City of Grand Island

Tuesday, August 26, 2014
Council Session - Updated

Item G-15

#2014-245 - Approving the Adoption of a Resolution Designating Responsible Charge Individuals for Federal Aid Transportation Projects

Staff Contact: John Collins, P.E. - Public Works Director

Council Agenda Memo

From: Terry Brown, Assistant Public Works Director

Meeting: August 26, 2014

Subject: Approving the Adoption of a Resolution Designating Responsible Charge Individuals for Federal Aid Transportation Projects

Item #'s: G-15

Presenter(s): John Collins PE, Public Works Director

Background

Grand Island is a Local Public Agency (LPA) in the State of Nebraska receiving federal transportation funding from the Federal Highway Administration (FHWA). FHWA federal transportation funds are limited to Roadway, Bridge, and Trail Projects. As a sub-recipient of federal transportation funding, the City of Grand Island is charged with the responsibility of spending these funds in accordance with Federal and State law. The Nebraska Department of Roads (NDOR) administers these funds under guidelines in the NDOR's Local Projects Agency (LPA) Manual.

Discussion

There are a number of requirements to comply with the NDOR's LPA Manual, one of which is the designation of a Responsible Charge (RC) individual to oversee federal aid transportation projects.

At the December 21, 2010 council meeting Project Manager, Scott Griepenstroh, was named the City's RC for all projects receiving federal transportation funding. With the recent resignation of Scott, all projects are being transferred to Terry Brown, Assistant Public Works Director, as the RC.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve

2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

Public Works Administration recommends that the Council approve a resolution, designating Terry Brown as the Responsible Charge for all currently active federal aid transportation projects.

Sample Motion

Move to approve the resolution designating Responsible Charge individuals.

DISCLAIMER APPLICABLE TO

THE LPA RESOLUTION DESIGNATING RC

The following is a resolution drafted by the Nebraska Department of Roads (NDOR) that includes definitions and substantive commitments required of a Local Public Agency (LPA) when designating a public employee to be in Responsible Charge (RC) of a Federal-aid transportation project. This sample resolution should only be used after the LPA has thoroughly reviewed all Federal-aid program requirements, investigated all issues related to the LPA's statutory duties and responsibilities, and determined that it is in its best interest to designate a RC public employee and to undertake a Federal-aid project. NDOR has not made any effort to investigate, or include in this sample resolution, the other requirements that the LPA must meet in order to undertake a project of this type or to designate a RC. **Any changes to the definitions or the substantive commitments of this sample resolution shall be approved in advance in writing by NDOR, or such changes will be considered null and void.** The LPA is ultimately responsible for all language used in its actual resolution and in making sure that the resolution is accurate and complete and meets all requirements of Federal, State and local laws, rules, regulations, policies and guidelines, and the NDOR LPA Guidelines Manual for Federal-aid Projects.

RESOLUTION
(DESIGNATING RC)

City of Grand Island

Resolution No. 2014-245

Whereas: The CITY OF GRAND ISLAND has a full-time public employee on staff, or has obtained the services of a full-time public employee (an inter-local cooperation agreement, if applicable, is attached) who is fully qualified and has the time and interest in serving as a "Responsible Charge" (RC) for this project. The designated RC will be in day-to-day responsible charge of all aspects of the project, from planning through post-construction activities, with the express purpose of doing all things necessary for the project to remain eligible for federal-aid transportation project funding; and

Whereas: the RC will ensure that, at a minimum, (1) the project receives independent and careful development, supervision and inspection, (2) the project is constructed in compliance with the plans and specifications, (3) all aspects of the project, from planning through construction activities, including all environmental commitments, remain eligible for federal funding, and (4) decisions made and actions taken for the project have adequate supporting documentation filed in an organized fashion.

For purposes of this resolution, the following definitions will apply:

> **Fully qualified** means a person who has satisfactorily completed all applicable Nebraska Department of Roads (NDOR) training courses and who has met the other requirements necessary to be included on the NDOR list of qualified Local Public Agency (LPA) RCs.
>
> **Full-time public employee** means a public employee who meets all the requirements and is afforded all the benefits of full-time employees as that phrase is applied to other employees of the employing public entity. A person is not a full-time public employee if that person provides outside private consulting services, or is employed by any private entity, unless that person can prove to NDOR in advance, that employee's non-public employment is in a field unrelated to any aspect of the project for which federal aid is sought.
>
> **Public employee** means a person who is employed solely by a county, a municipality, a political subdivision; a Native American tribe; a school district; another entity that is either designated by statute as public or quasi-public; or an entity included on the list of entities determined by the NDOR, and approved by the Federal Highway Administration (FHWA), as fulfilling public or quasi-public functions.

Responsible charge means the public employee who is fully empowered by the LPA and has actual day-to-day working knowledge and responsibility for all decisions related to all aspects of the federal-aid project from planning through construction project activities, including all environmental commitments. The RC is the day-to-day project manager, and the LPA's point-of-contact for the project. Responsible charge does not mean merely delegating the various tasks; it means active day-to-day involvement in identifying issues, investigating options, working directly with stakeholders, making decisions, and actively monitoring project construction. It is understood that the RC may delegate or contract certain technical tasks associated with the project so long as the RC actively manages and represents the owner's interests in the delegated technical tasks.

Be It Resolved: by the City Council of the CITY OF GRAND ISLAND that:

TERRY BROWN is hereby designated as Responsible Charge (RC) for pre-construction and construction phases, in accordance with the Project Program Agreement previously executed, the NDOR LPA Guidelines Manual for Federal-aid Projects, and all Federal, State and local laws, rules, regulations, policies and guidelines for the following Federal-aid transportation projects:

NDOR Project Number [SRTS-40(57)],

NDOR Control Number [42521],

Walk to Walnut Safe Routes to School Project at 15th Street and Custer Avenue

NDOR Project Number [URB-5436(5)],

NDOR Control Number [42707],

Capital Avenue Widening from Webb Road to Broadwell Avenue

NDOR Project Number [URB-30-4(151)],

NDOR Control Number [42477],

Storm Sewer from US Highway 30 to Wasmer Detention Cell

NDOR Project Number [ENH-40(59)],

NDOR Control Number [42650],

Bike Trail along Moore's Creek Drainway; State Street to Capital Avenue

NDOR Project Number [ENH-40(61)],

NDOR Control Number [42666]

Mormon Island bridges on Locust Street north of I-80

NDOR Project Number [ENH-40(60)],

NDOR Control Number [42651]

Grand Island – 3rd Street & Wheeler Avenue Historical Lighting Project

NDOR Project Number [URB-5409(2)]

NDOR Control Number [42706]

Various Locations in Grand Island

The City of Grand Island assures and agrees that:

1) It has authorized and fully empowered the RC to be in day-to-day responsible charge of the subject federal-aid project; this does not mean merely supervising, overseeing or delegating the various tasks, it means active day-to-day involvement in the project including identifying issues, investigating options, working directly with stakeholders, and decision-making.
2) The RC is a full-time public employee.
3) The RC is fully qualified and has successfully completed required training to serve as a RC.
4) It will allow the RC to spend all time reasonably necessary to properly discharge all duties associated with the project, including ensuring that all aspects of the project, from planning through post-construction activities, remain eligible for federal-aid highway project funding.
5) It will not assign other duties to the RC that would affect his or her ability to properly carry out the duties set out in this agreement.
6) It will provide necessary office space, materials and administrative support for the RC.
7) It will fully cooperate with, support and not unreasonably interfere with the day-to-day control of the RC concerning the acts necessary for making the project eligible for federal funding.
8) It will take all necessary actions and make its best good faith efforts to comply and assist the RC in complying with all federal and state requirements and policies applicable to federal-aid transportation projects, including, but not limited to, all applicable requirements of 23 CFR 635.105.

9) It will take all necessary actions and make its best good faith efforts to ensure that the RC's work on the project would be deemed to meet the same standards that the Nebraska Department of Roads must meet under 23 CFR 635.105.
10) It will comply with the conflict-of-interest requirements of 23 CFR 1.33.
11) It will notify NDOR immediately in the event the designated RC(s) will no longer be assigned to the project. **A supplemental agreement designating a replacement RC may be required by NDOR.**
12) It is ultimately responsible for complying with all federal and state requirements and policies applicable to federal-aid highway projects. This includes meeting all post-construction environmental commitments. The LPA understands that failure to meet any eligibility requirements for federal funding may result in the loss of all Federal funding for the project. In the event that the acts or omissions of RC, the LPA or its agents or representatives result in a finding that a project is ineligible for Federal funding, the LPA will be required to repay NDOR some or all previously paid Federal funds and any costs or expenses NDOR has incurred for the project, including but not limited to, those costs for the RC.

The CITY OF GRAND ISLAND understands that the following are the duties of the RC:

a) Serve as the LPA's contact for issues or inquiries for Federal-aid projects assigned by the LPA;
b) Ensure that all applicable Federal, State and local laws, rules, regulations, policies and guidelines are followed during the development and construction of the project;
c) Know and follow the NDOR LPA Guidelines Manual for Federal-aid Projects;
d) Have active day-to-day involvement in identifying issues, investigating options, working directly with stakeholders, and decision-making;
e) Ensure that the project plans and specifications are sealed, signed and dated by a professional engineer licensed in the State of Nebraska, and that estimates have been prepared and the construction has been observed by a professional engineer licensed in the State of Nebraska or a person under the direct supervision of a professional engineer licensed in the State of Nebraska (reference Neb. Rev. Stat. § 81-3445);
f) Competently manage and coordinate the project day-to-day operations, including all project-related decisions, on behalf of the LPA, which includes the LPA's governing body, staff and any extended staff dedicated to the project such as consulting engineers;
g) Ensure that project documents are thoroughly checked, reviewed and have had quality control measures applied, prior to submitting to NDOR and/or FHWA;
h) Monitor the progress and schedule of the project and be responsible for ensuring that the project is completed on time in accordance with established milestone dates;
i) Properly serve as the owner's representative, and to visit the project site during construction on a frequency commensurate with the magnitude and complexity of the project;
j) Ensure that proper construction management processes have been developed and implemented for the project;

k) Serve as a steward of the public funds, i.e. ensure that the public gets what it is paying for;
l) Attend all required training including the annual workshop; and
m) Fulfill continuing education requirements as specified in the NDOR LPA Guidelines Manual for Federal-aid Projects.

Adopted by the City Council of the City of Grand Island, Nebraska, August 26, 2014.

The City Council of the CITY OF GRAND ISLAND

Vaughn Minton	Kent Mann
Peg Gilbert	Mark Stelk
Julie Hehnke	Linna Dee Donaldson
Mike Paulick	Mitch Nickerson
Chuck Haase	John Gericke

Council Member_____
Moved the adoption of said resolution
Member _____ Seconded the motion
Roll Call: ___Yes ___No ___Abstained ___Absent
Resolution adopted, signed and billed as adopted

_____
Jay Vavricek, Mayor

Attest:

_____
RaNae Edwards, City Clerk