



# City of Grand Island

Tuesday, November 24, 2009

Council Session

## Item I2

**#2009-306 - Approving the Adoption of the Resolution to Comply with Local Public Agency Guidelines Manual by Designating a Responsible Charge**

Staff Contact: Steven P. Riehle, Public Works Director

# Council Agenda Memo

**From:** Steven P. Riehle, Public Works Director

**Meeting:** November 24, 2009

**Subject:** Approving the Adoption of the Resolution to Comply with Local Public Agency Guidelines Manual by Designating a Responsible Charge

**Item #'s:** I-2

**Presenter(s):** Steven P. Riehle, 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. The City completed one of the steps by agreeing to comply with the requirements of the Nebraska Department of Road's (NDOR's) LPA Manual by passing a resolution at the October 27, 2009 council meeting. One of the next steps is to designate a Responsible Charge (RC) individual to oversee the federal aid transportation projects. The RC must be a full-time employee of a governmental entity. If a community doesn't have such an employee they can contract through another government entity by an interlocal agreement. Prior to designation as an RC, an individual has to participate in approximately three (3) weeks of on-line training and two (2) separate weeks of classroom training. There will also be a requirement of annual training in order to maintain certification as an RC.

Manager of Engineering Services, David Goedeken, has completed the training and is certified by the NDOR as a Responsible Charge individual. Passing the resolution will

designate David as the City's Responsible Charge individual for all projects that are currently active and using federal aid transportation funds.

### **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**

City Administration recommends that the Council approve a resolution, designating David Goedeken, Manager of Engineering Services, as the Responsible Charge individual for all currently active federal aid transportation projects.

### **Sample Motion**

Move to approve the resolution designating David Goedeken as the City's Responsible Charge individual.

**RESOLUTION  
(DESIGNATING RC)**

City of Grand Island

Resolution No. \_\_\_\_\_

**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 interlocal 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:

DAVID GOEDEKEN 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 [URB-2235(5)],

NDOR Control Number [42519],

Northbound Lanes of South Locust Street, North of Interstate 80

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

NDOR Control Number [42521],

Walk to Walnut Safe Routes to School Project at 15<sup>th</sup> Street and Custer Avenue

NDOR Project Number [STPAA-5436(4)],

NDOR Control Number [42427],

Capital Avenue Widening from west of Carleton Avenue to Webb Road

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

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, November 24, 2009.

The City Council of the CITY OF GRAND ISLAND

Jose Zapata	Robert Niemann
Peg Gilbert	Scott Dugan
Kirk Ramsey	Robert Meyer
Larry Carney	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

\_\_\_\_\_  
Margaret Hornady, Mayor

Attest:

\_\_\_\_\_  
RaNae Edwards, City Clerk