TENNESSEE DEPARTMENT OF TRANSPORTATION

DESCRIPTIONS OF PHASES

FOR THE STATE INDUSTRIAL ACCESS PROGRAM

Description of Responsibilities Associated with Each Phase Option

Survey and Design

LOCAL – The local government will provide the survey and design (through its own forces or consultant), which meets TDOT guidelines at no cost to TDOT. The work must be coordinated with the appropriate TDOT Regional Survey & Design Office.

TDOT – TDOT will provide the necessary survey and design for the project with no cost to the local government.

Right-of-Way Acquisition

LOCAL – The local government will secure donations or purchase the necessary right-of-way for the project, at no cost to TDOT, in accordance with State policies and procedures. This must be coordinated through the appropriate Regional Right-of-Way Office.

TDOT – TDOT will purchase the necessary right-of-way for the project. TDOT and the local government will each be responsible for 50% of the actual cost. The local government will also be responsible for submitting a deposit of the 50% match of the estimated amount before right-of-way acquisition. This deposit is applied toward the local government's share of the actual cost, and any amount over the actual cost is refunded to the local government. If the actual cost is higher than the estimated cost then the local government will be responsible for 50% of the additional required funds.

Utility Relocation

State Let Project

If TDOT lets the project to construction, the Department will coordinate the relocation of utilities regardless of who pays for the relocations.

LOCAL – The local government will be responsible for contracting for the adjustment of all conflicting utilities and the cost of relocating reimbursable utilities with no cost to TDOT.

TDOT – The relocation of the utilities will be contracted by TDOT's Utility Office. The local government will pay fifty percent (50%) of the estimated reimbursable cost for relocating the utilities. To qualify as a reimbursable utility cost, the utility that is being relocated due to the SIA project must have been located outside the existing public right-of-way.

Locally Let Project

LOCAL – If the locals are letting the project to a construction contract, they are responsible for all utility coordination, reimbursable cost, and must provide certification/documentation to the TDOT utility office to be approved and certified prior to scheduling the contract letting.

TDOT – TDOT will approve and certify the utilities prior to the letting. To qualify as a reimbursable utility cost, the utility that is being relocated due to the SIA project must have been located outside the existing public right-of-way.

Railroad Crossings

LOCAL – The local government will be responsible for the coordination of any construction, alteration, or upgrade of railroad crossings associated with the SIA project, and the local government will be responsible for 100% of the cost. If requested by locals, TDOT can coordinate but the cost will be 100% local.

TDOT – TDOT will coordinate any construction, alteration, or upgrade of railroad crossings associated with the SIA project, and the local government will be responsible for 50% of the cost.

Construction – grading, drainage, and base

LOCAL – The local government will be responsible for the construction of and costs associated with the earthwork, drainage features, and base material needed for the SIA. The local government will ensure the construction and materials meet TDOT's specifications. The local government will also be responsible for complying with any state or federal rules, regulations, and laws pertaining to permits and will secure any permits needed to perform this work. This option is at no cost to TDOT and is subject to a determination of the local government's ability to manage the project by TDOT's Local Programs Development Office.

TDOT – TDOT will be responsible for the construction of and costs associated with the earthwork, drainage features, and base material needed for the SIA. TDOT will also be responsible for securing any permits needed to perform this work. This is all at no cost to the local government.

Construction – pavement

LOCAL – The local government will be responsible for the construction of and costs associated with paving the SIA. The local government will ensure the construction and materials meet TDOT's specifications. The local government will also be responsible for complying with any state or federal rules, regulations, and laws pertaining to permits and will secure any permits needed to perform this work. This option is at no cost to TDOT and is subject to a determination of the local government's ability to manage the construction project by TDOT's Local Programs Development Office.

TDOT – TDOT will be responsible for the construction of and costs associated with paving the SIA. TDOT will also be responsible for securing any permits needed to perform this work. This option is at no cost to the local government.

Environmental Guidelines for Industrial Highways

Transportation projects that do not involve federal aid funding and do not otherwise constitute a major federal action (such as these SIA projects) are exempt from the provisions of National Environmental Policy Act of 1969 (NEPA).

Federal court law, however, has established that under some circumstances, NEPA may apply to a non-federal project.

In a 2001 Tennessee case (Southwest Williamson County Community Association v. Slater, et al.), the Sixth Circuit Court of Appeals defined two alternative tests for determining whether a non-federal project might actually constitute a major federal action to the extent that the requirements of NEPA would apply. The two tests identified in this case are:

1. When the non-federal project restricts or limits the statutorily prescribed federal decision-makers' choice of reasonable alternatives; or

2. When the federal-decision makers have authority to exercise sufficient control or responsibility over the non-federal project so as to influence the outcome of the project.

State-funded transportation projects that require the acquisition of right-of-way and/or the construction of new roadways and other transportation facilities must undergo a rigorous environmental review. The environmental review is documented in a Tennessee Environmental Evaluation Report (referred to as a TEER) that will be made available for public review.

A TEER is prepared for a state-funded transportation project that meets both of the following criteria:

1. Is a transportation route (including a bridge project); and

2. Requires acquisition or disturbance of at least one acre of new or additional right-of-way, unless there are special circumstances that would necessitate the preparation of a TEER for a project with less than one acre of property acquisition.

Special circumstances that would result in the need to prepare a TEER under the second criterion listed above include, but are not limited to, the following:

1. Displacement of any commercial or residential occupants;
2. The use of land from a property or district that is listed on or eligible for listing on the National Register of Historic Places or a National Historic Landmark, which would cause an adverse effect to that resource;

3. The use of land from a public park or recreation area, designated forest, or wildlife management area;
4. Work that requires a US Coast Guard construction permit, or an individual US Army Corps of Engineers Section 404 Permit;
5. Construction in, across, or adjacent to a river designated as a component of the National System of Wild and Scenic Rivers or high-quality streams, including streams designated as Exceptional Tennessee Waters (ETW), as designated by Tennessee's water quality standard;
6. Work encroaching on a regulatory floodway or work affecting the base floodplain (100-year flood) elevation of a water course or lake;
7. Work in wetlands;
8. Change in access control;
9. A known hazardous materials site within the proposed right-of-way;
10. An adverse effect to federal or state designated threatened or endangered species or their critical habitat; or
11. A formal request for the preparation of a TEER is received from a local citizen, group or organization, and the request is based on identified environmental concerns.

For the Tennessee Department of Transportation (TDOT) Environmental Procedures Manual relating to State-Funded projects in its entirety visit the following site:
https://www.tn.gov/assets/entities/tdot/attachments/EnviroProcMan.pdf

Early identification of sensitive areas will enable TDOT to implement changes to avoid environmental impacts, coordinate with state and federal agencies, and obtain required permits prior to construction of an SIA roadway. If these sensitive areas cannot be completely avoided, the impacts must be minimized, and the effects of the proposed project must be mitigated.

These activities have the potential to lengthen the project schedule and increase project cost.

If the local government chooses to prepare the project plans, the local government must provide the TDOT Environmental Division with accurate maps or aerial photography on which to base technical environmental studies.

When TDOT is performing the construction phase of the project, whether by TDOT maintenance forces or project contract, TDOT will conduct the technical studies and obtain all environmental permits.

When the local government is performing the construction phase, it will be responsible for the technical studies and for obtaining all environmental permits for the work performed.