

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE ADMINISTRATOR FOR THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO A FACILITY ENCROACHMENT AGREEMENT WITH CSX TRANSPORTATION, INC., AGREEMENT NO. LN062435, AT VALUATION STATION 6549+40, MILEPOST 0WA-124.04, RELATIVE TO THE EAST BRAINERD SEWER BASIN COLLECTION SYSTEM REHABILITATION PROJECT, CONTRACT NO. W-10-004-802, IN THE AMOUNT OF SEVEN HUNDRED FIFTY DOLLARS (\$750.00).

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, it is hereby authorizing the Administrator for the Department of Public Works to enter into a Facility Encroachment Agreement with CSX Transportation, Inc., Agreement No. LN062435, at Valuation Station 6549+40, Milepost 0WA-124.04, relative to the East Brainerd Sewer Basin Collection System Rehabilitation Project, Contract No. W-10-004-802, in the amount of \$750.00.

ADOPTED: _____, 2013.

/mms

City of Chattanooga



Resolution/Ordinance Request Form

Date Prepared: July 15, 2013

Preparer: Dennis Malone

Department: Public Works

Brief Description of Purpose for Resolution/Ordinance:

Res./Ord. # _____

Council District # _____

4 & 6

A Council Action is requested for the Administrator of the Department of Public Works to enter into a Facility Encroachment Agreement with CSX Transportation, Inc., Agreement No. LN 062435, at Valuation Station 6549+40, Milepost 0WA-124.04, relative to the East Brainerd Sewer Basin Collection System Rehabilitation Project, Contract No. W-10-004-802, in an amount of \$750.00

Name of Vendor/Contractor/Grant, etc. CSX Transportation, Inc.

New Contract/Project? (Yes or No) Yes

Total project cost \$ 750.00

Funds Budgeted? (YES or NO) Yes

Total City of Chattanooga Portion \$ 750.00

Provide Fund 6011

City Amount Funded \$ 750.00

Provide Cost Center K37113

New City Funding Required \$ 0

Proposed Funding Source if not budgeted _____

City's Match Percentage % _____

Grant Period (if applicable) _____

List all other funding sources and amount for each contributor.

Amount(s)

Grantor(s)

\$

Agency Grant Number _____

CFDA Number if known _____

Other comments: (Include contingency amount, contractor, and other information useful in preparing resolution)

Existing thirty-six inch (36") casing sub-grade pipeline crossing for sanitary sewer to be lined with 21MM cast in place pipe (CIPP) for rehabilitation. Funded with ISS Funds

Approved by:

Reviewed by: FINANCE OFFICE

DESIGNATED OFFICIAL/ADMINISTRATOR

Please submit completed form to @budget, City Attorney and City Finance Officer

Revised: 1/26/09

AMENDMENT

THIS AMENDMENT, made as of July 11, 2013, by and between CSX TRANSPORTATION, INC, a Virginia corporation and Lessee of properties of WESTERN & ATLANTIC RAILROAD, whose mailing address is 500 Water Street, Jacksonville, Florida 32202, hereinafter called "Licensor," and CITY OF CHATTANOOGA, a municipality of the State of Tennessee, whose mailing address is 1250 Market Street, Suite 2100, Chattanooga, Tennessee, hereinafter called "Licensee," WITNESSETH:

WHEREAS, by agreement dated March 25, 1976 (the "Agreement"), CSXT granted to Licensee the right, to construct and maintain facility (ies) hereinafter called "Facilities," over, under or across property of the Lessor, located at or near Chattanooga, Hamilton County, Tennessee, Milepost 0WA-124.04;

WHEREAS, by Memorandum dated February 2, 1977, the pipeline was revised from a 36-inch ductile sewage pipeline to a 36-inch reinforced concrete sewage pipeline;

WHEREAS, Licensee desires to line existing pipe by 21mm cast in place for rehabilitation;

NOW THEREFORE, this Amendment will serve to amend the Agreement, between Licensor and Licensee, as follows:

1. The term Facilities is hereby amended to modify casing as follows:

One (1) existing 36-inch reinforced concrete sewage pipeline to be lined by a twenty-one (21) millimeter cast in place for rehabilitation, located at or near Chattanooga, Hamilton County, Tennessee, crossing under tracks at Valuation Station 6549+40, CG Division, C8 Subdivision, Milepost 0WA-124.04;

as shown on print (s) labeled Exhibit "B" attached hereto and made a part hereof; other details and data pertaining to said pipeline being as indicated on Exhibit "A" also attached hereto and made a part hereof.

NOW, THEREFORE, in consideration of the mutual covenants, conditions, terms and agreements herein contained, the parties hereto agree and covenant as follows:

2. Prior to commencement of surveys, installation or occupation of premises pursuant to this Agreement, Licensee shall procure and shall maintain during the continuance of this Agreement, at its sole cost and expense, a policy of

(i) Statutory Worker's Compensation and Employers Liability Insurance with available limits of not less than ONE MILLION AND 00/100 U.S. DOLLARS (\$1,000,000.00), which must contain a waiver of subrogation against CSXT and its Affiliates;

(ii) Commercial General Liability coverage (inclusive of contractual liability) with available limits of not less than FIVE MILLION AND 00/100 U.S. DOLLARS (\$5,000,000.00), naming Licensor, and/or its designee, as additional insured and in combined single limits for bodily injury and property damage and covering the contractual liabilities assumed under this Agreement. The evidence of insurance coverage shall be endorsed to provide for thirty (30) days' notice to Licensor,

or its designee, prior to cancellation or modification of any policy. Mail CGL certificate, along with agreement, to CSX Transportation, Inc., Speed Code J180, 500 Water Street, Jacksonville, FL 32202. On each successive year, send certificate to RenewalCOI@csx.com.

(iii) Business automobile liability insurance with available limits of not less than ONE MILLION AND 00/100 U.S. DOLLARS (\$1,000,000.00) combined single limit for bodily injury and/or property damage per occurrence;

(iv) Such other insurance as Licensor may reasonably require.

2.2 If Licensee's existing CGL policy(ies) do(es) not automatically cover Licensee's contractual liability during periods of survey, installation, maintenance and continued occupation, a specific endorsement adding such coverage shall be purchased by Licensee. If said CGL policy is written on a "claims made" basis instead of a "per occurrence" basis, Licensee shall arrange for adequate time for reporting losses. Failure to do so shall be at Licensee's sole risk.

2.3 Licensor, or its designee, may at any time request evidence of insurance purchased by Licensee to comply with this Agreement. Failure of Licensee to comply with Licensor's request shall be considered a default by Licensee.

2.4 Securing such insurance shall not limit Licensee's liability under this Agreement, but shall be security therefor.

2.5 (A) In the event Licensee finds it necessary to perform construction or demolition operations within fifty feet (50') of any operated railroad track(s) or affecting any railroad bridge, trestle, tunnel, track(s), roadbed, overpass or underpass, Licensee shall: (a) notify Licensor; and (b) require its contractor(s) performing such operations to procure and maintain during the period of construction or demolition operations, at no cost to Licensor, Railroad Protective Liability (RPL) Insurance, naming Licensor, and/or its designee, as Named Insured, written on the current ISO/RIMA Form (ISO Form No. CG 00 35 01 96) with limits of FIVE MILLION AND 00/100 U.S. DOLLARS (\$5,000,000.00) per occurrence for bodily injury and property damage, with at least TEN MILLION AND 00/100 U.S. DOLLARS (\$10,000,000.00) aggregate limit per annual policy period, with Pollution Exclusion Amendment (ISO CG 28 31 11 85) if an older ISO Form CG 00 35 is used. The original of such RPL policy shall be sent to and approved by Licensor prior to commencement of such construction or demolition. Licensor reserves the right to demand higher limits.

(B) At Licensor's option, in lieu of purchasing RPL insurance from an insurance company (but not CGL insurance), Licensee may pay Licensor, at Licensor's current rate at time of request, the cost of adding this Encroachment, or additional construction and/or demolition activities, to Licensor's Railroad Protective Liability (RPL) Policy for the period of actual construction. This coverage is offered at Licensor's discretion and may not be available under all circumstances.

3. Except as provided in this Amendment, all other terms and conditions of the Agreement shall remain in effect.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly signed, sealed and delivered in duplicate.

**CSX TRANSPORTATION, INC., as Lessee of
Properties of WESTERN & ATLANTIC RAILROAD**

CITY OF CHATTANOOGA

By: _____
Name: _____
Title: _____

By: _____
Name: Donald L. Norris
Title: Administrator, Public Works