to cooperate with the DEPARTMENT as set forth in this proposal, so that the general highway program may be carried out in accordance with the intent of the General Assembly of the State.

Accordingly, the parties agree as follows:

1. That in the event any civil actions in inverse condemnation or for damages are instituted by reason of the DEPARTMENT, or its contractor, going upon the highway right-of-way and easements, and constructing said project in accordance with the plans and as necessary to make the completed project functional, the CITY will notify in writing the Attorney General of the State, whose address is 425 Fifth Avenue North, Nashville, Tennessee 37243, of the institution of each civil action, the complaint and all subsequent pleadings, within ten (10) days after the service of each of the same, under penalty of defending such actions and paying any judgments which result therefrom at its own expense.
2. The CITY will close or otherwise modify any of its roads or other public ways if indicated on the project plans, as provided by law.

3. The CITY will transfer or cause to be transferred to the DEPARTMENT without cost to it, all land owned by the CITY or by any of its instrumentalities as required for right-of-way or easement purposes, provided such land is being used or dedicated for road or other public way purposes.
4. Where privately, publicly or cooperatively owned utility lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, and other similar commodities, including publicly owned facilities such as fire and police signal systems and street lighting systems are located within the right-of-way of any road or other public way owned by the CITY, or any of its instrumentalities, the CITY agrees that it will take action necessary to require the removal or adjustment of any of the above described facilities as would conflict with the construction of the project. But the foregoing may not be a duty of the CITY since it shall become operative only after the DEPARTMENT has been unsuccessful in its efforts to provide for said removals or adjustments for the benefit of the TOWN. The foregoing does not apply to those utility facilities which are owned by the TOWN or one of its instrumentalities, it being understood that the CITY has the duty to relocate or adjust such facilities, if required, provided the TOWN is notified to do so by the DEPARTMENT with detailed advice as to this duty of the CITY.
5. The CITY will maintain any frontage road to be constructed as part of the project.
6. After the project is completed and open to traffic, the CITY will accept for jurisdiction and maintenance such parts of any existing DEPARTMENT highway to be replaced by the project.
7. The CITY will make no changes or alter any segment of a road on its road system that lies within the limits of the right-of-way acquired for any interchange to be constructed as part of the project and will not permit the installation or relocation of any utility facilities within the right-of-way of any such a segment of one of its roads without first obtaining the approval of the DEPARTMENT.
8. No provision hereof shall be construed as changing the maintenance responsibility of the CITY for such part of the project as may presently be on its highway, street, road or bridge system.
9. It is understood and agreed between the DEPARTMENT and the CITY that all traffic control signs for the control of traffic on a street under the jurisdiction of the TOWN and located within the DEPARTMENT's right-of-way shall be maintained and replaced by the CITY.
10. When traffic control devices for the direction or warning of traffic, lighting of roadways or signing, or any of them, which are operated or function by the use of electric current are constructed or installed as part of the project, they will be furnished with electricity and maintained by the CITY.
11. If, as a result of acquisition and use of right-of-way for the project, any building improvements become in violation of a CITY setback/building line requirement, the CITY agrees to waive enforcement of the CITY setback/building line requirement and take other proper governmental action as necessary to accomplish such waiver.
12. The CITY will prohibit encroachments of any kind upon the right-of-way and easements for the project.

13. The CITY will prohibit the servicing of motor vehicles within the right-of-way and easements for the project.
14. The CITY will obtain the approval of the DEPARTMENT before authorizing parking on the right-of-way and easements for the project.
15. The CITY will not install or maintain any device for the purpose of regulating the movement of on the roadway except as warranted and in conformity with the Manual on Uniform Control Devices.
16. The DEPARTMENT will maintain the completed project if it is classified as full access control (i.e., a project which has no intersecting streets at grade), and it will maintain the pavement from curb to curb where curbs exist or the full width of the roadway where no curbs exist on non-access control projects. The CITY agrees to maintain other parts of non-access control projects.
17. If a sidewalk is constructed as a component of this project, the CITY shall be responsible for maintenance of the sidewalk and shall assume all liability for third-party claims for damages arising from its use of the sidewalk or premises beyond the DEPARTMENTS maintenance responsibilities as set forth in Section 16 of this Proposal.
18. When said project is completed, the CITY thereafter will not permit any additional median crossovers, or the cutting of the pavement, curbs, gutters and sidewalks, by any person, firm, corporation or governmental agency, without first obtaining the approval of the DEPARTMENT.
19. The DEPARTMENT will acquire the right-of-way and easements, construct the project and defend any inverse condemnation or damage civil actions of which the Attorney General has received the notice and pleadings provided for herein.
20. The project plans hereinbefore identified by number and description are incorporated herein by reference and shall be considered a part of this proposal, including any revisions or amendments thereto, provided a copy of each is furnished the CITY.
21. The acceptance of this proposal shall be evidenced by the passage of an ordinance, or by other proper governmental action, which shall incorporate this proposal verbatim, or by reference thereto.

ADOPTED: December 20, 2011.

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