

RESOLUTION NO. 2010-28

A RESOLUTION TO APPROVE TDOT PROPOSAL; FEDERAL PROJECT NUMBER STP-397(7); STATE PROJECT NUMBER 94092-2223-14; FOR THE WIDENING OF S.R. 397 (MACK HATCHER PARKWAY) FROM S.R. 96 (MURFREESBORO ROAD) TO S.R. 6 (FRANKLIN ROAD); COF CONTRACT NO. 2010-0009

WHEREAS, the Board of Mayor and Aldermen approved the proposal for Federal Project Number STP-397(7), State Project Number 94092-2223-14 ("Proposal") from TDOT for the widening of S.R. 397 (Mack Hatcher Parkway) from S.R. 96 (Murfreesboro Road) to S.R. 6 (Franklin Road) on April 13, 2010; and

WHEREAS, a copy of the Proposal is attached as Exhibit A; and

WHEREAS, the State of Tennessee, Department of Transportation (TDOT), requires a certified copy of the Resolution approving the aforementioned Proposal.

NOW THEREFORE, BE IT RESOLVED, BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE THAT:

The Proposal for the widening of S.R. 397 (Mack Hatcher Parkway) from S.R. 96 (Murfreesboro Road) to S.R. 6 (Franklin Road), Federal Project Number STP-397(7), State Project Number 94092-2223-14, COF Contract No. 2010-0009 is approved as indicated by its execution by the Mayor and attested by the City Administrator.

Adopted: May 25, 2010

Attest:

John Schroer
Mayor

Eric Stuckey
City Administrator/Recorder



HISTORIC
FRANKLIN
TENNESSEE

MEMORANDUM

April 30, 2010

TO: Board of Mayor and Aldermen

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

SUBJECT: **Resolution No. 2010-28**
To Approve TDOT Proposal for Mack Hatcher Parkway Widening

Purpose

The purpose of this memorandum is to provide the Franklin Board of Mayor and Aldermen (BOMA) with information to consider Resolution No. 2010-28 approving a proposal from the Tennessee Department of Transportation (TDOT) for the widening of the Mack Hatcher Parkway.

Background

Several months ago TDOT submitted a proposal to the City for the widening of Mack Hatcher Pkwy from SR 96 (Murfreesboro Rd) to SR 6 (Franklin Rd). After review and correction of this proposal by staff, the proposal was submitted to the City of Franklin Board of Mayor and Aldermen (BOMA) for acceptance/approval. On April 13, 2010 this proposal was approved by BOMA. On April 20, 2010 the proposal was executed by the Mayor and attested by the City Administrator and then sent to TDOT for execution. We have since received notification from TDOT that they cannot process this proposal until the City submits a certified copy of a resolution approving it, hence Resolution No. 2010-28.

Financial Impact

None

Recommendation

Approval of Resolution 2010-28 is recommended.

Exhibit A

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. 397 (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____.

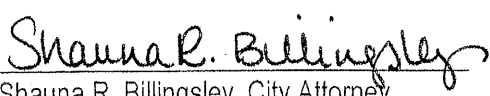
THE CITY OF FRANKLIN

BY:  DATE: 4.20.2010
John Schroer, Mayor

ATTEST:

BY:  DATE: 4.20.2010
Eric Stuckey, City Administrator

APPROVED AS TO FORM AND LEGALITY:

BY:  DATE: 4.20.2010
Shauna R. Billingsley, City Attorney

STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION

BY: _____ DATE: _____
Gerald F. Nicely
Commissioner

APPROVED AS TO FORM AND LEGALITY:

BY: _____ DATE: _____
Attorney Department of Transportation