JAVA Resolution 10-0114-05

JAVA

Joint Antelope Valley Authority

WHEREAS, the Joint Antelope Valley Authority (JAVA), a joint administrative entity created under the Nebraska Interlocal Cooperation Act (Neb. Rev. Stat. § 13-801 et. seq.) by agreement of April 15, 2000 as amended (JAVA Interlocal Agreement) between the Board of Regents of the University of Nebraska, a public body corporate and governing body of the University of Nebraska (University), the City of Lincoln, Nebraska, a municipal corporation (City), and the Lower Platte South Natural Resources District, a political Subdivision of the State of Nebraska (LPSNRD) is now implementing under the JAVA Interlocal Agreement the Phase One Priority Projects of Antelope Valley Amended Draft Single Package; and

WHEREAS, JAVA has previously approved by-laws, administrative resolution, policies and guidelines for the implementation of the Phase One Priority Projects.

NOW THEREFORE, be it resolved by the Administrative Board of the Joint Antelope Valley Authority as follows:

1. The City of Lincoln as the cognizant Local Public Agency under the related Project Program Agreement has adopted Resolution A-85544 (Attached) designating Ms. Kris Humphrey as the Responsible Charge in accordance with applicable agreements, guidelines, laws, rules, regulations, and policies for the listed Federal-aid transportation Projects (the Federal-aid Project Requirements) involving Antelope Valley Projects implemented by JAVA as components of the Phase One Priority Projects.
2. Accordingly, the JAVA administrative board acknowledges the designation on behalf of JAVA.
3. To the extent required by the Federal-aid Project Requirements the Chairperson is hereby authorized to execute and approve assurances and agreements as approved by JAVA Legal Counsel similar to those provided in Resolution A-8544 in connection with designating Ms. Kris Humphrey as the Responsible Charge for any related Phase One Priority Projects on behalf of JAVA.
4. Accordingly, the requirements of the by-laws of the Board are hereby incorporated into this approval and the JAVA board does hereby grant final approval in conformance with all applicable requirements of the board.
5. The same shall be kept on file with the official records of the Authority as provided in the by-laws.

Dated this 14th Day of January, 2010. Introduced by: Figard

Approved by Unanimous Vote of Johnson, Jackson, and Figard after public hearing on this 14th Day of January 2010.

Signed:

Vice Chairperson

Joint Antelope Valley Authority

Glenn Johnson, Chairperson

09R-180 Introduce:

RESOLUTION NO. A- 85544

Whereas, City of Lincoln has full-time public employees on staff, who are fully qualified and have 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 assigned 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.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln Nebraska that:

The employees listed below are 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:

State C.N.	State Project #	Project Name	City of Lincoln Assigned Responsible Charge	Lincoln Project #
13043	LCLC-5254(9)	Superior Bridge Repair	Mr. Thomas Shafer	701844
		MPO Model Update	Mr. Thomas Shafer	541018
12927	HSIP 5239(7)	Countdown Pedestrian Heads	Mr. Thomas Shafer	701076
12944	HSIP 5227(7)	14th & Cornhusker Roundabout	Mr. Thomas Shafer	701075
12928	HSIP 5254(8)	Northbound I-180 & Superior Ramp	Mr. Thomas Shafer	702620
12848	DPU-55(156)	East Beltway	Mr. Thomas Shafer	542702
12578D	DPU-LIN-2-6	South Beltway	Mr. Thomas Shafer	542701
13037	LCLC-34-6(140)	Arterial Rehab - Package E (O, 15th to 25th, 29th to 44th and Wedgewood to 84th	Ms. Erika Nunes	701812
13038	LCLC-5247(11)	Arterial Rehab - Package D (Holdrege, 19th to 25th; Cornhusker Hwy, Russell to 70th; 70th, Adams to Aylesworth; Vine, 70th to Sierra; Adams, I-180 to 14th)	Ms. Erika Nunes	701811
13040	LCLC-5236(2)	Arterial Rehab - Package B (Y, 18th to 27th; P, 17th to 27th; NW 1st, Highland to W. Fletcher)	Ms. Erika Nunes	701809
13041	LCLC-5220(3)	Arterial Rehab - Package A (A, 63rd to 70th and 70th to Imperial; Van Dorn, Normal to 70th)	Ms. Erika Nunes	701808
13067	LCLC-5244(7)	Arterial Rehab - Holdrege, 33rd to 47th	Ms. Erika Nunes	701772
13068	LCLC-5250(3)	Arterial Rehab - Adams, 57th to 62nd	Ms. Erika Nunes	701777
13081	LCLC-5247(12)	Arterial Rehab - 70th, Aylesworth to Vine	Ms. Erika Nunes	540012
13082	LCLC-5244(8)	Arterial Rehab - Holdrege, 70th to 79th	Ms. Erika Nunes	540013
12744	BR-5267(1)	SW 40th RR Overpass	Ms. Erika Nunes	700132
12776	BR-5248(4)	Adams Street Bridge Repair	Ms. Erika Nunes	701375
11215a	CM-55(142)	Antelope Valley - North/South Roadway from "K" to "Q"	Ms. Kris Humphrey	880109

11215b	CM-55(143)	Antelope Valley - North/South Roadway from Vine to "Y"	Ms. Kris Humphrey	880108
11215g	STPC-5257(1)	Antelope Valley - East Leg Bridge	Ms. Kris Humphrey	880107
11215h	STPC-5234(1)	Antelope Valley - "N" Street Bridge	Ms. Kris Humphrey	880112
11215i	STPC-34-6(135)	Antelope Valley - "O" Street Bridge	Ms. Kris Humphrey	880104
11215j	STPC-5226(1)	Antelope Valley - "J" Street Bridge	Ms. Kris Humphrey	880110
11215k	STPC-5212(5)	Antelope Valley - South Street Bridge	Ms. Kris Humphrey	880111
12572	BR-5266(1)	Harris Overpass	Ms. Kris Humphrey	701781
12946	ENH-5266	West "O" Transportation Enhancement Project	Mr. Ernesto Castillo	
12879	STPB-ENH-55(160)	Jamaica North Phase II	Mr. Terry Genrich	
13079	STPB-ENH-55(172)	Cavett Connector Trail	Mr. Terry Genrich	
12840	STPB-ENH-55(155)	Mopac Trail Bridge - 27th Street	Mr. Terry Genrich	

The City of Lincoln assures and agrees that:

1) It has authorized and fully empowered the RC(s) 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(s) is a full-time public employee;

3) The RC(s) is fully qualified and has successfully completed required training to serve as a RC;

4) It will allow the RC(s) 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(s) 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(s);

7) It will fully cooperate with, support and not unreasonably interfere with the day-to-day control of the RC(s) 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(s) 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(s) may be required by NDOR; and

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(s), 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(s).

The City of Lincoln understands that the following are the duties of the RC(s):

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.

Introduced by:

Jonathan Cook

AYES: Camp, Carroll, Cook, Emery, Hornung, Snyder, Spatz;
NAYS: None.

Approved as to Form & Legality:

John V. Hendry

ADOPTED
OCT 19 2009
BY CITY COUNCIL

Approved this 26th day of Oct., 2009:

Mayor

CITY OF LINCOLN

Request for: ☐ Ordinance ☑ Resolution

(Do Not Write in this Space)

Bill Control No. 09R-180 Date: 10/2

Docketing Date 10/12; PH: 10-19-09

(To Be Entered by City Clerk)

DATE	REQUEST MADE BY	DEPARTMENT
September 29, 2008	Greg MacLean	Public Works & Utilities
DESIRED DOCKET DATE: 10-12; PH 10-19	IF EMERGENCY, GIVE REASON (See Art. 5, Sec. 2 of Charter)	
Emergency Measure Required: ☐ Yes ☑ No		

REASONS OR JUSTIFICATION FOR PROPOSED LEGISLATION

Designation of Responsible Charges for Nebraska Department of Roads.

Local Public Agency's (LPA) are required to designate a public employee to be in Responsible Charge (RC) of a Federal-aid transportation project. If the City of Lincoln does not have a RC in place, the City's Federal-aid highway project could be held up.

FILED
CITY CLERK'S OFFICE
2009 SEP 30 AM 9 27
CITY OF LINCOLN
NEBRASKA

REQUESTOR		
☐ DOES ☑ DOES NOT WISH TO REVIEW AND APPROVE THIS ORDINANCE PRIOR TO ITS INTRODUCTION	DIRECTOR'S SIGNATURE	9-30-09 DATE

TO BE USED BY THE FINANCE DEPARTMENT

BUDGET REVIEW DATE:	ACCOUNT NUMBER AND APPROPRIATE BALANCES DATE:	FUND AVAILABILITY APPROVED DATE:
		DIRECTOR OF FINANCE SIGNATURE

DISTRIBUTION
Return two (2) copies to City Clerk for Docket Number

City Council Introduction: October 12, 2009 Bill Number 09R-180

Public Hearing: October 19, 2009

FACT SHEET

TITLE: Designation of Responsible Charges for Nebraska Department of Roads

SPONSOR: Public Works and Utilities

OPPONENTS: Unknown

OTHER DEPARTMENTS AFFECTED: Urban Development, Parks and Recreation

STAFF RECOMMENDATION: Approval

APPLICANT: Thomas Shafer

REASON FOR LEGISLATION: According to the LPA Guidelines Manual for Federal-aid Projects (http://www.transportation.nebraska.gov/gov-aff/lpa-guide-man.html) section 15.3, in order for the City of Lincoln's Federal-aid transportation project to move forward into the next Federal phase, i.e. be authorized for Federal funds, the City of Lincoln must designate a Responsible Charge (RC) for the project. If the City of Lincoln does not have a RC in place, the City's Federal-aid highway project could be held up.

DISCUSSION

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 resolution has been prepared after the LPA has 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.

Email of 9/15/09 from NDOR

Summary of this message: LPAs get your Responsible Charge (RC) person designated

NDOR has posted a list of Responsible Charge (RC) persons on the Local Projects website (left-click on http://www.transportation.nebraska.gov/gov-aff/downloads.htm). They have successfully completed the required online NHI courses (see below), eight days of classroom Federal-aid basic training (view at https://services.ne-ltap.org/workshops/WorkshopDetails.aspx?WorkshopID=20), and a RC Pre-qualification form (left-click on http://www.transportation.nebraska.gov/gov-aff/downloads.htm).

Online NHI Courses
Introducing Highway Federal-Aid (FHWA-NHI-310115)
Real Estate Acquisition Under the Uniform Act: An Overview (FHWA-NHI-141045)
Local Public Agency Real Estate Acquisition (FHWA-NHI-141047)
Introduction to NEPA and Transportation Decisionmaking (FHWA-NHI- 142052)
Plan Reading (FHWA-NHI-134081)
Ethics Awareness for the Transportation Industry (FHWA-NHI-134069)

For background information on the requirement for LPAs (Local Public Agencies) to be adequately staffed, including RCs, refer to the LPA Guidelines Manual for Federal-aid Projects (http://www.transportation.nebraska.gov/gov-aff/lpa/lpa-guidelines.pdf) and also to the Frequently Asked Questions (FAQ) 1.e. and 1.f (left-click on http://www.transportation.nebraska.gov/gov-aff/faq.html).

If your local agency does not directly employ a qualified RC, see options 2, 3 and 4 on page 3 of FAQ 1.e (http://www.transportation.nebraska.gov/gov-aff/faq/pdf-faq/1/1e.pdf). NDOR, the Nebraska League of Municipalities and NACO collaborated to provide a sample Interlocal Cooperation Act Agreement. Left-click on http://www.transportation.nebraska.gov/gov-aff/downloads.htm and then left-click on either the pdf or MS Word version of the RC Interlocal Cooperation Act SAMPLE Agreement.

According to the LPA Guidelines Manual for Federal-aid Projects (http://www.transportation.nebraska.gov/gov-aff/lpa-guide-man.html) section 15.3, in order for your Federal-aid transportation project to move forward into the next Federal phase, i.e. be authorized for Federal funds, your agency must designate a RC for the project. RCs acceptable for designation at this time are on the aforementioned NDOR list of RCs.

In the long run, RCs will be designated in the project program agreement. As soon as we can phase it in and implement it, there will be language inserted into the standard "boilerplate" project program agreement which requires naming of the RC.

For those of you with projects that have an executed project program agreement in place, there are two ways of designating a RC for a project.

1. Supplemental agreement. If your project needs to have a supplemental agreement for any reason, before entering the next phase, your NDOR Local Projects Coordinator will add language that will have your agency designate the RC for the project.
2. Resolution. If your project does not need a supplemental agreement prior to the next phase, for the time being we will accept a resolution, designating the RC for a project, from your governing body. A sample resolution with the language that NDOR needs can be found by left-clicking on http://www.transportation.nebraska.gov/gov-aff/downloads.htm and then left-clicking on the pdf or MS Word version of RC Resolution Template - use this when the sole purpose is to designate an RC. As mentioned above, in the long run all RCs will be designated within the project program agreement; therefore this resolution will eventually be eliminated.

Reminder: phases of a Federal-aid highway project are:

- PE/NEPA
- Final Design
- ROW
- Utilities
- Construction
- Construction Engineering

Before requesting any additional obligation authority, NDOR's project coordinators will check to see that your agency has a RC in place. If your agency does not have a RC in place, your Federal-aid highway project could be held up. If for some reason your agency is not in a position to designate a RC at this time, and your project needs to advance to the next phase, contact your NDOR Local Projects Coordinator.

Forward this e-mail as you see fit.

Jim Wilkinson
Local Projects Engineer
Nebraska Department of Roads
http://www.transportation.nebraska.gov
1400 Highway 2
Lincoln, Nebraska 68509-4759
402-479-4607

POLICY OR PROGRAM CHANGE: No

COST OF CONSTRUCTION: n/a

SOURCE OF FUNDS: n/a

FACT SHEET PREPARED BY: Thomas Shafer, Engineering Services, Design/Construction Section Manager

REVIEWED BY: Director of Public Works & Utilities