RESOLUTION NO. 1996-26
RESOLUTION TO APPROVE CONTRACT WITH
STATE DEPARTMENT OF TRANSPORTATION

WHEREAS, the Department of Transportation of the State of Tennessee, hereinafter called "DEPARTMENT", proposes to construct a project designated as Federal Project BR-STP-54(21) State Route 54: Bridge & Approaches Over Overflow at L.M. 3.20, & Spring Creek, L.M. 3.35 in the COUNTY OF WEAKLEY provided the COUNTY agrees to cooperate with the DEPARTMENT as set forth in this proposal, so that the general highway program be carried out in accordance with the intent of the General Assembly of the State: and

WHEREAS, the Board of County Commissioners of Weakley County believes that it would be in the best interest of Weakley County to enter into the attached contract with the State Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Weakley County, Tennessee, assembled in reconvened session on the 20th of June, 1995, that:

1. The County Executive is hereby authorized, empowered and directed to sign the attached contract on behalf of Weakley County.

2. This resolution shall take effect upon passage, the public welfare requiring it.

PURSUANT TO THE RULES OF THE WEAKLEY COUNTY LEGISLATIVE BODY, THIS RESOLUTION IS SPONSORED BY THE FOLLOWING COMMISSIONERS:

David Rook _____ Joe Farmer _____

ACKNOWLEDGED AND APPROVED:

George Brassfield
Chairman Public Works Committee

Motion made by Commissioner Sinclair that the following resolution be approved. Motion seconded by Commissioner Farmer. Upon being put to a roll call vote, motion failed.

ATTEST: APPROVED:

PAT SCARBROUGH, COUNTY CLERK RON GIFFORD, COUNTY EXECUTIVE

This the 18th day of March, 1996

P R O P O S A L

OF THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF TENNESSEE

TO THE COUNTY OF WEAKLEY

The DEPARTMENT OF TRANSPORTATION of the State of Tennessee, hereinafter called "DEPARTMENT", proposes to construct a project designated as Federal Project BR-STP-54(21) State Route 54: Bridge & Approaches Over Overflow at L.M. 3.20, & Spring Creek, L. M. 3.35 in the COUNTY OF WEAKLEY provided the COUNTY agree to cooperate with the DEPARTMENT as set forth in this proposal, so that the general highway program be carried out in accordance with the intent of the General Assembly of the State.

Accordingly, if the COUNTY will agree:

1. That in the event any civil actions in cross-eminent domain 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, it will notify in writing the Attorney General of the State, whose address is 450 James Robertson Parkway, Nashville, Tennessee 37243-0485, of the institution of each civil action, the complaint and all subsequent pleadings, within seven (7) 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; and

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

3. To transfer or cause to be transferred to the DEPARTMENT without cost to it, all land owned by the COUNTY 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; and

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 COUNTY, or any of its instrumentalities, the COUNTY agrees that it will take any 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 COUNTY since it shall become operative only after the DEPARTMENT has been unsuccesful in its efforts to provide for said removal or adjustments for the benefit of the COUNTY.

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

for all loss and expense from all performance hereunder or such failure of performance which is within the scope of the powers of the COUNTY 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.

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

The acceptance of this proposal shall be evidenced by the passage of a Resolution 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, 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 COUNTY.

IN WITNESS WHEREOF, the DEPARTMENT has caused this instrument to be executed by its duly authorized officials on this 4th day of January 4, 1995.

STATE OF TENNESSEE

DEPARTMENT OF TRANSPORTATION

BY: _____

Transportation Manager 1

APPROVED:

_____

Staff Attorney