

Resolution #TC-3034

Approval of Resolution for the approval of the Public Private Initiative Project for the Realignment of State Highway 67 in Teller County

Approved by the Transportation Commission on: December 20, 2012

Project Code: STA 067A-032

Location: SH 67 MM 47.95 - 49.06

Municipality: Teller County

WHEREAS, The Department of Transportation owns 1.11 linear miles of Highway between Mile Marker (MM)47.95 and 49.06 in Teller County, Colorado identified as State Highway 67 (hereinafter, " Existing SH 67 ROW"); and

WHEREAS, the purpose of this Resolution is to approve an unsolicited Public-Private Initiative (PPI) that has been proposed by the Cripple Creek Victor Gold Mining Company (the Contractor) to realign the SH 67 ROW under the Public-Private Initiatives Program Act of 1995, CRS § 43-1-1201 through 1209; and

WHEREAS, the Public-Private Initiatives Program Act is the legislative framework enabling CDOT to enter into PPI agreements for transportation system projects, which projects may include State Highway infrastructure projects; and

WHEREAS, the Contractor owns the real property on both sides of, and immediately adjacent to, the SH 67 ROW; and

WHEREAS, the SH67 ROW that is bordered by the Contractor's real property does not meet current design standards and has inadequate sight distances; and

WHEREAS, the Contractor desires to obtain additional property for the purpose of expanding its valley leach facility used for its gold mining process; and

WHEREAS, to accomplish that purpose, the Contractor has proposed that it obtain the property from the Existing SH 67 ROW, in return for the Contractor performing certain transportation improvements to a an alternative alignment (hereinafter " Realigned SH 67"); and

WHEREAS, the Contractor's proposal provides for the Contractor to: a) acquire all necessary ROW for the Realigned SH 67, b) design and construct a new Realigned SH 67 to current CDOT standards and c) convey the Realigned SH 67 to CDOT in exchange for CDOT granting to the Contractor the real property within the boundaries of the Existing SH 67 ROW once the replacement/realigned SH67 is completed and opened to traffic; and

WHEREAS, pursuant to CRS §43-1-1202 (1) (c), CDOT has the authority to consider and accept unsolicited proposals pursuant to the procedure described in CRS §43-1-1203; and

WHEREAS, CDOT has determined that the proposed PPI complies with the Public Private Initiatives Program Act, including the procedures described in CRS §43-1-1203, and that it can be accepted by CDOT; and

WHEREAS, CDOT determined the proposed PPI would not require CDOT to spend public moneys in an amount that is reasonably expected to exceed fifty thousand dollars in the aggregate for any fiscal year and that therefore CDOT is not required to publish a public notice for comparable proposals per CRS §43-1-1203 (6), before accepting the unsolicited proposal; and

WHEREAS, CRS §43-1-1201 (2), CRS, authorized CDOT to grant, as a "public benefit", a property right or interest in or concerning a State Highway ROW in exchange for a "private contribution"; and

WHEREAS, CDOT has determined that the value of the Realigned SH 67 is at least equal to the value of the Existing SH 67 ROW and therefore that the value of the Realigned SH 67 (the private contribution to be received) "reasonably relates to " the value of the existing SH 67 ROW property (the public benefit to be granted), as required by CRS §43-1-1202 (1) (d); and

WHEREAS, the Contractor will provide a one-time payment of \$200,000 to CDOT for oversight of this project; and

WHEREAS, CDOT, through its Region 2 Staff, desires to implement the proposed PPI and has determined that implementing the proposed PPI is in CDOT's best interest; and

WHEREAS, CDOT and the Commission have determined that the PPI Program Guidelines previously adopted by the Commission concerning the solicitation, evaluation, and selection of proposals for PPIs are not applicable to this initiative because the Guidelines are intended only for larger and more complex PPI proposals, and the Guidelines allow CDOT to waive the use of the more comprehensive process described in the Guidelines if the use of the Guidelines is not warranted by the simpler nature and smaller scope of particular PPI proposals; and

WHEREAS, in addition to CDOT's authority under the PPI Program Act, CDOT has additional authority under CRS §43-1-210 (5), to dispose of property no longer needed for State Highway purposes; and

WHEREAS, when the replacement/realigned SH67 is completed and opened to traffic, the Existing SH 67 ROW will no longer be needed for State Highway purposes; and

WHEREAS, CDOT has determined that the Contractor is the sole abutting owner to the existing SH 67 ROW and that following completion of the Realigned SH 67, the Existing SH67 ROW can be disposed of to the Contractor in accordance with CRS §43-1-210 (5); and

WHEREAS, the Contractor will accept the Existing SH 67 ROW in "as is" condition; and

WHEREAS, the Chief Engineer, the Department of Transportation, and the Executive Director are authorized pursuant to Colorado Revised Statutes CRS § 43-1-1201 through 1209, to accept unsolicited PPI Proposals and CRS §43-1-210 (5) to dispose of property no longer needed for transportation purpose; and

WHEREAS, the Transportation Commission concurs with the Chief Engineer that CDOT may accept this PPI Proposal and dispose of the Existing SH 67 ROW; and

NOW THEREFORE BE IT RESOLVED, pursuant to the provisions of the Colorado Revised Statutes, Sections CRS § 43-1-1201 through 1209 and §43-1-210 (5), the Department of Transportation be given authority to accept this PPI Proposal and dispose of the Existing SH 67 ROW.

Herman J. Stockinger III
Herman Stockinger, Secretary
Transportation Commission of Colorado

12-27-12
Date