



MEMORANDUM

March 23, 2010

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator *ES*
David Parker, City Engineer/CIP Executive

SUBJECT: **TDOT Proposal for Mack Hatcher Pkwy Widening
From South of SR 96 to West of SR 6
Federal Project No. STP-397(7); State Project No. 94092-2223-14
COF Contract No. 2010-0009**

Purpose

The purpose of this memo is to provide the Franklin Board of Mayor and Aldermen (BOMA) with information to consider a Tennessee Department of Transportation (TDOT) proposal for the Mack Hatcher Pkwy Widening Project from south of SR 96 (Murfreesboro Road) to west of SR 6 (US31, Franklin Road).

Background

The segment of the Mack Hatcher Parkway that is the subject of the referenced proposal is a two-lane roadway that is being designed for widening to a four-lane cross section. The elements of the Mack Hatcher Pkwy Context Sensitive Design (CSD) process are to be included in this project. The project is being designed and will be constructed by TDOT, but as mentioned in the proposal the City of Franklin will have aspects of the work to inspect for future maintenance responsibility. Also, there are some aspects of the right-of-way (ROW) and utility adjustments that the City may be involved in.

This proposal has been reviewed by BOMA at a previous date; however, a few language revisions have been made by the City Attorney and City Engineer/CIP Executive.

Financial Impact

Other than the cost of City staff to do inspection of some of the elements during construction and future maintenance of these elements, the City does not have any financial responsibilities in regards to this project at this time.

Recommendation

Approval of the TDOT proposal as revised by staff is recommended.

P R O P O S A L

OF THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF TENNESSEE

TO THE CITY OF FRANKLIN, TENNESSEE:

The DEPARTMENT OF TRANSPORTATION of the State of Tennessee, hereinafter "DEPARTMENT", proposes to construct a project in the CITY of FRANKLIN, hereinafter "CITY", designated as State Project Number 94092-2223-14, that is described as S.R. 94 (Mack Hatcher Parkway) from south of S.R. 96 (Murfreesboro Road) to west of S.R. 6 (U.S. 31, Franklin 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. The DEPARTMENT will take action, as provided in Tenn. Code Ann. § 54-5-801, et seq., to obtain the removal or adjustment of privately, publicly or cooperatively owned utility lines located within the proposed right-of-way of the project, including any road or other public way owned by the CITY, or any of its instrumentalities, which conflict with construction of the project. In the event the DEPARTMENT is unsuccessful in its efforts to obtain the removal or adjustment of utility facilities within the right-of-way of any road or public way owned by the CITY, or its instrumentalities, the CITY agrees that it will take action necessary to require the removal or adjustment of any such facilities as would conflict with the construction of the project.

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.

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 CITY 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. The CITY shall have the right, in conjunction or coordination with the DEPARTMENT, to inspect the construction of such traffic control devices prior to the DEPARTMENT's acceptance of the traffic control devices; provided, however, that the decision to accept the devices shall remain solely with the DEPARTMENT.

11. If, as a result of acquisition and use of right-of-way for the project, any existing 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 obtain the approval of the DEPARTMENT before authorizing parking on the right-of-way and easements for the project.

14. The CITY will not install or maintain any device for the purpose of regulating the movement of traffic on the roadway except as warranted and in conformity with the Manual on Uniform Traffic Control Devices.

15. 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 paved roadway where no curbs exist on non-access control projects. The CITY agrees to maintain other parts of non-access control projects.

16. 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 DEPARTMENT'S maintenance responsibilities as set forth in Section 15 of this Proposal.

17. The CITY shall have the right, in conjunction or coordination with the DEPARTMENT, to inspect any sidewalk or other part of the project for which it will have maintenance responsibility under paragraphs 15 or

16 of this Proposal, prior to the DEPARTMENT's acceptance of the project; provided, however, that the decision to accept the sidewalk or any other part of the project shall remain solely with the DEPARTMENT.

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 as described in paragraph 1 of this Proposal and of which the Attorney General has received the notice and pleadings provided for therein.

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.

IN WITNESS WHEREOF, the DEPARTMENT has caused this proposal to be executed by its duly authorized official on this ____ day of _____, 20____.

THE CITY OF FRANKLIN

BY: _____
John Schroer, Mayor

DATE: _____

ATTEST:

BY: _____
Eric Stuckey, City Administrator

DATE: _____

APPROVED AS TO FORM AND LEGALITY:

BY: _____
Shauna R. Billingsley, City Attorney

DATE: _____

STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION

BY: _____
Gerald F. Nicely
Commissioner

DATE: _____

APPROVED AS TO FORM AND LEGALITY:

BY: _____
Attorney Department of Transportation

DATE: _____