

ORDINANCE # 90

An Ordinance to propose construction on Highway 12 South in the City of Ashland City.

Be It Ordained by the Council of the Town of Ashland City, Tennessee that the construction of highway 12 South be proposed as follows:

PROPOSAL
OF THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF TENNESSEE
TO THE CITY OF ASHLAND CITY, TENNESSEE:

The Department of Transportation of the State of Tennessee, hereinafter called "DEPARTMENT", proposes to construct a project designated as No. 111005-2211-14, STP-F-12(24); State Route 12 from west of Davidson County line to McQuarry Street, in the CITY of ASHLAND CITY, and in the COUNTY of CHEATHAM, provided the CITY and COUNTY agree to cooperate with the DEPARTMENT as set forth in the respective proposal to each, so that the general highway program may be carried out in accordance with the intent of the General Assembly of the State.

Accordingly, if the CITY will agree:

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 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 450 James Robertson Parkway, Nashville, Tennessee 37243-0405, of the institution of each civil action, the complaint and all subsequent pleadings, within seven (7) days after service of each of the same, under penalty of defending such actions and paying any judgements which result therefrom at its own expenses; and

2. To prohibit encroachments of any kind upon the right of way and easements appertaining thereto; and

3. To prohibit the servicing of motor vehicles within the right of way and easements appertaining thereto; and

4. To close or otherwise modify any of its streets or other public ways as indicated on the project plans, as provided by law; and

5. To obtain the approval of the DEPARTMENT before authorizing parking and before installing any device for the purpose of regulating the movement of traffic; and

6. To 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 the right of way or easements purposes, provided such land is being used or dedicated for street or other public way purposes; and

7. That following the completion of the project, it will maintain the same at its expense, with the exception of the pavement from curb to curb where curbs exist or the full width of the roadway where no curbs exist which the DEPARTMENT will maintain.

8. Where privately, publicly or cooperatively owned 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 interfere 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 CITY.

The foregoing does not apply to those utility facilities which are owned by the CITY or one of its instrumentalities, it being understood that the CITY has the duty to relocate or adjust such facilities, if required, provided the CITY is notified to do so by the DEPARTMENT with detailed advice as to this duty of the CITY; and

9. That when said project is completed, it thereafter will not permit any additional median crossovers, 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; AND

10. As a result of acquisition and use of right of way for the subject project, certain building improvements within the CITY may be in violation of a CITY setback/building line ordinance. The CITY agrees to waive enforcement of any city setback/building line ordinance which may be violated as a result of the subject project. The CITY further agrees to enact an ordinance, or to take proper governmental action, to this effect with reference to the entire project; and

11. That 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; and

12. It is understood and agreed by the DEPARTMENT and the CITY that all traffic control signs for the control of traffic on a street under the jurisdiction of the CITY and located within the DEPARTMENT's right of way shall be maintained and replaced by the CITY.

13. That when traffic control devices for the direction of traffic, warning of traffic, lighting of roadways, lighting of roadway signing, or any of them, which are operated or function by the use of electric current are constructed or installed pursuant to the project, they will be furnished with electricity and maintained by the CITY. The CITY agrees to fully compensate the DEPARTMENT for all loss and expense from all performance hereunder or such failure of performance which is within the scope of the powers of the CITY to perform, either expressly or by necessary implication, limited, however, to final determination in accordance herewith and the provisions of Tennessee Code Annotated, Title 9, Chapter 8.

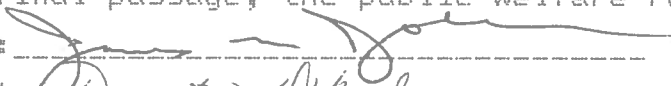
The acceptance of this proposal shall be evidenced by the enactment of an Ordinance, or by other proper governmental action, which shall incorporate the same verbatim, or by reference thereto; then

Following the acceptance of this proposal, the DEPARTMENT will acquire the rights of way and easements, and the DEPARTMENT will construct the project and defend any cross-eminent domain or damage civil actions of which the Attorney General has received the pleadings provided for herein.

The project plans hereinbefore identified by number and description are incorporated by reference thereto and shall be considered a part of this proposal, including any revisions or amendments thereto, provided a copy of each is furnished the CITY.

IN WITNESS WHEREOF, the DEPARTMENT has caused this instrument to be executed by its duly authorized officials on this the 5th day of September, 1992.

This Ordinance shall take effect twenty (20) days from and after its final passage, the public welfare requiring it.

Mayor: 

Attest: 

Passed 1st Reading: October 13, 1992

Passed 2nd Reading: November 10, 1992