



STAFF REPORT

DATE: August 22, 2023
TO: Ty Lasher, City Manager
FROM: Anne Stephens, PE, City Engineer
RE: Woodlawn Project – Pedestrian Push Button Poles AMENDMENT

Council heard discussion on the pedestrian push button poles at their August 15th meeting. Since this meeting I reached out to Ed Thornton, Transportation Engineer and David LaRoche, Safety/ITS/Traffic Ops Engineer with the Kansas Division of the Federal Highway Administration (FHWA) in Topeka requesting guidance on the pedestrian push button issue. The gist of the conversation was that we are required to meet the Americans with Disabilities Act Accessibility Guidelines (ADAAG) and Public Right-of-Way Accessibility Guidelines (PROWAG) to the maximum extent feasible. This means that the City must do everything within their power to meet all of the accessibility guidelines contained within these two documents. Should these guidelines not be met to the maximum extent feasible, the City is at risk of losing their federal funding (not just funding for the item that is in non-compliance) and could be subject to an accessibility lawsuit.

It is still my recommendation that the City Council approve the proposed change order for \$22,127.70.

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700 S.W. Harrison Street
Topeka, KS 66603-3745

Mike King, Secretary
Ronald J. Seitz, P.E., Chief



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Sam Brownback, Governor

MEMO TO: County Engineers/Road Supervisors/Hwy. Administrators/Public Works Directors
City Engineers/Street Superintendents/Consultants

DATE: December 10, 2013

SUBJECT: American with Disabilities Act (ADA) Standards

RE: BLP Memo13-15

The attached letter from Mr. J. Michael Bowen, Division Administrator of the Kansas Division of FHWA, provides guidance on the appropriate application of Americans with Disability Act (ADA) standards within public rights-of-way. These guidelines will apply on all future projects developed with KDOT Bureau of Local Projects oversight. By following these guidelines we will be able to provide consistency and compliance with the applicable federal laws and regulations.

It is important to note that these guidelines apply to both the permanent features of a project and to the temporary work zone conditions. This means that the Temporary Traffic Control plan must also consider the ability of pedestrians, both able and disabled, to travel safely through or around the construction site. The LPA shall provide a temporary traffic control plan within the Design Plans, which includes the LPA's plan for handling multi-modal traffic during Construction, including detour routes and road closings, if necessary, and installation of alternate or temporary pedestrian accessible paths to pedestrian facilities in the public right of way within the project limits. The LPA's temporary traffic control plan must be in conformity with the latest version of the Manual on Uniform Traffic Control Devices (MUTCD), as adopted by the Secretary, and be in compliance with the American Disabilities Act of 1990 (ADA) and its implementing regulations at 28 C.F.R. Part 35, and FHWA rules and regulations, and guidance pertaining to the same

Please help us in this effort by working with your partners to be sure all appropriate measures will be taken throughout the design and construction of these projects comply with ADA Standards.

If you have any questions, please contact Ed Thornton at (785)296-3861 or by email at edwardt@ksdot.org.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. J. Seitz".

Ronald J. Seitz, P.E., Chief
Bureau of Local Projects

Attachments: (FHWA letter dated May 23, 2013)

cc: Jim L. Kowach, P.E., KDOT, Director, Division of Engineering and Design
Gelene Savage, KDOT, Managing Attorney, Office of Chief Counsel
District Engineers
FHWA



U.S. Department
of Transportation
**Federal Highway
Administration**

Kansas Division

May 23, 2013

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www.fhwa.dot.gov/ksdiv/index.htm

In Reply Refer To:
HDA-KS

Jerome T. Younger, P.E.
Deputy Secretary and
State Transportation Engineer
Kansas Department of Transportation
Topeka, Kansas 66603

Subject: Americans with Disabilities Act (ADA) Standards

Dear Mr. Younger:

There have been questions recently on the application of ADA standards in regards to the public rights-of-way. Title II of the ADA, which covers state and local governments, requires accessible new construction and alterations rather than adherence to a standard. Agencies must provide usability even if there are no standards for a specific facility type. The U.S. Department of Transportation (DOT) adopted the 2004 ADA Accessibility Guidelines in a Final Rule dated October 30, 2006 (ADAAG). These guidelines provide consistent usability for buildings and on-site facilities but do not address the public rights-of-way pedestrian environment.

The Public Rights-of-Way Accessibility Guidelines (PROWAG) were developed to specifically address designing new or altered public sidewalks, street crossings, and related pedestrian facilities. The PROWAG are not standards until the rule making process is complete but are the recommended best practices for areas not fully addressed by the present ADAAG standards. PROWAG is consistent with the ADA's requirement that all new facilities (and altered facilities to the maximum extent feasible) be designed and constructed to be accessible to and useable by people with disabilities. In this regard, DOT recognizes PROWAG as an equivalent facilitation and is the recommended approach for providing consistent usability within the public rights-of-way.

Consistency with ADA in the public rights-of-way can be achieved by agencies and designers several ways.

- Follow the PROWAG.
- Follow the ADAAG but supplement with PROWAG only where ADAAG is silent.
- Follow the ADAAG but must have reasonable and consistent policies for accessibility for persons with disabilities where ADAAG is silent, for example Accessible Pedestrian Signals (APS).

We expect agencies to clearly define the method above they have selected including their policies if they are not following ADAAG/PROWAG. Accessible features included in construction projects are eligible costs under all FHWA funding programs.

Sincerely yours,

J. Michael Bowen
Division Administrator