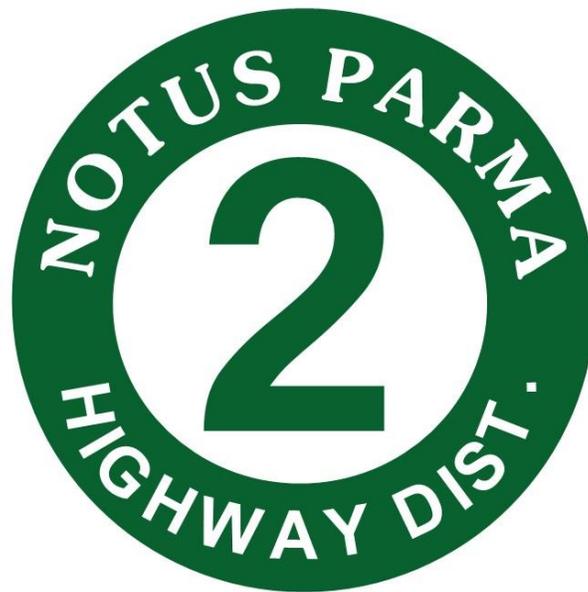


# Notus-Parma Highway District No. 2

POLICY CODE



April 12, 2022

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Notus-Parma Highway District No. 2  
106 South 4th Street  
Parma, Idaho 83660  
Phone: (208) 722-5343

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## TABLE OF CONTENTS

Title 1 Introduction .....	1
Chapter 1 Official District Policy Code; Not A Contract of Employment .....	1
Chapter 2 Logo and Mission .....	2
Chapter 3 Official Newspaper .....	2
Title 2 Board of Commissioners .....	3
Chapter 1 Commissioners.....	3
Chapter 2 Sub-Districts.....	5
Chapter 3 Ethics / Conflicts of Interest .....	6
Chapter 4 Conflicts of Interest.....	9
Title 3 Board Meetings and Public Hearings .....	13
Chapter 1 Board Meetings .....	13
Chapter 2 Open Meeting Law Compliance .....	17
Chapter 3 Procedure for Responding to Notices of Open Meeting Law Violations.....	22
Chapter 4 Minutes .....	23
Chapter 5 Public Hearings .....	25
Title 4 Policy .....	32
Chapter 1 Policy Authority.....	32
Chapter 2 Policy Adoption.....	32
Chapter 3 Policy Custodian.....	34
Chapter 4 New Policy Dissemination.....	34
Title 5 Records .....	35
Chapter 1 Title, Authority, Findings and Guidelines .....	35
Chapter 2 Definitions.....	36
Chapter 3 Operational Policy and Guidelines for the Generation of Records in the Conduct and Administration of District Business.....	37
Chapter 4 Records Classification .....	38
Chapter 5 Records Retention .....	40
Chapter 6 Electronic and Audio Records.....	42
Chapter 7 Public Records Requests .....	46
Chapter 8 Personnel Records Disclosure .....	49

Chapter 9 Records Custody, Control and Access Designations.....	53
Chapter 10 Cybersecurity Policy .....	55
Title 6 Elections .....	633
Chapter 1 Elections .....	633
Chapter 2 Election Prohibitions "Public Integrity in Elections Act" .....	644
Title 7 Appointed Offices.....	666
Chapter 1 Board Chairman.....	666
Chapter 2 Board Vice Chairman .....	666
Chapter 3 Board Secretary .....	677
Chapter 4 Board Treasurer .....	677
Chapter 5 Highway District Attorney.....	677
Chapter 6 Highway District Engineer .....	687
Title 8 Personnel Policies and Procedures.....	69
Chapter 1 Purpose .....	69
Chapter 2 Definitions.....	69
Chapter 3 General Policies .....	711
Chapter 4 Non Appointed Positions .....	722
Chapter 5 Employment Start-Up.....	85
Chapter 6 Rules of Employee Conduct .....	877
Chapter 7 Employee Classification, Compensation, and Benefits.....	90
Chapter 8 Employee Performance and Discipline .....	100
Chapter 9 Discriminatory Workplace Harassment Policy and Complaint Procedure ...	105
Chapter 10 Separation from Employment .....	111
Title 9 Budget and Special Events Officer Expense Authorization .....	113
Chapter 1 Fiscal Year .....	113
Chapter 2 Budget Preparation and Approval .....	113
Chapter 3 Financial Statement and Audit.....	117
Chapter 4 Custodial Holding Fund .....	123
Chapter 5 Public Depository Law Compliance .....	125
Chapter 6 Special Events Officer Expense Authorization Policy .....	126

Title 10 Procurement .....	1288
Chapter 1 Short Title .....	128
Chapter 2 General Provisions .....	128
Chapter 3 Definitions.....	129
Chapter 4 Non-Professional Services and Personal Property Procurement .....	1322
Chapter 5 Professional Service Contracts .....	137
Chapter 6 Public Works Construction .....	141
Chapter 7 Emergency, Sole Source, Public Auction Purchases, and Exceptions .....	152
Chapter 8 Surplus Personal Property .....	155
Chapter 9 Surplus Real Property .....	156
Chapter 10 Independent Contractors for Personal Services Exceeding \$10,000 .....	157
 Title 11 Tort Claims.....	 159
Chapter 1 Service of Tort Claims .....	159
Chapter 2 Process of Tort Claims.....	159
 Title 12 Annual Report.....	 160
Chapter 1 Annual Report .....	160
 Title 13 HSDP Standards & Amendments Permits.....	 161
Chapter 1 HSDP Standards Adopted .....	161
Chapter 2 Fees.....	161
Chapter 3 Applications, Permits, Forms & Process .....	164
Chapter 4 Special Events and House Structure Moving.....	165
Chapter 5 Canyon County Permits & Process .....	168
Chapter 6 Other Applications, Forms & Process.....	171
Chapter 7 Drainage Regulation and Irrigation Policy.....	171
 Title 14 Subdivisions .....	 175
Chapter 1 Authority .....	175
Chapter 2 Process of Applications.....	175
Chapter 3 Approval Acceptance Process .....	177
 Title 15 Public Rights-of-Way Classification & Use .....	 179
Chapter 1 Authority/Purpose .....	179

Chapter 2 Public Right-of-Way Classification .....	183
Chapter 3 Reclassification .....	186
Chapter 4 Acceptance of Public Right-of-Way .....	191
Chapter 5 Public Rights-of-Way Width Policy .....	192
Chapter 6 Highway Project Progress and Cost Estimate Flow Charts .....	194
Chapter 7 Placement of Political Signs On Controlled Roadways .....	194
 Title 16 Mapping .....	 196
Chapter 1 Public Rights-of-Way Map .....	196
Chapter 2 Functional Classification Map .....	200
 Title 17 Vision Triangle & Sight Obstruction .....	 201
Chapter 1 Vision Triangle Policy.....	201
Chapter 2 Sight Obstructions .....	204
Chapter 3 Report to Commissioners .....	204
 Title 18 Traffic Control and Guide Signs .....	 205
Chapter 1 Speed Limits.....	205
Chapter 2 Adoption of Traffic Control Devices .....	205
Chapter 3 Guide Signs Policy .....	205
 Title 19 Other Operational Policy .....	 209
Chapter 1 Snow Removal and Sanding.....	209
Chapter 2 Canal Right-of-Way .....	210
 Title 20 Agreements - Cities/Other Public Highway Jurisdictions .....	 211
Chapter 1 Highway Work Agreements .....	211
Chapter 2 Exchange Maintenance Agreements with Other Highway Jurisdictions.....	211
 Title 21 Planning Policy .....	 212
Chapter 1 Public Right-of-Way Planning and Improvement Policy .....	212
 Title 22 Local Improvement Districts .....	 215
Chapter 1 Authority .....	215
Chapter 2 Valuation of Property .....	215
Chapter 3 Procedure for Creating an L.I.D. ....	216

Title 23 Application and Petition Filing and Process Policy.....225  
    Chapter 1 Application and Petition Filing Policy.....225  
  
APPENDIX A   Acknowledgment of Receipt of Policy Code ..... 1

# Title 1 Introduction

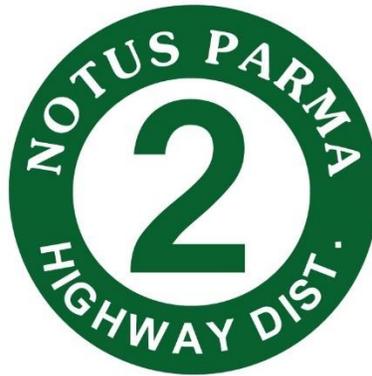
## Chapter 1 Official District Policy Code; Not A Contract of Employment

- 1.1.1 Introduction:** This Policy Code of the Notus-Parma Highway District No. 2 contains policy that has been adopted by the Board of Commissioners by Resolution, which shall govern the actions and organization of the Board of Commissioners, its Officers, Employees, and all District operations unless otherwise provided for by law and or by Board of Commissioner action.
- 1.1.1.1 No Contract of Employment:** The provision in this Policy Code appertaining to Highway District employees provides a description of the general policies of Notus-Parma Highway District No. 2 regarding the same and is not intended to and does not create a contract of employment in any manner. Employment by Notus-Parma Highway District No. 2 is at will, and either the employee or the Highway District may end the employment relationship at any time and for any reason. No Highway District employee, with the exception of the Board of Commissioners, has any authority to enter into any contract of employment to the contrary, and then only if said contract of employment is in writing and approved by the Board of Commissioners at an open meeting by written Resolution of the Board of Commissioners authorizing said contract of employment. Notus-Parma Highway District No. 2 reserves the right to revise or to terminate its policies and employee benefit plans from time to time and upon the exercise of the sole discretion of the Board of Commissioners. When the Board of Commissioners, terminate employment, not based upon any stated cause other than the will of the Board, the employment termination is not a disciplinary action and the provisions of Chapter 8 and 3 of Title 8 of the Notus-Parma Highway District No. 2 Policy Code do not apply.
- 1.1.2 Contract Approval Authority:** No Highway District employee, with the exception of the Board of Commissioners, has any authority to enter into any MOU, agreement or contract binding the Highway District unless the same has been approved by the Board of Commissioners at an open meeting or the Board of Commissioners have granted authority to an employee to enter into the MOU, agreement or contract.
- 1.1.3 Method of Codification:** There is hereby adopted a method of perpetual codification of the policy of this Highway District which shall be in accordance with the numbering system of this Policy.

- 1.1.4 **Title:** The adoption by the Board of Commissioners of this District Policy Code is hereby declared to be and shall hereafter constitute the official Policy Code of the Notus-Parma Highway District No. 2. This Policy Code shall be known and cited as the “Notus-Parma HD Policy Code” and it is hereby published by authority of the Board of Commissioners of the Notus-Parma Highway District No. 2 and shall be kept up to date under the direction of the Secretary of the District, acting for the Board of Commissioners.

## **Chapter 2 Logo and Mission**

- 1.2.1 **District Logo:** The following has been adopted as the official Logo of this District and may appear on all District vehicles and equipment where appropriate and on official communications of the District.



- 1.2.2 **District Mission Statement:** It is the mission of this Highway District to maintain and improve its highway system in order to provide a well-planned, safe, efficient, and well-maintained system of highways for the residents, property owners, and other highway users and travelers within its boundaries. The Commissioners, officers, appointed administrative staff, and employees of this District are all dedicated to providing the highway system, equipment, and trained personnel in the pursuit of this mission in the most efficient manner possible.

## **Chapter 3 Official Newspaper**

- 1.3.1 **Official Newspaper for Publication of Notices:** The Commissioners find the newspaper of general circulation within the district is as follows: Idaho Press-Tribune and that the same are all designated as the official newspapers of this Highway District for purposes of giving legal notices.

## Title 2 Board of Commissioners

### Chapter 1 Commissioners

- 2.1.1 Number of Commissioners:** The Notus-Parma Highway District No. 2 shall be governed by three (3) commissioners. Each Commissioner must be a qualified voter of the District and reside within the sub-district he/she represents and is elected for a four (4) year term.
- 2.1.2 Term of Office:** The term of each Commissioner elected to office shall commence on the 1st day of July following the election [I.C. § 40-1305]. See Oath of Office [Forms Book].
- 2.1.3 Vacancy of Office:** Any vacancy in the office of Board of Commissioners is filled by the remaining highway district commissioners within thirty (30) days of the date the vacancy occurs using the criteria established in I.C. § 59-901, and the newly appointed member of the Board of Commission shall then serve the remainder of the term of the vacated office [I.C. § 40-1304].
- 2.1.3.1** In the event the remaining Commissioners cannot agree on a replacement, the Chairman of the Canyon County Board of Commissioners shall then become a member of the Highway District Board of Commissioners for the purpose of filling the vacancy only. In the event a majority of the then constituted Highway District Board of Commissioners cannot agree upon a person to fill the vacancy within thirty (30) days, a special election to fill the vacancy shall be called and held in the same manner provided by law for the holding of such an election, except the date of the election shall be as soon as possible, and all Highway District Commissioner duties imposed by law on such election shall then be performed by the Canyon County Commissioners [I.C. § 40-1304].
- 2.1.3.2** In the event two (2) or more vacancies occur at one time on the Highway District Board of Commissioners:
- 2.1.3.2.1** A special election to fill the vacancy shall be called and held in the same manner provided by law for the holding of such an election for Commissioner, except the date of the election shall be soon as possible, and all Highway District Commissioner duties imposed by law on such election shall then be performed by the Canyon County Commissioners; and

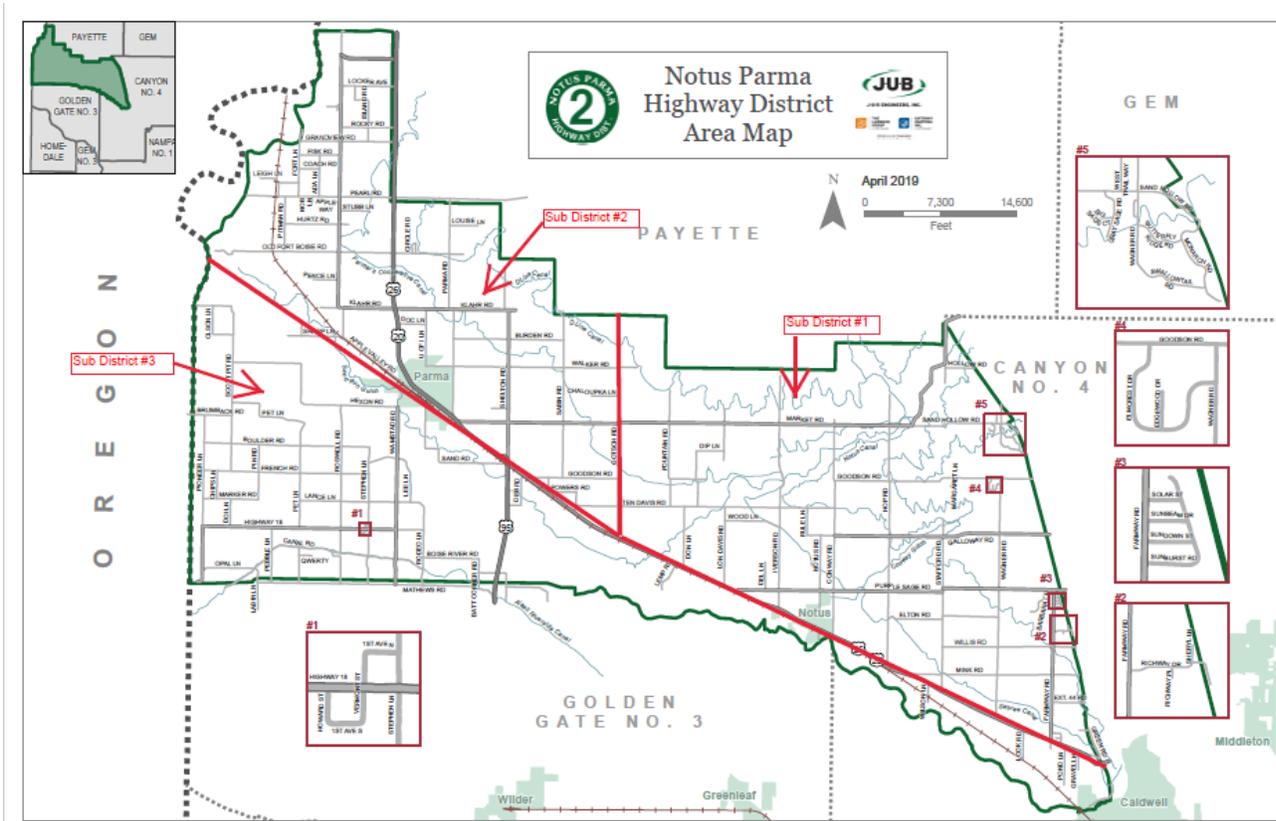
2.1.3.2.2 In the interim, the remaining Highway District Commissioner, if applicable, together with the Chairman of the Canyon County Board of Commissioners and an additional County Commissioner appointed by the Canyon County Chairman shall constitute the temporary Board and shall perform the duties required by law of a highway district board of Commissioners until the newly elected Commissioners take office.

- 2.1.4 **Powers and Duties:** The Board of Commissioners is the governing board of the Highway District and has the powers and duties attributed to it by the Constitution and laws of the state of Idaho.
- 2.1.5 **Authority:** Individual Commissioners have no authority separate and apart from the Board as a whole, unless specific authority is delegated by action of the Board of Commissioners.
- 2.1.6 **No Individual Administrative Responsibility:** No member of the Board of Commissioners, by virtue of his/her office, may exercise any administrative responsibilities as an individual with respect to the Highway District operations or command the services of any Highway District employee.
- 2.1.7 **Expenditures:** The Board of Commissioners has the responsibility for the approval of all expenditures of the Highway District funds to support its operations and activities and is responsible for having its books audited annually by the 1st day of January of the calendar year following the close of the fiscal year [I.C. §§ 40-1317 and 40-1336].
- 2.1.8 **Compensation:** Board members may receive reasonable compensation as established by separate action of the Board for their services, which compensation must be fixed annually on October 1 for the ensuing year. The salary shall be published as a separate line item in the annual budget. Upon the presentation of an itemized voucher signed by the Commissioner and under oath, Board members shall be reimbursed for expenses incurred in the performance of their duties previously authorized by the Board as established by separate Board Action [I.C. § 40-1314]. See Itemized Voucher for Services/Expenses [Forms Book].

**2.1.9 Commissioners Not Encouraged to Serve as Officer of the Highway District:** Although not otherwise prohibited by the laws of the State of Idaho, it is a declared policy of the Board of Commissioners, in order to avoid conflicts of interest and in order to provide continuity between the governance and the management and operation of the Highway District, that members of the Board of Commissioners should not also serve in any other capacity for the Highway District, either as an officer or otherwise, unless there is express authorization by resolution of the other two Commissioners. In the event an employee and/or officer of this Highway District is elected or appointed to the office of Commissioner of this Highway District, the employee and/or officer should resign his/her position upon taking the oath of office, which position will then be declared vacant. See Sub-District Map [Forms Book]

## Chapter 2 Sub-Districts

**2.2.1 Sub-district Boundaries:** The District is organized into three (3) sub districts which are herein defined as follows: See **Sub-District Map** [District Office].



- 2.2.2 **Sub-district Boundary Changes:** The Commissioners shall review and, if necessary to balance population, area and mileage of the sub-districts as practicable, revise the sub-district boundaries which must be accomplished at the January meeting preceding any regularly scheduled election. No two commissioners shall be electors of the same sub district with the exception that any revision of sub district boundaries shall not disqualify any elected commissioner from the completion of the term for which they were elected. [I.C. § 40-1304]

### **Chapter 3 Ethics / Conflicts of Interest**

- 2.3.1 No elected commissioner, employee, officer or District consultant while performing a government function of the District shall:

2.3.1.1 **No Pecuniary Benefit from District Funds or Property:** Without specific authorization of the Board of Commissioners use District funds or property to obtain a pecuniary benefit for themselves or any member of their household in the form of money, property or commercial interests, the primary significance of which is for economic gain; and

2.3.1.2 Solicit, accept or receive a pecuniary benefit as payment for services, advice, assistance or conduct customarily exercised in the course of official duties but does not include trivial benefits not to exceed a value of fifty dollars (\$50.00) incidental to personal, professional or business contacts and involving no substantial risk of undermining official impartiality and which has been disclosed to the Board of Commissioners; and

2.3.1.3 **No Solicitation of Pecuniary Benefit from others:** Use or disclose any confidential information obtained by reason of an official position or activities which is not subject to disclosure to the general public and which, if utilized in financial transactions would provide the user with an advantage over those not having such information or result in harm to the District in any manner with the intent to obtain a pecuniary benefit for themselves or any other person or entity in whose welfare they are interested or with the intent to harm the District; and

2.3.1.4 **No Interest in Contracts:** Have an interest in any contract made by them in their official capacity, or by anybody or board of which they are a member, except as follows:

**2.3.1.4.1**

The prohibitions contained within this Section shall not include conduct that is an interest or membership in a particular business, industry, occupation or class required by law as a prerequisite to the holding by the person of the office or position with the District; or in instances where any action in the person's official capacity which would affect to the same degree a class consisting of an industry or occupation group in which the person, or a member of the person's household or business with which the person is associated, is a member or is engaged; or when any interest which the person has by virtue of his profession, trade or occupation where his interest would be affected to the same degree as that of a substantial group or class of others similarly engaged in the profession, trade or occupation; or when any action is upon any revenue measure, any appropriation measure or any measure imposing a tax, when similarly situated members of the general public are affected by the outcome of the action in a substantially similar manner and degree.

2.3.1.4.2 As is provided in Idaho Code § 18-1361, where there are less than three (3) suppliers of a good or a service within a fifteen (15) mile radius of where the good or service is to be provided, it shall not constitute a violation of the provisions of subsection (1)(d) or (e) of Idaho Code § 18-1359, for a public servant or for his/her relative to contract with the public body of which the public servant is a member if the contract is reasonably necessary to respond to a disaster as defined in chapter 10, title 46, Idaho Code, or if the procedures listed below are strictly observed. For purposes of this Section, "relative" shall mean any person related to the public servant by blood or marriage within the second degree. (1) The contract is competitively bid and the public servant or his/her relative submits the low bid; and (2) Neither the public servant nor his/her relative takes any part in the preparation of the contract or bid specifications, and the public servant takes no part in voting on or approving the contract or bid specifications; and (3) The public servant makes full disclosure, in writing, to all members of the governing body, council or board of said public body of his interest or that of his/her relative and of his/her or his/her relative's intention to bid on the contract; and (4) Neither the public servant nor his/her relative has violated any provision of Idaho law pertaining to competitive bidding or improper solicitation of business; and

2.3.1.5 **Appointment and Hiring Prohibition:** Appoint or vote for the appointment of any person related to them by blood or marriage within the second degree, to any clerkship, office, position, employment or duty of this District, when the salary, wages, pay or compensation of such appointee is to be paid out of District funds or fees of office, nor appoint or furnish employment to any person whose salary, wages, pay or compensation is to be paid out of District funds or fees of office, and who is related by either blood or marriage within the second degree when such appointment is made on the agreement or promise to appoint or furnish employment to anyone so related.

2.3.1.6 Pay out of District funds, by any one under whose control either draws or authorizes the drawing of any warrant or authority for the payment out of any District fund, the salary, wages, pay, or compensation of any such person ineligible to be appointed to a clerkship, office, position, or employment knowing them to be ineligible as provided by this Section.

- 2.3.2 An employee of this District who is holding a position prior to the election of a Commissioner, who is related within the second degree, shall be entitled to retain his or her position and receive general pay increases, step increases, cost of living increases, and/or other across the board increases in salary, benefits and bonuses.
- 2.3.3 Nothing in this sub-section shall be construed as creating any property rights in the position held by an employee subject to this Section, and all authority in regard to disciplinary action, transfer, dismissal, demotion or termination shall continue to apply to the employee.
- 2.3.4 **Contract Exception Non Compensated Commissioner:** At such times as the Commissioners receive no salary or fees for their services on the Board of Commissioners, it shall not constitute a violation of this policy for a Commissioner or for his/her relative to contract with this District if the procedures set forth herein are strictly observed and for purposes of this Section, "relative" shall mean any person related to the public servant by blood or marriage within the second degree:
- 2.3.4.1 The contract is competitively bid and the Commissioner or the relative submits the low bid; and
  - 2.3.4.2 Neither the Commissioner nor his/her relative takes any part in the preparation of the contract or bid specifications, and the Commissioner takes no part in voting on or approving the contract or bid specifications; and
  - 2.3.4.3 The Commissioner makes full disclosure, in writing, to members of the Board of Commissioners of his/her interest or that of the relative and of the Commissioner or the relative's intention to bid on the contract; and
  - 2.3.4.4 Neither the Commissioner nor the relative has violated any provision of Idaho law pertaining to competitive bidding or improper solicitation of business.
- 2.3.5 The prohibitions within this Section, as it applies to elected Commissioners, employees, officers, and District consultants who are part-time, does not include those actions or conduct involving their business, profession or occupation and unrelated to their official conduct.

## **Chapter 4 Conflicts of Interest**

- 2.4.1 **Ethics in Government Act:** This Section is intended to be in accordance with and to assure Commissioner compliance with the "Ethics in Government Act of 1990" codified at Chapter 4 of Title 74 Idaho Code.

- 2.4.2 Commissioners shall refrain from taking action in the event of a conflict of interest without complying with this Section.
- 2.4.3 No Commissioner or officer or employee of this District shall take any official action or make a formal decision or formal recommendation concerning any matter where they have a conflict of interest and has failed to disclose such conflict as provided in this Section. Disclosure of a conflict does not affect a Commissioner's authority to be counted for purposes of determining a quorum and to debate and to vote on the matter, unless the commissioner requests to be excused from debate and voting at his or her discretion.
- 2.4.4 **Conflict of Interest Definition:** A conflict of interest exists when any official action of or any decision or recommendation by a person acting in a capacity for the District is contemplated, the effect of which would be to the private pecuniary benefit of the person or a member of the person's household [the spouse and dependent children and/or persons who the person acting in a capacity for the District is legally obligated to support], or a business with which the person or a member of the person's household is associated, unless the pecuniary benefit arises out of the following:
- 2.4.4.1 An interest or membership in a particular business, industry, occupation or class required by law as a prerequisite to the holding by the person of the office or position;
  - 2.4.4.2 Any action in the person's official capacity which would affect to the same degree a class consisting of an industry or occupation group in which the person, or a member of the person's household or business with which the person is associated, is a Personnel Member or is engaged;
  - 2.4.4.3 Any interest which the person has by virtue of his profession, trade or occupation where his/her interest would be affected to the same degree as that of a substantial group or class of others similarly engaged in the profession, trade or occupation;
  - 2.4.4.4 Any action in the person's official capacity upon any revenue measure, any appropriation measure or any measure imposing a tax, when similarly situated members of the general public are affected by the outcome of the action in a substantially similar manner and degree.
- 2.4.5 **Process for determination of Conflict of Interest Issues:** In order to determine whether a conflict of interest exists relative to any matter within the scope of the official functions of a commissioner or officer or employee of this District, they may seek legal advice from the attorney representing the District or from the attorney general or the attorney for Canyon County or from independent counsel. If the legal advice is that no real or potential conflict of interest exists, the public official may proceed and shall not be subject to the prohibitions of this Section.

2.4.6 If the legal advice is that a real or potential conflict may exist:

2.4.6.1 A Commissioner shall disclose the nature of the potential conflict of interest and/or be subject to the rules of the body of which they are a member and shall take all action required under such rules prior to acting on the matter. If Commissioner requests to be excused from voting on an issue which involves a conflict or a potential conflict and the Board of Commissioners otherwise does not excuse him/her, such failure to excuse shall exempt that commissioner from any civil or criminal liability related to that particular issue.

2.4.6.2 In the case of an appointed officer or employee, they shall prepare a written statement describing the matter required to be acted upon and the nature of the potential conflict, and shall deliver the statement to the Commissioners. The Commissioners may obtain an advisory opinion from the attorney for the District, or, if none, the attorney general. The officer or employee may then act on the advice of the attorney general or attorney for the District or independent counsel.

2.4.7 **Prohibition of Financial Interests:** Neither the Commissioners, District employees, nor agents of the District shall have any personal beneficial interest, either directly or indirectly in any expenditure, purchase, sale, warrant, scrip, order, demand, claim, or other evidences of indebtedness against the state or any county, city or other governmental entity in Idaho or any contract made by the District or in any firm, corporation or association furnishing or bidding on such purchase, sale or contract, except that one-half plus one (1) of the full Commission shall have the authority to waive compliance with this Section when it finds that an interest is remote and that a waiver of compliance will serve the best interest of the District, and is not in violation of any laws of the State of Idaho.

2.4.7.1 A District commissioner, officer or employee shall not be deemed to be interested in a contract, within the meaning of section 74-501, Idaho Code, if they have only a remote interest in the contract and if the fact and extent of such interest is disclosed to the Board of Commissioners and noted in the official minutes or similar records prior to the formation of the contract, and thereafter the Commissioners authorize, approve or ratify the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote of the Commissioner having the remote interest. As used in this section, "remote interest" means:

- a) That of a non-salaried officer of a nonprofit corporation; or
- b) That of an employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary; or
- c) That of a landlord or tenant of a contracting party; or

d) That of a holder of less than one percent (1%) of the shares of a corporation or cooperative which is a contracting party.

2.4.7.2 Although a District commissioner, officer, or employee's interest in a contract may be only remote, they shall not influence or attempt to influence any other District commissioner, officer or employee to enter into the contract.

2.4.7.3 **Gifts or Rebates:** Every officer and employee of the District is expressly prohibited from seeking or accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is or might be awarded, any gift or money rebate.

2.4.7.4 **Standard of Conduct:** Every officer, employee or agent of the District is expressly prohibited from knowingly:

2.4.7.4.1 Underestimating or exaggerating requirements to certain prospective bidders for the purpose of influencing bids.

2.4.7.4.2 Misrepresenting competitor's prices, quality or service to obtain concessions.

2.4.7.4.3 Splitting invoices or orders, etc. in an effort to avoid the competitive bid requirements of this policy.

# Title 3

## Board Meetings and Public Hearings

### Chapter 1

#### Board Meetings

- 3.1.1 Regular Monthly Meeting Schedule:** Regular meetings of the Commissioners shall be held on the second Tuesday of each month at the hour of 9:00 a.m. in the commissioners Meeting Room at the Administrative Office of the Highway District located at 106 South 4th Street, Parma, Idaho 83660.
- 3.1.2 Special Meetings:** Special meeting may be called by the Chairman and/or a majority of the Board by a written order of the call and agenda, which order must be entered by the Secretary and the Secretary shall give 24 hours written notice of the Special meeting and Order to those not joining in the order, except if all members appear at the special meeting, even though not joining, and the meeting occurs in less than 24 hours of the written notice and the open meeting law for Highway District's of the State of Idaho has been complied, with it shall be a lawful meeting.
- 3.1.3 Agenda and Preparation thereof:** The Agenda for the Regular Monthly Board meeting agenda shall be prepared by the Secretary in consultation with the Chairman, and Director of Highways and shall generally include, as is relevant for each meeting, the following regular agenda items:
- 3.1.3.1 Opening of the meeting [declared open by the Chairman]
  - 3.1.3.2 Roll Call of Board members and officers
  - 3.1.3.3 Approval of Agenda
  - 3.1.3.4 Approval of Minutes
  - 3.1.3.5 Public Input  
[Any special group or guest seeking to make a presentation to be scheduled following Public Input must be scheduled in advance with the approval of either the Chairman, Secretary, and/or Director of Highways.]
  - 3.1.3.6 Public Hearings  
Permits/Petitions/Applications  
Bid proposals  
Other

**3.1.3.7** Report of the Treasurer: Report to include a budget statement showing all expenditures and income received and approved through the end of the month previous to the meeting in the context of the fiscal year budget. The Treasurer presents for payment those certain bills for which the Treasurer has found that payment is due, are legally authorized and there is an appropriation in the budget for which there are funds available for payment.

**3.1.3.7.1** Authorization of the payment of bills: The Board of Commissioners approves by motion the disbursement of funds for payment of the bills presented by the Treasurer. The form of the motion should be in accordance with the following: "The Board of Commissioners does hereby authorize the disbursement of funds from the District's treasury in the sum of \$\_\_\_\_\_ for the payment of the bills as presented by the Treasurer".

**3.1.3.8** Report of the officers [District Engineer; District Legal Counsel]

**3.1.3.9** Outside communications to the Board of Commissioners

**3.1.3.10** Report of the Director of Highways [which may include for example any of the following]:

- Pending applications for access permits, special permits [utility, or otherwise], acceptance of roadway's for perpetual maintenance, variances; petitions for abandonment and vacation, Validation, Local improvement district formation and provisions, highway work agreements with cities, acceptance of any transfer of right-of-way easement and or deed of conveyance of any interest in real and or personal property and any other application and permit process provided for by law, or the Highway Standards and Development Procedures or by this District's policy; and
- Pending reviews and response of all building permit, subdivision approval, Letters of Acknowledgement approvals and other property development requests being processed by Canyon County and/or the Highway District which involve a development application governed under the Local Land Use Planning Act [Chapter 65 of Title 67 Idaho Code] and local ordinance which involve or require either District approval and/or review; and
- Report on the effectiveness [includes planning and road reports] of the Highway District's provision of transportation services within the District and advise the Board of any evaluations; and

- Reports as required under law for all District operations under the supervision of the Director of Highways and specifically including the preparation and approval of and in a timely manner, in accordance with Idaho Code § 40-1316, a report of the condition of the work, construction, maintenance and repair of all the highways within the District as of the first day of October, accompanied by a map of the highways, together with other facts necessary for setting forth generally the situation and condition of the highways within the District; and
- Report on the maintenance and upkeep of equipment, buildings and real property of the District; and
- Recommendations to the Board of any needed equipment, specifications, purchases and sales; and
- Report on supplies, equipment and facilities needs of the District; and
- Communicates to the Board any other matters which those under the Director of Highways' supervision seek to have placed upon the agenda of the Board; and
- Report on any activities where the Director of Highways is serving as the official representative of the Highway District at conferences, mutual organizations, other districts and/or cities and/or the state of Idaho regarding transportation matters; and
- Report on long range plans which shall include matters of district staffing, equipment and building needs, Highway maintenance and Highway Improvement projects including possible funding sources and implementation plans; and
- Report on employee and staffing matters as are relevant; and
- Report on any needed updating in a timely manner of the Highway District's official map and update of all records relative to the District's highway system and right-of-way designation; and
- Report on over site and maintenance activity of appropriate regulatory signage of all Highways within the Highway System of the District include informational and regulator and warning and all matters of signage and traffic regulations; and

- Report on bridges for which the District is either in full or in part in charge of and in that regard for those bridges constructed or repaired, and the present and prospective conditions of all bridges; and
- Report of any investigations and advise the Board of Commissioners regarding tort claims filed against the District; and
- Report on any patron complaints regarding road deficiencies, recommendations or petitions for requests for repair or building of roads, installation of signs or acceptance of roads by the District into its maintenance system and makes recommendations to the Board concerning any of the above.

3.1.3.11 Planning/fiscal and other matters as appropriate depending upon time of year related to budget planning and GASB 34 reporting and infrastructure maintenance and identification.

3.1.3.12 Report of any standing Ad Hoc Committees

3.1.3.13 Report of Commissioners

3.1.3.14 Old Business

3.1.3.15 New Business  
[Any business not discussed or tabled in previous meeting that is brought forth for consideration of the Board by the Director, Secretary/Treasurer, Commissioners, or by special request to be on the agenda.]

3.1.3.16 Executive Session [as needed and called]

3.1.3.17 Adjournment

3.1.4 **Regular Monthly Meeting Packets:** The Secretary in coordination with the Director of Highways shall make available at the District office a packet of the material which is to be considered at the Regular Monthly Board Meeting before the meeting.

3.1.5 **Posting of Meeting Agenda:** The Posting of Meeting Agenda and Notice of meetings as provided by law shall be under the responsibility of the Secretary.

- 3.1.6 **Quorum and Meeting Rules:** The meetings shall be governed under Roberts Rules of Order unless otherwise provided for in Highway District policy or provided by law, and a quorum for the transaction of business by the Board will consist of a majority of the members of the Board. Unless otherwise provided by law, all questions will be determined by a majority of votes cast. The Chairman of the Board may vote on all issues.

## **Chapter 2**

### **Open Meeting Law Compliance**

- 3.2.1 **Open Meeting Law Compliance:** All meetings shall be in accordance with Idaho's Open Meeting Law codified at Idaho Code Chapter 2 of Title 74.

#### **3.2.2 Notice of Meetings**

- 3.2.2.1 **Regular Monthly Meetings:** No less than a five (5) calendar day meeting notice and a forty-eight (48) hour agenda notice shall be given except that so long as the District Commissioners continue to hold regular monthly meetings scheduled in advance over the course of the year, meetings notice may be given once each year of the regular meeting schedule.
- 3.2.2.2 **Meeting/Notice Posting Location:** The notice requirement for meetings and agendas shall be satisfied by posting such notices and agendas in a prominent place at the principal offices of the District located at 106 South 4th Street, Parma, Idaho 83660 and on any established District website or social media platform.
- 3.2.2.3 **Notice of Special Meetings:** No special meeting shall be held without at least a twenty four (24) hour meeting and agenda notice, unless an emergency exists. An emergency is a situation involving injury or damage to persons or property, or immediate financial loss, or the likelihood of such injury, damage or loss, when the notice requirements of this Section would make such notice impracticable, or increase the likelihood or severity of such injury, damage or loss, and the reason for the emergency is stated at the outset of the meeting. The notice required under this Section shall include at a minimum the meeting date, time, place and name of the District. The Secretary of the District shall maintain a list of the news media requesting notification of District Commissioner meetings and shall make a good faith effort to provide advance notification to them of the time and place of each meeting.

**3.2.2.4 Notice of Executive Sessions Only:** If an executive session only will be held, a twenty four (24) hour meeting and agenda notice shall be given according to the notice provisions stated in subsection 3.1.2 of this Section and shall state the reason and the specific provision of law authorizing the executive session.

**3.2.3 Agendas:** An agenda shall be required for each meeting. All items on an agenda that may require a vote shall be identified on the agenda as an "Action Item". The agenda shall be posted in the same manner as the notice of the meeting. An agenda may be amended, provided that a good faith effort is made to include, in the original agenda notice, all items known to be probable items of discussion.

**3.2.3.1 Agenda Amended by Posting:** If an amendment to an agenda is made after an agenda has been posted but forty-eight (48) hours or more prior to the start of a regular meeting, or twenty-four (24) hours or more prior to the start of a special meeting, then the agenda is amended upon the posting of the amended agenda.

**3.2.3.1.1** In the event an amended agenda is posted, the original agenda notice and any amended agenda notices posted should be retained with the date of its posting and the date of its un-posting to be indicated on the face of the agenda by the posting agent of the district and the same shall be retained by the Secretary with the minutes of the meeting the agenda appertains to.

**3.2.3.1.2** In the event of an amended agenda is posted, the first shall be designated "First Amended Agenda Notice," and any subsequent agenda notices shall contain references in their posting sequence.

**3.2.3.2 Agenda Amended by Motion and Vote:** If an amendment to an agenda is proposed after an agenda has been posted and less than forty-eight (48) hours prior to a regular meeting or less than twenty-four (24) hours prior to a special meeting but prior to the start of the meeting, the proposed amended agenda shall be posted but shall not become effective until a motion is made at the meeting and the governing body votes to amend the agenda.

**3.2.3.3 Agenda Amended after Start of Meeting:** An agenda may be amended after the start of a meeting upon a motion that states the reason for the amendment and states the good faith reason the agenda item was not included in the original agenda posting. No such amendment can include any final action unless an emergency is declared with justification of facts of an emergency being a situation involving injury or damage to persons or property, or immediate financial loss, or the likelihood of such injury, damage or loss, when the notice requirements of agenda posting will make such notice impracticable, or increase the likelihood or severity of such injury, damage or loss, and the reason for the emergency.

**3.2.4 Executive Sessions:** An executive session at which members of the public are excluded may be held, but only for the purposes and only in the manner set forth in this section.

**3.2.4.1 Procedure:** The motion to go into executive session shall identify the specific subsections of this section that authorize the executive session. There shall be a roll call vote on the motion, and the vote shall be recorded in the minutes. An executive session shall be authorized by a two-thirds (2/3) vote of the governing body. For ease of reference, Idaho Code §§ 74.206 (1) through (3) are herein quoted as follows:

**3.2.4.2 Allowed Purposes for Executive Sessions:** The allowed purposes are provided in I.C. § 74-206 (1), which provides (herein quoted): An executive session may be held:

- (a) To consider hiring a public officer, employee, staff member or individual agent wherein the respective qualities of individuals are to be evaluated in order to fill a particular vacancy or need. This paragraph does not apply to filling a vacancy in an elective office or deliberations about staffing needs in general;*
- (b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student;*
- (c) To conduct deliberations concerning labor negotiations or to acquire an interest in real property which is not owned by a public agency;*
- (d) To consider records that are exempt from disclosure as provided in chapter 1, title 74, Idaho Code;*
- (e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations;*
- (f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending*

*litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement;*

*(g) By the commission of pardons and parole, as provided by law;*

*(h) By the custody review board of the Idaho department of juvenile corrections, as provided by law; or*

*(i) To engage in communications with a representative of the public agency's risk manager or insurance provider to discuss the adjustment of a pending claim or prevention of a claim imminently likely to be filed. The mere presence of a representative of the public agency's risk manager or insurance provider at an executive session does not satisfy this requirement.*

*(2) Labor negotiations may be conducted in executive session if either side requests closed meetings. Notwithstanding the provisions of § 74-204, Idaho Code, subsequent sessions of the negotiations may continue without further public notice.*

*(3) It shall be a violation of this policy to change the subject within the executive session to one not identified within the motion to enter the executive session or to any topic for which an executive session is not provided.*

**3.2.4.3 No Final Action in Executive Session:** No executive session may be held for the purpose of taking any final action or making any final decision.

### **3.2.5 Convening Meetings of the Board**

#### **3.2.5.1 Purposes**

**3.2.5.1.1** Pursuant to Idaho Code § 40-1310 (1), the Board has the power to manage and conduct the business and affairs of the District;

**3.2.5.1.2** Staff Meeting Information is provided in the ordinary and special course of business of the Board; and

**3.2.5.1.3** It is necessary that Staff Meeting Information be provided to the Board by Authorized Staff in advance of regular and special meetings to enable members of the Board to prepare for the same; and

**3.2.5.1.4** Technology enables the transmittal of Staffing Meeting Information electronically; and

- 3.2.5.1.5 The Board seeks to formalize the process by which it is provided with and responds to Staffing Meeting Information.
- 3.2.5.2 **Definitions:** For purposes of this Policy, the following terms shall have the meanings herein provided unless the context of the word clearly requires otherwise:
  - 3.2.5.2.1 **Authorized Staff:** means and refers to the Director of Highways, Engineer, Secretary/Treasurer and inclusive of anyone designated by any of them and the Attorney and the Auditor.
  - 3.2.5.2.2 **Staffing Meeting Information:** means and refers to written communication, documents, photographs, drawings or any similar communication or materials provided by Authorized Staff to the Board containing information relevant to meetings of the Board.
- 3.2.5.3 Board meetings are convened in accordance with the following:
  - 3.2.5.3.1 A meeting has been called by previous action of the Board in an open meeting or by the call of the Chairman or Director of Highways; and
  - 3.2.5.3.2 An agenda has been prepared, timely posted, and all members of the Board have been provided with notice not less than 24 hours in advance of a special meeting and 48 hours in advance of a regular meeting, unless it is an emergency meeting under the Open Meeting Law; and
  - 3.2.5.3.3 There is a quorum [not less than two] of the Board present at the scheduled time for the commencement of the meeting; and
  - 3.2.5.3.4 The meeting is called to order by the board member chairing the meeting, and there is a secretary of the meeting taking minutes of the meeting.
- 3.2.5.4 **Authorized Staffing Meeting Information**
  - 3.2.5.4.1 Authorized Staff may provide Staffing Meeting Information relevant to governing board agenda items and for other relevant purposes of ongoing District business and planning.

- 3.2.5.4.2 Staffing Meeting Information provided may be in hard copy or in electronic format.
- 3.2.5.4.3 It is the responsibility of the Authorized Staff providing Staffing Meeting Information to maintain the record of the date, time and method of providing the same to the Board.
- 3.2.5.4.4 Electronic replies to Authorized Staff by each individual Board member shall be directly to the staff member providing the Staffing Meeting Information and to any other staff member as may be needed.
- 3.2.5.4.5 The Secretary is responsible for the assembly of and the service of Board packet Staffing Meeting Information which may be provided electronically in one e-mail to all Board Members when authorized by the Board. Board Member responses shall be directly only to the Secretary.

**3.2.6 Communication between Board Members:** No Board member shall communicate with any other Board member, outside of a Board Meeting, regarding any matter that is or may reasonably be anticipated as a subject for decision by the Board.

**3.2.6.1** Communications between or among Board members and Authorized Staff concerning the meeting scheduling is an exception to this Policy prohibition.

## **Chapter 3**

### **Procedure for Responding to Notices of Open Meeting Law Violations**

**3.3.1** This policy is intended to provide a procedure by which the District processes notice of violation of Open Meeting law as provided in Idaho Code § 74-208 (7).

**3.3.2 Receipt of Written Notice or Complaint:** The Board of Commissioners is to be immediately notified once a written Notice or complaint of Violation of the Open Meeting Law alleged against the Commissioners of this District is received by the Secretary of the District. The Secretary is authorized to schedule a special meeting of the Board of Commissioners within fourteen (14) days of receipt of the notice or complaint and to post notice and list as agenda the notice of violation and review by the Board for determination and response. The agenda notice should include a notice of Executive Session pursuant to I.C. § 74-206 (1) (f) and provide in the agenda to open the meeting followed by an Executive session in open session for determination and response by the Board of Commissioners as herein this Section provided. The Highway District's attorney should be requested to attend this special meeting to advise the Board of Commissioners of the legal ramifications of the subject notice.

- 3.3.2.1 **Review of Relevant Facts:** At the special meeting scheduled, the Board of Commissioners shall review the facts relevant to the written Notice or complaint of Violation of Open Meeting Law and make a determination as to whether or not a violation of the Open Meeting Law occurred.
- 3.3.2.2 **Determination of No Violation:** In the event the Board of Commissioners determines no violation occurred, notice of said action shall be provided by the Secretary to the person/s filing the Notice or Complaint of Violation of the Open Meeting Law.
- 3.3.2.3 **Determination of Violation, Response and Cure:** In the event the Board of Commissioners determines a violation occurred, the Board shall issue a written acknowledgment of the violation and declare that all actions taken at or resulting from the meeting in which the violation occurred are void. Notice of said action shall be provided by the Secretary to the person/s filing the Notice or Complaint of Violation of the Open Meeting Law.
- 3.3.3 **Self-Recognition of Violation:** In the event the Board of Commissioners should determine upon its self-recognition of a violation of the open meeting law it shall then cure the same by declaring that all actions taken at or resulting from the meeting in which the violation occurred are void [I.C. 74-208 (7) (i)].

## Chapter 4 Minutes

- 3.4.1 **Written Minutes:** The Secretary shall be responsible for assuring that the minutes taken of each meeting of the Commissioners complies with the provisions of this Chapter.
- 3.4.2 **Draft Minutes:** Following the meeting, the Secretary shall cause to be prepared a typed set of minutes from the record of the meeting. A copy of the draft minutes shall be given to each board member prior to the next regular meeting in the meeting packet which shall contain at the top the following notation:

### DISTRICT SECRETARY'S DRAFT MINUTES BOARD OF COMMISSIONERS MEETING

CAUTION: These Draft Minutes have not been approved by the Board of Commissioners and are not therefore an official record relating to the conduct or administration of the District's business and will not be retained. At such time as Minutes of the meeting reflected herein are approved by the Board of Commissioners said Minutes will become the official record of the conduct or administration of its business, as reflected therein and retained by the District.

**3.4.3 Approval of Minutes:** At the meeting following the meeting for which the minutes appertain, the minutes will be approved and signed by the Secretary and Chairman and then placed in the official minute book of the District records and which minutes shall contain at the top the following notation.

**MINUTES BOARD OF COMMISSIONERS MEETING**

These Minutes have been approved by the Board of Commissioners and are the official record relating to the conduct or administration of the District's business, as reflected herein.
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**3.4.3.1** Secretary shall attest and then discard the draft minutes and place only the approved minutes in the official Minute Book of the Highway District and then provide a copy to each Commissioner, Director of Highways and the Highway District Attorney.

**3.4.3.2** Neither a full transcript nor a recording of the meeting is required, except as otherwise provided by law or directed by the Board.

**3.4.3.3** All minutes shall be available to the public within a reasonable time after the meeting they are adopted, and shall include at least the following information:

**3.4.3.3.1** All members of the Board of Commissioners and officers present;

**3.4.3.3.2** All motions, resolutions, or orders proposed and their disposition;

**3.4.3.3.3** All bills presented, showing to whom payable, for what service and material, amount, allowed and disallowed.

**3.4.3.3.4** The results of all votes, and upon the request of a Commissioner, the vote of each member, by name;

**3.4.4 Executive Session Minutes:** Minutes pertaining to executive sessions shall include a reference to the specific statutory subsection authorizing the executive session and shall also provide sufficient detail to identify the purpose and topic of the executive session but shall not contain information sufficient to compromise the purpose of going into executive session.

## **Chapter 5 Public Hearings**

- 3.5.1 Scope of the Policy:** These rules shall serve as a guideline for the procedure and format for the conduct of hearings [both public and in executive session], and for the receipt of evidence before the Board of Commissioners of the Notus-Parma Highway District No. 2. The exact format and procedure followed may vary to accommodate the format and/or legal needs of specific applications/permits, personnel hearings, or for the consideration of the adoption of resolutions, as the case may be, to assure compliance with the law, fairness and efficiency of the hearing process.
- 3.5.2** Prior to the hearing any party wishing to introduce any documents into evidence should meet with the Secretary prior to the start of the hearing and have marked all their proposed exhibits and the secretary will then prepare a list of the exhibits, which should include all staff reports to the Board of Commissioners, any stipulations of parties, and the affidavits of posting, affidavits of mailing, and all affidavits of publication of the notice of hearing by the Secretary.
- 3.5.3** The Chairman of the Board, or the Chairman's designee, shall conduct the hearing.
- 3.5.4** The District's Secretary or designee shall take minutes, keep the exhibits, and serve as Secretary of this hearing.
- 3.5.5** The District Secretary shall record proceedings by tape recording.
- 3.5.6** The Commissioners may, at their discretion, appoint a court reporter to take stenographic notes of all of the testimony at the hearing.
- 3.5.7** An applicant or interested party may [at their own cost] retain a court reporter to take stenographic notes of all of the testimony at the hearing.
- 3.5.8 Procedure & Rules Governing Proceedings:** The record shall consist of:
- 3.5.8.1** Staff Reports;
  - 3.5.8.2** All notices, affidavits of publication, and/or notices of posting;
  - 3.5.8.3** All exhibits admitted during hearing [See **Secretary's Exhibit List** - Forms Book];
  - 3.5.8.4** Testimony received during the hearing;
  - 3.5.8.5** Minutes of the Secretary;

3.5.8.6 Witnesses presenting testimony shall sign a sign-up sheet provided by the Secretary on form provided. [See **Witness Sign-Up Sheet** -Forms Book]

### 3.5.9 Rules of Evidence

3.5.9.1 Strict adherence to the Idaho Rules of Evidence will not be required. Evidence may be received and admitted so long as it is in a format in which the credibility of the witnesses and the evidence can be assessed firsthand by the Commissioners and/or is the type of evidence commonly considered by government subdivisions of the state of Idaho in making decisions in similar proceedings<sup>1</sup>.

3.5.9.2 Irrelevant, argumentative, immaterial or unduly repetitious evidence shall be excluded, and the Board will apply rule 401 of the Idaho Rules of Evidence for the definition of relevant evidence: "Relevant evidence means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence."

3.5.9.3 Rebuttal/sur-rebuttal testimony shall only address evidence submitted that was not originally covered.

### 3.5.10 Agenda of Hearing:

3.5.10.1 The Administrative Staff may produce testimony and exhibits.

3.5.10.2 Petitioner/Applicant may then present testimony and exhibits in support of the petition/application.

3.5.10.3 Other parties, if any, may then present testimony and exhibits in support and/or opposition to petition/application.

3.5.10.4 Rebuttal by Administrative Staff

3.5.10.5 Sur-rebuttal by Petitioner/Applicant

3.5.10.6 Sur-rebuttal by other parties

3.5.10.7 Closing Statements

3.5.10.8 Commissioners close hearing [receipt of testimony or evidence].

3.5.10.9 Commissioners' deliberation

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<sup>1</sup> See Evan v. Board of Com'rs of Cassia County, 50 P.3d 443

- 3.5.10.10 Commissioners will [if required by law], announce the preliminary decision and instruct the District's attorney to prepare Findings of Fact and Conclusions of Law in accordance with their preliminary decision to be drafted and routed to Commissioners individually for review.
- 3.5.10.11 Attorney presents draft of Findings at open meeting for consideration by the Commissioners to either approve and/or amend.
- 3.5.10.12 Commissioners execute decision and which is then served the Secretary upon the Petitioner/Applicant and any other real party in interest requesting notice.

**3.5.11 Highway District's Attorney's Fees and Costs Policy and Procedure [I.C. §12-117]**

- 3.5.11.1 **Definitions:** For all purposes of this policy the following terms shall have the meaning and definition as herein provided unless the context of the word in this policy clearly requires otherwise.
  - 3.5.11.1.1 **Adverse Party:** means and refers to any person, political subdivision or state agency who has filed an appearance and/or been served with a Notice to Adverse Party.
  - 3.5.11.1.2 **Appearance:** means and refers to a written notice [using **Notice of Appearance**] designating the attorney of record for the party to the proceedings and filed with the Secretary of the Highway District and served upon the Applicant and any other person, political subdivision or state agency who has filed a Notice of Appearance in the proceeding and designating the address at which the party may be served with notice of the proceeding.
  - 3.5.11.1.3 **Applicant:** means and refers to the person, political subdivision or state agency that has filed an application or a petition that initiates the Quasi-Judicial Proceedings.
  - 3.5.11.1.4 **Attorney:** means and refers to an attorney who is licensed to practice law in the state of Idaho.
  - 3.5.11.1.5 **Definitions in Idaho Code § 12-117 (4) Included:** All definitions set forth in Idaho Code § 12-117 (4) are herein included in this section by reference as if set forth at length.

**3.5.11.1.6 Notice to Adverse Party:** means and refers to a written notice [using **Notice to Adverse Party** form] filed with the Secretary of the Highway District and served upon the Adverse Party wherein the Applicant identifies the person, political subdivision or state agency as an Adverse Party to the Applicant in the proceeding with a verification of the address at which the Adverse Party can be served with notice of the proceeding.

**3.5.11.1.7 Party:** means and refers to the Applicant and to any person, political subdivision or state agency that has appeared in the proceeding either by Appearance or by Notice to Adverse Party.

**3.5.11.1.8 Party in Interest:** means and refers to the Applicant, person, political subdivision or state agency appearing in a Quasi-Judicial Proceeding who has a legal property right interest or regulatory interest which may be adversely affected by the final action of the Board of Commissioners in that proceeding.

**3.5.11.1.9 Quasi-Judicial Proceeding:** means and refers to those proceedings before the Board of Commissioners initiated by an Applicant [other than this Highway District] wherein the deliberation and decision of the Board of Commissioners involves the application of the Idaho Law and/or the policies of this Highway District to the specific interests of any Party to the proceeding.

**3.5.11.2 Statutory Requirement for Award of Attorney Fees and Costs**

**3.5.11.2.1** Attorney's Fees and Costs may only be awarded in a Quasi-Judicial Proceeding to a Party who qualifies as a prevailing party or partially prevailing party as defined in Idaho Code § 12-117 (1) (2).

**3.5.11.2.2** Attorney's Fees and Costs may only be awarded in a Quasi-Judicial Proceeding against a Party who has acted in that proceeding without a reasonable basis in fact or law.

- 3.5.11.3 Procedure for Filing an Appearance:** Any Party who seeks attorney’s fees and costs under this Policy and who otherwise qualifies as a Party in Interest in the proceeding must have filed a Notice of Appearance or has appeared in the proceeding by the Applicant’s filing of a Notice to Adverse Party and has subsequently filed an Appearance designating their attorney of record in the proceedings.
- 3.5.11.3.1** A copy of an Appearance filed by an Applicant shall be personally served or served by First-Class Mail® upon all Adverse Parties at least ten (10) calendar days before the commencement of the final hearing on the merits of the original application or petition.
- 3.5.11.3.2** A copy of an Appearance filed by an Adverse Party shall be personally served or served by First-Class Mail® upon the Applicant and upon all other Adverse Parties on or before the commencement of the final hearing on the merits of the original application or petition.
- 3.5.11.3.3** A copy of the Notice to Adverse Party shall be personally served or served by First-Class Mail® upon the therein identified Adverse Party at least ten (10) calendar days before the commencement of the final hearing on the merits of the original application.
- 3.5.11.3.4** No attorney’s fees or costs will be awarded by the Board of Commissioners pursuant to I.C. § 12-117 and this policy to any person, political subdivision or state agency who fails to comply with Section 3.5.11.e of this policy.
- 3.5.11.4 Determination Criteria for Prevailing or Partially Prevailing Party:** The determination by the Board of Commissioners of the prevailing or partially prevailing Party in any contested Quasi-Judicial Proceeding shall be in accordance with the provisions of Rule 54 (B) of the Idaho Rules of Civil Procedure, which are herein adopted by reference as if set forth herein at length.
- 3.5.11.5 Determination Criteria for Costs Award:** The determination by the Board of Commissioners of the award of costs to the prevailing or partially prevailing Party in any contested Quasi-Judicial Proceeding shall be in accordance with the provisions of Rule 54 (D) of the Idaho Rules of Civil Procedure, which are herein adopted by reference as if set forth herein at length.

- 3.5.11.5.1 The amount of the award of attorney's fees and costs in a Quasi-Judicial Proceeding before the Board of Commissioners of this Highway District is a matter of the exercise of discretion of the Board of Commissioners.
- 3.5.11.6 **Determination Criteria for Award of Attorney's Fees:** The determination by the Board of Commissioners of the award of attorney's fees to the prevailing or partially prevailing Party in any contested Quasi-Judicial Proceeding shall be in accordance with the provisions of Rule 54 (e)(1)(2)(3) of the Idaho Rules of Civil Procedure which are adopted by reference as if set forth herein at length, except that an award of attorney's fees and costs shall only be made against non-prevailing Party who acted without a reasonable basis in fact or law.
- 3.5.11.7 **Request for Award of Attorney's Fees and Costs:** A Request for Award of Attorney's Fees and Costs in any Quasi-Judicial Proceeding must be filed by the Party who is the Requester with the Secretary of the Highway District within fourteen (14) days of the date of the entry of the final order of the Board of Commissioners on the merits of the proceeding.
- 3.5.11.7.1 A Request for Award of Attorney's Fees and Costs must identify the Quasi-Judicial Proceeding and the name Party against whom the attorney's fees and costs are requested.
- 3.5.11.7.2 The Request for Award of Attorney's Fees and Costs must be accompanied with a memorandum of the costs and attorney's fees requested and supported by an affidavit of the attorney stating the basis and method of computation of the attorney fees claimed with itemization of and basis for the request for costs.
- 3.5.11.7.3 A copy of the Request for Award of Attorney's Fees and Costs must be served Party against whom the attorney's fees and costs are requested by First-Class Mail® at the time of filing the Request.
- 3.5.11.8 **Objection to Attorney's Fees and Costs:** The Party against whom a Request for Award of Attorney Fees and Costs has been filed and who objects to the allowance of attorney's fees or costs or to the amount thereof shall file a Motion to Disallow part or all of such costs and attorney's fees with the Secretary of the Highway District.

- 3.5.11.8.1 A copy of the Motion to Disallow Attorney Fees and Costs must be served upon the Requester of Attorney's Fees and Costs by First-Class Mail® within fourteen (14) days of the Request for Award of Attorney's Fees and Costs.
- 3.5.11.9 **Settlement of Attorney's Fees and Costs:** The Board of Commissioners shall settle all Requests for Attorney Fees and Costs in the following manner:
- 3.5.11.9.1 After the time has run for the filing of a Motion to Disallow Attorney Fees and Costs, the Highway District Secretary shall schedule a public hearing of the Board of Commissioners to consider the Request for Award of Attorney Fees and Costs and the Motion to Disallow Attorney Fees and Costs provide notice thereof to the requester and the Party against whom the attorney fees and costs have been requested.
- 3.5.11.9.2 **Motion Not Timely Filed:** At the hearing, in the event a Motion to Disallow Attorney Fees and Costs has not been timely filed, the Board of Commissioners shall proceed with a hearing on the matter and then to deliberate, make its findings and enter an order settling the dollar amount of costs and attorney's fees, if any, to be awarded.
- 3.5.11.9.3 **Motion Timely Filed:** At the hearing, in the event a Motion to Disallow Attorney Fees and Costs has been timely filed, the Board of Commissioners shall proceed with a hearing on the matter and then deliberate, make its findings and enter an order settling the dollar amount of costs and attorney's fees, if any, to be awarded.
- 3.5.11.10 **Failure to Timely File:** Failure to timely file an Appearance and/or a Request for Award of Attorney's Fees and Costs shall constitute a waiver of all claims to the award of attorney fees and costs, and a failure to timely file a Motion to Disallow Attorney Fees and Costs under this policy shall constitute a waiver of all objections to the award of attorney fees and costs.
- 3.5.11.11 **Policy Distribution:** Copies of this Policy shall be provided at the first hearing of any Quasi-Judicial Proceeding before the Board of Commissioners of this Highway District next to the hearing signup sheet and to any Party filing an Appearance in a Quasi-Judicial Proceeding.

# **Title 4 Policy**

## **Chapter 1 Policy Authority**

- 4.1.1 The board of Commissioners is authorized by law to adopt policy for the governance of Highway District operations, and no policy or regulation of this District is authorized unless adopted by the Board of Commissioners in an open meeting.

## **Chapter 2 Policy Adoption**

- 4.2.1 It is anticipated that in order for this Highway District to remain current and efficient in its operations that there will be the need to change policy from time to time. Changes must be reflected in Policy to ensure the safe and effective operations of the Highway District. Highway District Staff whether administrative, appointed and/or employed are encouraged to bring to the attention of the Board the need for policy additions and revisions.
- 4.2.2 Proposals for new policy or changes to existing policy may be initiated in writing by any board member or by the Secretary, Treasurer, District attorney or the Director of Highways or District Engineer.
- 4.2.3 Proposed Policy amendments or new policy may be proposed by any District employee in writing and submitted through the chain of command to be presented to the Board.
- 4.2.4 Proposals for new policy or changes to existing policy will be received by the Board and then referred to the Director of Highways [who may appoint whatever district Personnel he sees fit to review the same and advise], and District Attorney, and/or District Engineer and/or to personnel and/or to ad hoc committees as appointed and determined appropriate by the Board for review and recommendation prior to Board action.

- 4.2.4.1 **Proposals for new policy** should be in writing and in substantially the following format:

*Subject:* Procedure, Name, Title, or area being discussed.

*Purpose:* Reason for the Development of the policy.

*Division Affected:* Who will be affected by adoption of this Section.

*Policy:* Direct order, or rules, pertaining to the aforementioned Section.

*Responsibility:* What is expected as a result of the policy, or who is responsible for the action included herein.

*Operational impact* on Highway District operations and cost to the District to implement.

*Procedure:* Where there is needed a specific guideline of action to be followed regarding the subject matter included.

*Authorized signature*, title, and date signed.

- 4.2.4.2 Proposed Policy Revision Format:** The basic format is the same as used for Ordinance revisions by Cities.
- 4.2.4.2.1** If this proposal is a revision of an existing Policy, write the existing Policy as it is presently written with strike through of language proposed to be deleted and underscore of language to be added.
  - 4.2.4.2.2** New code Section and/or Title will be underscored.
- 4.2.5** Proposals for new policy or changes to existing policy will not be adopted at the time of first introduction to the Board until the review has been completed as provided in Section 4.2.4.
- 4.2.5.1** Temporary approval may be granted by the Board to meet emergency situations or special events which require action before final action can be taken. The Board at its discretion may receive input from the public, employees and/or appointed officers of the Highway District prior to adoption of policy.
- 4.2.6** The Secretary and/or District Attorney will draft the final draft of the policy for the Board and will make changes as designated by the Board prior to final adoption.
- 4.2.7** Policy adopted or amended will be made a part of the minutes of the meeting in which the action was taken and will also be included in the Highway District's policy manual and codified in accordance with this policy and the date of adoption noted on the policy.
- 4.2.8** Policy that is repealed and/or amended shall be retained in order to verify the policy of this highway district as it existed at all times.

### **Chapter 3 Policy Custodian**

- 4.3.1 The Secretary is the official custodian and keeper of records and minutes of the Highway District which shall include policy of the Highway District and the Secretary shall maintain at all times the official policy manual of the District which shall contain all currently adopted policy.

### **Chapter 4 New Policy Dissemination**

- 4.4.1 At such time as the Board takes final action on the adoption of new policy or an amendment of the existing policy, the same shall be included in this policy by the District Secretary and the date of this Policy Code updated.
- 4.4.2 Policy adopted shall be posted on the Highway District's website and a copy provided to all administrative and appointed staff and to the Commissioners by the Secretary.

# Title 5 Records

## Chapter 1 Title, Authority, Findings and Guidelines

- 5.1.1 **Title:** Notus-Parma Highway District No. 2 Records Definitions, Classification, Retention, Custody Control and Access Policy
- 5.1.2 **Findings:** The Board of Commissioners designates custodian of records and finds that:
- 5.1.2.1 The Notus-Parma Highway District No. 2 has and will continue to generate and receive various Highway District records; and
  - 5.1.2.2 The Secretary is designated as the custodian of the records of the Highway District; and
  - 5.1.2.3 It is in the best interest of the Highway District for the Commissioners to establish a policy and procedure for the maintenance, classification, retention and destruction of the Highway District's records; and
  - 5.1.2.4 There is no specific statute which governs and proscribes the procedure and process for the classification and retention of Highway District records; and
  - 5.1.2.5 The state of Idaho's public records law at Idaho Code Section 74-101(13) defines a "Public record" as follows: *includes, but is not limited to, any writing containing information relating to the conduct or administration of the public's business prepared, owned, used or retained by any state agency, independent public body corporate and politic or local agency regardless of physical form or characteristics*; and
  - 5.1.2.6 Idaho Code Section 74-102(16) of the Idaho Public Records Law provides that the District shall make designations a custodian for its public records inclusive of its public officials [employees] having custody of, control of or authorized access to the District's public records.
  - 5.1.2.7 Idaho Code § 31-871 [which applies to County records], while not legally applicable to this Highway District, provides guidance for policy considerations in this regard for records; and

5.1.2.8 Highway District records may include records in different formats, and some records will be subject to reproduction in response to public records requests and other records which will not be, and there is a need to provide guidelines and a policy for the maintenance, classification, retention and destruction of Highway District records to assure adherence to the law of the State of Idaho and to provide consistency.

### 5.1.3 Operational Guidelines

5.1.3.1 Highway District Commissioners and District staff are encouraged, when communicating on matters of Highway District business, to avoid personal or unrelated business communications; and

5.1.3.2 Highway District Commissioners and District staff are encouraged to maintain files and work folders for the storage of Highway District Records as is appropriate to the subject matter and separate from any other documents and/or communications unrelated to Highway District business; and

5.1.3.3 The Board of Commissioners' meeting agenda should include, as is reasonably necessary the:

5.1.3.3.1 Classification of Highway District records as required under this Title; and,

5.1.3.3.2 Approval of and/or the deletion of and/or destruction of Highway District records.

5.1.3.4 At such time as the Secretary notifies Commissioners and/or Highway District staff of the filing of any tort claim and/or other claim against the Highway District, such notice shall include a Do Not Destroy Records [**Form Book**] directive to Highway District Commissioners, staff and agents until thereafter authorized by the Commissioners.

## Chapter 2 Definitions

Wherever used herein this Policy, the following terms [which may appear herein this Policy in the singular or the plural] shall have the following meaning, unless the context indicates to the contrary:

5.2.1 **District:** means and refers to this Notus-Parma Highway District No. 2, a highway district organized and existing by virtue of Chapter 13 of Title 40 Idaho Code.

5.2.2 **District Official:** means and refers to any District elected official, commissioner, committee member, employee, agent or independent contractor while acting within the scope and course of their employment and/or authorization to conduct or administer the business of the District.

5.2.3 **District Record:** means and refers to any writing, no matter what format, containing information relating to the conduct or administration of the District's business prepared, owned, used, delivered to or retained by the District.

5.2.3.1 **Exceptions:** The following writings are NOT District Records:

- Any writing drafted, recorded or received and retained by a District Official in their possession, not within the scope and course of their employment and/or their authorization to conduct or administer the business of the District as long as such is not shared with any other District employee or agent or any other entity on behalf of the District. In the event any such record becomes a District Record it is herein classified as a Non-Retained Record.
- Personal notes created by a District employee or agent solely for their own use shall not be a public record as long as such personal notes are not shared with any other District employee or agent or any other entity on behalf of the District.

5.2.4 **Historical Records:** means and refers to records which, due to age or cultural significance, are themselves artifacts of historical value. Historical Records have enduring value based on the administrative, legal, fiscal, evidential or historical information they contain.

5.2.5 **Policy:** means and refers to this Notus-Parma Highway District No. 2 Records Definition, Classification, Retention, Custody, Control and Access Policy.

5.2.6 **Writing:** means and refers to and includes, but is not limited to, handwriting, typewriting, printing, photostating, photographing and every means of recording, including letters, words, pictures, sounds or symbols or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums or other documents.

### **Chapter 3**

## **Operational Policy and Guidelines for the Generation of Records in the Conduct and Administration of District Business**

The following are the District policies and recommended operational guidelines for the creation and communication of District Records:

- 5.3.1 All District records are property of the District, and no District Official, elected, appointed or staff, [not including independent contractors who are subject to the terms and conditions of the contract with the District which supersede this Policy] shall have any personal or property right to such records even though he or she may have developed or compiled them.
- 5.3.2 The unauthorized destruction or removal of District Records which is not in accordance with the Policy is prohibited.
- 5.3.3 District Officials [not including independent contractors who are subject to the terms and conditions of the contract with the District which supersede this Policy] shall only generate District Records in the conduct or administration of the District's business, as they are authorized and only by the use of District equipment or other record producing and/or retaining modalities unless an emergency exists and District equipment or record producing modalities are not available. In such emergency instances, a copy of such record shall be delivered to the District Secretary for classification, retention and routing.
  - 5.3.3.1 Any District Record, prepared, retained or received by any District Official [except for independent contractors] on equipment or other record producing and/or retaining modality which is not the District's, is presumed to be their personal record and is not in the conduct or administration of the District's business unless the same is otherwise delivered to the District.
  - 5.3.3.2 District Officials are not to include personal writing in their conduct or administration of District business using District equipment or other District record producing and/or retaining modality.

## **Chapter 4**

### **Records Classification**

- 5.4.1 **Permanent and Indefinitely Retained Records:** In accordance with the provisions of I.C. § 40-1336, the Board of Commissioners establishes by policy that the following records are to be kept permanently and indefinitely:
  - 5.4.1.1 A **Minute Book**, in which must be recorded all orders and decisions made by the Board of Commissioners and the proceedings at all regular and special meetings of the Board of Commissioners.
  - 5.4.1.2 An **Allowance Book** or disbursement journal, in which must be recorded all orders for the payment of money from the Highway District treasury, to whom made, and for what account, dating, numbering and indexing the same through each year.

- 5.4.1.3 A **Road Book**, containing all deeds of highway right-of-way, proceedings and adjudications relating to the validation and abandonment and/or realignment of highways, public streets and public rights-of-way within the highway district highway system.
  - 5.4.1.4 A **Permit Book**, containing all permits licenses issued by the Highway District and indexed and or categorized by type of permit.
  - 5.4.1.5 An **Ordinance Book**, containing all ordinances, stating the date enacted.
  - 5.4.1.6 A **Resolution Book**, containing all resolutions, stating the date adopted.
- 5.4.2 **Permanent Records** shall consist of, but not be limited to, the following:
- 5.4.2.1 All proceedings of the Board of Commissioners, resolutions, bond register, warrant register, budget records, road and street construction plans, building plans and specifications, general ledger, cash books, right-of-way use permits and records affecting the title to real property or liens thereon and other documents or records as may be deemed of permanent nature by the Board of Commissioners.
- 5.4.3 **Semi-Permanent Records** shall consist of, but not be limited to, the following:
- 5.4.3.1 All claims, contracts, canceled checks, warrants, duplicate warrants, purchase orders, vouchers, duplicate receipts, bonds and coupons, registration and other election records excluding election ballots and tally books, financial records, and other documents or records as may be deemed of semi-permanent nature by the Board of Commissioners.
- 5.4.4 **Temporary Records** shall consist of, but not be limited to, the following:
- 5.4.4.1 All correspondence not related to a record which is otherwise classified, cash receipts subject to audit, election ballots and tally books, and other records as may be deemed temporary by the Board of Commissioners.
- 5.4.5 **Unclassified Records** shall consist of those records not classified by the Board of Commissioners.
- 5.4.6 **Non-Retained Records:** Include the following:
- 5.4.6.1 Identical copies of records maintained by the District Secretary; and
  - 5.4.6.2 Drafts of any communication or document of any kind not sent or communicated to any person other than the originator; and

- 5.4.6.3 Communications, materials, and/or documents of any kind received from outside originators [sources other than District agents] which require no action and of which an identical copy is retained by the District Secretary; and
- 5.4.6.4 Communications, materials, and or documents which are not related to the conduct or administration of the District’s business; and
- 5.4.6.5 Communications, materials and or documents which are of the nature of incidental instructions, reminders or responses to the same and which do not include any substantive information related to the conduct or administration of the District’s business.
- 5.4.6.6 Draft documents originated by District Officials which are the subject of official approval either by the District Commissioners, Director of Highways or by a District official.

5.4.6.6.1 As a guideline, it is recommended that draft documents submitted for approval contain a header with the following language:

CAUTION: This DRAFT document has been prepared for consideration and is the subject of approval authority of either the District Commissioners or District official and is therefore not an official record relating to the conduct or administration of the District’s business. Approved documents do not contain this

5.4.7 **Exempt from Disclosure Highway District Records** shall consist of Highway District Records no matter how otherwise classified which qualify as exempt from public records disclosure under the provisions of I. C. §§ 74-104 to 74-107.

## Chapter 5 Records Retention

5.5.1 The provisions of this Section shall control the classification and retention schedules of all Highway District Records, unless otherwise provided in Idaho Code or any applicable federal law.

5.5.2 Highway District Records shall be retained as follows:

5.5.2.1 **Permanently and Indefinitely Retained Records** shall be retained permanently and indefinitely.

- 5.5.2.2 **Permanent Records** shall be retained for not less than ten (10) years.
- 5.5.2.3 **Semi-Permanent Records** shall be kept for not less than five (5) years after the date of issuance or completion of the matter contained within the record.
- 5.5.2.4 **Temporary Records** shall be retained for not less than two (2) years.
- 5.5.2.5 **Unclassified Records** are retained until their destruction is authorized by the Board of Commissioners.
- 5.5.2.6 **“Historical Records”** may not be destroyed but may be transferred to the Idaho State Historical Society’s permanent records repository upon resolution of the District Commissioners.
- 5.5.2.7 **“Non-Retained Records”** are not retained and may be destroyed by District officials, employees or agents at any time unless a “Do-Not-Destroy Order” is issued by the Secretary.
- 5.5.2.8 **Authorized Destruction:** Except for Non-Retained Records District records may only be destroyed after their classification retention period by resolution of the Board of Commissioners after regular audit and upon the advice of the District Secretary and District Attorney. A resolution ordering destruction must list in detail records to be destroyed. Authorized destruction shall be under the direction and supervision of the Secretary of the Highway District.
  - 5.5.2.8.1 The form of the request for records destruction will be substantially in the following form: **Records Destruction Request** [Forms Book]
  - 5.5.2.8.2 The form of the resolution ordering destruction will be substantially in the following form: **Resolution Authorizing Records Destruction** [Forms Book]
- 5.5.3 **Destruction of Records:** District Records [except for Unclassified and Non-Retained Records] may only be destroyed after their classification retention period by resolution of the Board of Commissioners and upon the advice of the District Secretary and the Director of Highways, as the case may be, and the District Attorney.
  - 5.5.3.1 Prior to destruction of Permanent Records, the District Secretary shall provide written notice, including a detailed list of the Permanent Records proposed for destruction, to the Idaho State Historical Society thirty (30) days prior to the destruction of any records.

- 5.5.3.2 A resolution ordering destruction must list, in detail, records to be destroyed. Authorized destruction shall be under the direction and supervision of the District Secretary.
- 5.5.3.3 The District Commissioners' meeting agenda should include, as is reasonably necessary, to:
  - 5.5.3.3.1 Classify District Records as required under this Policy; and
  - 5.5.3.3.2 Approve the deletion and/or destruction of District Records.
- 5.5.3.4 The provisions of this section shall control the classification and retention schedules of all District Records, except for Permanently and Indefinitely Retained Records, Unclassified Records and Non-Retained Records unless otherwise provided in Idaho Code or any applicable federal law or unless in this Policy provided otherwise.

## **Chapter 6**

### **Electronic and Audio Records**

- 5.6.1 **Retention:** Records of the Highway District originated and/or received in electronic format:
  - 5.6.1.1 Are classified and retained for the same length of time as paper documents would be retained having the same content; and
  - 5.6.1.2 May be retained in electronic format or may be printed and retained in hard copy or micro-filmed and, in the event electronic format records are printed and retained in hard copy or micro-filmed, such records do not need to be retained in both electronic and printed formats.
- 5.6.2 **E-mail Guidelines:** Records of the Highway District originated and/or received in e-mail format:
  - 5.6.2.1 Commissioners and Highway District staff are encouraged to either save e-mail, within sixty [60] days of its receipt, by printing and retaining a hard copy or micro-filming and/or saving the same in electronic format in an appropriate subject matter work folder and once this is completed to then delete the same from the e-mail folder.
  - 5.6.2.2 The responsibility for the retention of e-mail is subject to the following Highway District guidelines:

5.6.2.2.1 Retention of e-mail originated by Highway District staff is the responsibility of the originator;

5.6.2.2.2 Retention of e-mail received by Highway District staff, which originated from persons other than the Highway District Commissioners or staff is the responsibility of the Highway District Commissioner or staff who received it, unless another Highway District Commissioner or staff is designated to respond to it, in which case the responder is responsible for retaining both the original e-mail message and the response.

5.6.3 **Audio Records:** Includes any recording of sounds, whether on tape or CD or digitally recorded or electronically or digitally reformatted, and include audio records of general and special business meetings of the Board of Commissioners and audio tapes of public hearings, voice mail, and any other audio records.

5.6.3.1 Audio Records of the District originated and/or received are classified and retained in accordance with the provisions of Chapter 4 of this Title.

5.6.3.2 Audio Records of the District originated and/or received in a recording format may also be converted to an electronic format or may be transcribed and retained in hard copy. In the event Audio Records are converted to an electronic format or are transcribed and retained in hard copy, such records are not required to be retained in both audio format and electronic format and may be retained in the format as determined by the Secretary subject to approval by the Board of Commissioners.

5.6.3.3 Retention of Audio Records originated by a District official is the responsibility of the originator until delivered to the District Secretary for retention.

5.6.3.4 Retention of audio records received by a District official, which is originated by persons other than a District official, is the responsibility of the District official who received it, unless another District official is designated to respond to it, in which case the responder is responsible for retaining both the original audio record and the response until the same are delivered to the District Secretary for retention.

5.6.4 **District Records Non-paper medium policy:** Under the Direction of the District Secretary, the District may reproduce, retain and manage District Records in a photographic, digital or other non-paper medium. The medium in which a document is retained shall accurately reproduce the record in paper form during the period for which the document must be retained and shall preclude unauthorized alteration of the document.

- 5.6.4.1 If the medium chosen for retention is photographic, all film used must meet the quality standards of the American National Standards Institute (ANSI).
- 5.6.4.2 If the medium chosen for retention is digital, the medium must provide for reproduction on paper at a resolution of at least two hundred (200) dots per inch.
- 5.6.4.3 A record retained by the District in any form or medium permitted under this section shall be deemed an original public record for all purposes. A reproduction or copy of such record, certified by the District Secretary, shall be deemed to be a transcript or certified copy of the original and shall be admissible before any court or administrative hearing.
- 5.6.4.4 Once a Semi-Permanent or Temporary Record is retained in a non-paper medium as authorized by this section:
  - 5.6.4.4.1 The original paper document shall be considered a duplicate of the record, and may be summarily disposed of or returned to the sender; and
  - 5.6.4.4.2 The provisions of this section related to retention and destruction of Semi-Permanent and Temporary Records and shall apply only to the record retained in the non-paper medium.
- 5.6.4.5 Once a Permanent Record is retained in a non-paper medium as authorized by this section:

- 5.6.4.5.1** The original paper document shall be considered a copy of the record and may be destroyed after compliance with the provisions of this subparagraph. Prior to destruction of original paper documents, the District Secretary shall provide written notice, either by electronic or physical delivery, including a detailed list of the documents proposed for destruction to the Idaho State Historical Society. The Idaho State Historical Society shall have thirty (30) days after receipt of the notice to review the list and respond in writing, either by electronic or physical delivery, to the District Secretary identifying any documents that will be requested to be transferred from the District to the Historical Society for retention in the permanent records repository. Any documents that will not be transferred for retention in the permanent records repository may be destroyed. If the District Secretary receives no written response within thirty (30) days after the notice was received by the Historical Society, then the records proposed for destruction may be destroyed.
- 5.6.4.5.2** The provisions of this section related to retention of Permanent Records and shall only apply to the record retained in the non-paper medium.
- 5.6.4.6** Even if a Historical Record is retained in a non-paper medium as authorized by this section, the original paper record shall also be retained by the District in perpetuity, or it may be transferred to the Idaho State Historical Society's permanent records repository upon resolution of the District Commissioners.
- 5.6.4.7** Whenever any record is retained in a non-paper medium, the District Secretary shall maintain, throughout the scheduled retention period for such record, suitable equipment for displaying such record at not less than original size and for making copies of the record.
- 5.6.4.8** Whenever any record is retained in a non-paper medium, it shall be made in duplicate and the custodian thereof shall place one (1) copy in a fire-resistant vault or off-site storage facility, and shall retain the other copy in his/her office with suitable equipment for displaying such record at not less than original size and for making copies of the record.

## Chapter 7 Public Records Requests

- 5.7.1 **Purpose:** The Notus-Parma Highway District No. 2 is subject to the Idaho Public Records Law which is codified in Chapter 1 of Title 74 Idaho Code and which law provides certain rights to inspect and copy public records that are defined therein and which law provides for certain exemptions from disclosure and authorizes certain fees to be imposed for the compliance with public records requests and which law provides and requires that certain procedures be followed in processing and responding to public records requests and this title is adopted in order to enable this district to comply with and to exercise its authority as provided in the Public Records Laws of the State of Idaho.
- 5.7.2 **Designation of Custodian of the Records:** The Highway District Secretary is the official custodian of the Records of this Highway District.
- 5.7.3 **Procedure for receipt and process of Public Records requests:** The following Public Records Request form is adopted pursuant to the authority of Idaho Code § 74-102 (4). See **Public Records Request Form** [Forms Book]
- 5.7.4 **Procedure:** The following is set forth as a guideline to be followed in the receipt and process of a public record request.
- 5.7.4.1 **Step 1 - Completion of Request Form:** Public record requests made to this Highway District should be made, when possible, on the form provided and adopted as set forth in **Section 5.7.3**. This is to assist in the receipt and the processing of such requests and to assure the information about the requester as is authorized by Idaho Code § 74-102 (4).
- 5.7.4.2 **Step 2 - Receipt of Request Form:** All public records requests received by any employee and or agent of this District shall initial and date the request and deliver the same immediately to the District Secretary and or the Secretary's delegate for processing.
- 5.7.4.3 **Step 3 - Determinations:** District Secretary shall, upon receipt of public records request, first determine if the request shall be granted/granted in part, granted with special conditions, and/or denied, and/or if additional time is needed to process the request. In the event it is determined by the District Secretary/ delegate that a longer period of time [greater than three (3) working days] from the date of receipt of the request is needed to locate or retrieve the public records, the requester shall be so notified in writing that the request will be facilitated within ten (10) days of the receipt of the request.

5.7.4.3.1 The District Secretary, in the case of a request that is broad in scope, may provide the requester with information in order to help them narrow the scope of the request or to help the requester make the request more specific when the response is likely to include voluminous materials or involve more than 2 hours of labor in order to respond to the request.

5.7.4.3.2 The District Secretary, when in receipt of multiple requests and when the Secretary reasonably believes that one or more requesters is segregating the request into a series of request to avoid payment of fees, then in that event, the District Secretary shall make a finding of the same and provide notice to the requester/s and may then proceed to aggregate such requests and, as appropriate, charge fees as provided in this policy for the response to the request.

5.7.4.3.3 The District Secretary shall determine, in the event it is reasonably anticipated that the response to the request will require the imposition of fees, whether or not those estimated fees must be paid in advance by the requester. When fees are tendered in advance, they shall be credited to the Highway District's general fund and in the case the advance payment exceeds the Fees charged then the difference shall be returned to the requester.

5.7.4.4 **Step 4** - In the event the District Secretary determines that the request may include records which are exempt under Idaho Law, the Secretary shall immediately notify the District's Attorney for an opinion.

5.7.4.5 **Step 5** - The Requester shall be notified using the District's Form request [see **Section 5.7.3**] within three (3) working days of receipt of the request by the District unless notice is provided under **Section 5.7.4.3**.

5.7.5 Conditions which may be imposed to facilitate Public Records Requests:

5.7.5.1 **No Inquiry:** No inquiry of any person who applies for a public record shall be made, except to verify the identity of a person requesting a personnel record [which is otherwise exempt a person requesting a record in accordance with Idaho Code §74-113].

5.7.5.2 If the request is to inspect original documents the Secretary shall take such reasonable steps as is required to assure and prevent alteration of any public record produced.

5.7.5.3 Requesters shall be extended all reasonable comfort and facility for the full exercise of the right granted but the examination of public records must be conducted during regular office or working hours unless the Secretary shall authorize examination of records in other than regular office working hours. In this event the requester shall be charged the reasonable compensation of the Secretary or designee who facilitates the request at other than working hours which must be paid in advance.

5.7.5.4 The Secretary shall charge public record production fees as provided in this title in advance of the production of the public record.

5.7.5.5 **Personal Data Identifiers:** The following governs issues involving public records responses and personal data identifiers in those records:

- Social Security Numbers are always redacted.
- The following personal data identifiers for an individual may be disclosed only in the following redacted format:
  - Minor children by their initials
  - Dates of birth in substantially the following format: "XX/XX/birth year";
  - Any financial account by showing the last four (4) digits of a financial account number in substantially the following format: "XXXXX1234";
  - Any driver's license by showing the last four (4) digits of a driver's license number or state-issued personal identification card number in substantially the following format: "XXXXX350F"; and
  - Any employer identification number or business taxpayer identification number by the last four (4) digits of that number.

## 5.7.6 Public Records Copying Fee Schedule

5.7.6.1 The Board of Commissioners has exercised its authority to adopt a public records copying fee schedule pursuant to Idaho Code § 74-102 (b).

5.7.6.2 It is found that the Public Records Copying Fee Schedule that has been adopted reflects the actual costs incurred by this Highway District for the copying of the record excluding administrative and labor costs resulting from location and providing a copy of the public record, except for the fees herein provided for requests of more than 100 pages or requests which include records from which non-public information must be deleted or when actual labor associated with locating and copying documents exceeds two (2) person hours.

5.7.6.3 The following Public Record Fee Schedule is adopted:

- 5.7.6.3.1 Certification of Records: \$1.00 per certification
- 5.7.6.3.2 Copying Costs: \$0.15 per page for all copies in excess of 100 pages
- 5.7.7 Labor costs for requests involving more than 2 hours of labor in responding but not including time for preparing the first 100 copies, or requests which include records from which non-public information must be deleted, or when actual labor associated with locating and copying documents exceeds two (2) person-hours: \$25.00 per hour being the hourly rate for the administrative staff time and at the hourly rate of \$150.00 per hour for Highway District Counsel, in the event the response to the request involves redactions to be made by the Highway Districts attorney.
- 5.7.8 Duplication of computer tape, computer disc, microfilm, or similar or analogous record system: Actual costs incurred by District for duplication.
- 5.7.9 **Exemption from Fee:** No fee for labor or copying for public records requests shall be charged for a requester in the event the requester demonstrates that the requester's examination and/or copying of public records that:
  - 5.7.9.1 Is likely to contribute significantly to the public's understanding of the operations or activities of the government;
  - 5.7.9.2 Is not primarily in the individual interest of the requester including, but not limited to, the requester's interest in litigation in which the requester is or may become a party;
  - 5.7.9.3 Would not otherwise occur because the requester has insufficient financial resources to pay such fees.

## Chapter 8 Personnel Records Disclosure

- 5.8.1 The Board of Commissioners of Notus-Parma Highway District No. 2, Canyon County, Idaho, finds:
  - 5.8.1.1 The Commissioners of this Highway District have exclusive general supervision and jurisdiction over all highways and public rights-of-way within its Highway System and all powers and duties that would by law be vested in the County Commissioners and District Directors of Highways if the Highway District had not been organized; and

- 5.8.1.2 The Board of Commissioners has the power to manage and conduct the business and affairs of the District and has authority to maintain an office and employ and appoint agents, attorneys, officers and employees as may be required, and prescribe their duties and fix their compensation [I.C. 40-1310].
  - 5.8.1.3 In order to conduct the necessary business of this Highway District, it has been, is and will continue to be necessary for the Highway District to have employees; and it is a necessary part of that process to maintain personnel records regarding all of its employees on matters relevant to their employment; and
  - 5.8.1.4 Idaho's Public Record Law at Idaho Code § 74-106 provides that all personnel records of current or former personnel are exempt from disclosure by public records request except for employment history, classification, pay grade and step, longevity, gross salary and salary history, status and workplace and identification of employing agency; and all other personnel information relating to any Highway District employee or applicant shall not be disclosed to the public without the employee's or applicant's written consent.
  - 5.8.1.5 It is found to be in the best interest of the administration of the maintenance and disclosure of Highway District personnel records to establish a policy to facilitate the operational need to access those records and to facilitate authorized access and disclosure of said records.
  - 5.8.1.6 From time to time there will be requests for personnel records which are not otherwise authorized for disclosure under the public records law, for which the District should have a form to enable this process.
  - 5.8.1.7 The Board of Commissioners finds that it is advisable to provide a process and to adopt a request form for the release of an employee's personnel file in order to obtain authorization from the employee, to collect fees related to the copying of personnel records and in order to consider and process requests made to the Highway District for personnel records; and
  - 5.8.1.8 The Board of Commissioners finds that the Personnel Record Request and Release Authorization Form and personnel record release process herein this Chapter set forth accomplishes the goals of the Board of Commissioners in this regard.
- 5.8.2 **Definitions:** For purposes of the Policy, wherever used herein the following terms shall have the following meaning, unless the context indicates to the contrary:

- 5.8.2.1 **Disclosure:** means and refers to permit access to or release, transfer, copy or other communication of personnel records or any information contained therein to any person or entity by any means, including oral, written or electronic means.
  - 5.8.2.2 **Employee:** means and refers to any current and past employee of this Highway District, including members of the Board of Commissioners.
  - 5.8.2.3 **Highway District:** means and refers to the Notus-Parma Highway District No. 2, a Highway District organized and existing under and by virtue of the Laws of the State of Idaho, located in Canyon County, Idaho.
  - 5.8.2.4 **Personnel Records:** means and refers to those records maintained by the Highway District in the normal course of its business that are directly related to an employee, former employee or an applicant for employment. This definition includes information recorded in any way, including by not limited to paper, tape, film, microfilm, microfiche or electronic.
  - 5.8.2.5 **Release Authorization:** means and refers to the **Personnel Record Request and Release Authorization Form.** [Form Book]
- 5.8.3 **Personnel Records Disclosure Policy:** The Board of Commissioners adopts the following policy for the Disclosure of Personnel Records under the jurisdiction of Notus-Parma Highway District No. 2:
- 5.8.3.1 **Personnel Records Custody and Maintenance:** The custody and maintenance of Personnel Records are under the direction and control of the Highway District Secretary.
  - 5.8.3.2 **Access and Disclosure of Personnel Records:** Personnel Records are not subject to Disclosure without the written Release Authorization of the employee, except for the following:
    - 5.8.3.2.1 Upon request to the Secretary, the Employee may have access to review his/her Personnel Records at a reasonable time as established by the Secretary; and
    - 5.8.3.2.2 Disclosure to a supervisory employee and to the Director of Highways and to the Secretary and Treasurer as is needed to conduct the business of the Highway District or in the management of employee or in the process of a grievance; and

- 5.8.3.2.3 Disclosure at a grievance hearing before the Board of Commissioners wherein the contents of the Personnel Record are relevant to the issues of the grievance; and
- 5.8.3.2.4 Disclosure to the Highway District's legal counsel as is reasonably necessary in the defense of claims against the Highway District; and
- 5.8.3.2.5 Disclosure pursuant to a validly issued subpoena or court order pursuant to any legal and/or investigation by a court or administrative agency which has subpoena and/or commission authority with jurisdiction over the Highway District in the matter; and
- 5.8.3.2.6 Disclosure of employment history, classification, pay grade and step, longevity, gross salary and salary history, status and workplace and identification of employing agency pursuant to a public records request.

**5.8.3.3 Process of Personnel Records Disclosure**

- 5.8.3.3.1 All requests for Disclosure of Personnel Records are to be made to the Highway District Secretary.
- 5.8.3.3.2 The Secretary determines under this policy provision whether or not the Disclosure can be made.
- 5.8.3.3.3 In the event the Disclosure is requested pursuant to a validly issued subpoena or court order pursuant to any legal and/or investigation by a court or administrative agency which has subpoena and/or commission authority with jurisdiction over the Highway District and unless prohibited by Court Order, the Employee shall be given notice of the request and an opportunity to seek legal advice and opportunity to show cause to the Secretary why it is illegal to make the Disclosure.
- 5.8.3.3.4 In the event the Disclosure is made of employment history, classification, pay grade and step, longevity, gross salary and salary history, status and workplace and identification of employing agency pursuant to a public records request, the employee shall be notified, and the Secretary shall provide in the employee's Personnel Record a copy of the Records Request and the response.

5.8.3.3.5 In the event the Secretary makes a Disclosure of Personnel Records pursuant to a written Release Authorization of the employee, the original of the same shall be placed in the employee's Personnel Record.

## Chapter 9 Records Custody, Control and Access Designations

5.9.1 **Designation of Custodian of District Records:** Unless otherwise specifically provided in this Chapter and/or this Policy Code, the Secretary is designated as the custodian of all Highway District public records.

5.9.2 **Designation of Officials with Control and Access to District Records:** Unless otherwise specifically provided in this Chapter and/or Policy Code, the following are the designations of Highway District Officials with physical control of the Highway District's public records and access to those public records as set forth in this table:

**Designation Table of Highway District Public Records, Control and Access**

Record Type	Control	Authorized Access
Permanently and Indefinitely Kept Records [see Notus-Parma Highway District No. 2 Policy Code Section 5.4.1]	Secretary <ul style="list-style-type: none"> <li>• Allowance Book</li> <li>• Minute Book</li> <li>• Ordinance Book</li> <li>• Permit Book</li> <li>• Resolution Book</li> <li>• Road Book</li> </ul>	Any official of the District subject to obtaining permission from the Secretary.
Permanent Records [see Notus-Parma Highway District No. 2 Policy Code Section 5.4.2]	Treasurer: <ul style="list-style-type: none"> <li>• Bond register, warrant register, budget records, general ledger, cash books.</li> </ul> District Director of Highways: <ul style="list-style-type: none"> <li>• Road and street construction plans, building plans and specifications, official maps and all other engineering records of the District</li> </ul> Secretary:	Any official of the District subject to obtaining permission from the official with control.

	<ul style="list-style-type: none"> <li>• Right-of-way use permits and records affecting the title to real property or liens thereon.</li> </ul>	
<p>Semi-Permanent Records [see Notus-Parma Highway District No. 2 Policy Code Section 5.4.3]</p>	<p>Secretary:</p> <ul style="list-style-type: none"> <li>• Claims, contracts, registration and other election records, Claims, contracts, election records</li> </ul> <p>Treasurer:</p> <ul style="list-style-type: none"> <li>• Canceled checks, warrants, duplicate warrants, purchase orders, vouchers, duplicate receipts, bonds and coupons, financial records</li> </ul> <p>District Director of Highways:</p> <ul style="list-style-type: none"> <li>• Road and street construction plans, building plans and specifications, official maps and all other engineering records of the District</li> </ul>	<p>Any official of the District subject to obtaining permission from the official with control except for claims under investigation or attorney client privilege which also require permission of District attorney and the Board of Commissioners.</p>
<p>Temporary Records [see Notus-Parma Highway District No. 2 Policy Code Section 5.4.4]</p>	<p>Secretary:</p> <ul style="list-style-type: none"> <li>• Correspondence not related to Permanently and Indefinitely Kept and/or Permanent Records and/or Semi-Permanent Records</li> </ul> <p>Treasurer:</p> <ul style="list-style-type: none"> <li>• Cash receipts subject to audit</li> </ul> <p>District Engineer:</p> <ul style="list-style-type: none"> <li>• Road and street construction plans,</li> </ul>	<p>Any official of the District subject to obtaining permission from the official with control except for correspondence or temporary records that involve claims or attorney client privilege which also require permission of District attorney and the Board of Commissioners.</p>

	building plans and specifications, official maps and all other engineering records of the District	
Personnel Records	See Section 5.8.3 of the Notus-Parma Highway District No. 2 Policy Code.	See Section 5.8.3 of the Notus-Parma Highway District No. 2 Policy Code.

## **Chapter 10 Cybersecurity Policy**

### **5.10.1 Acceptable Use Policy**

- 5.10.1.1** The purpose of this policy is to outline the acceptable use of computer equipment at the Notus-Parma Highway District No. 2 (the “Highway District”). These rules are in place to protect the employee and the Highway District. Inappropriate use exposes the Highway District to risks including virus attacks, compromise of network systems and services, and legal issues.
- 5.10.1.2** The scope of this policy applies to the use of information, electronic and computing devices, and network resources to conduct Highway District business or interact with internal networks and business systems, whether owned or leased by the Highway District, the employee, or a third party. All employees, contractors, consultants, temporary, and other workers at the Highway District are responsible for exercising good judgment regarding appropriate use of information, electronic devices, and network resources in accordance with Highway District policies and standards, and local laws and regulation.
- 5.10.1.2.1** This policy applies to employees, contractors, consultants, temporaries, and other workers at the Highway District, including all personnel affiliated with third parties.
- 5.10.1.3** An employee found to have violated this policy may be subject to disciplinary action, up to and including termination of employment.
- 5.10.1.4** The following activities are prohibited:

- 5.10.1.4.1** Under no circumstances is an employee of the Highway District authorized to engage in any activity that is illegal under local, state, federal or international law while utilizing the District's owned resources.
- 5.10.1.4.2** Unauthorized copying of copyrighted material including, but not limited to, digitization and distribution of photographs from magazines, books or other copyrighted sources, copyrighted music, and the installation of any copyrighted software for which the Highway District or the end user does not have an active license is strictly prohibited.
- 5.10.1.4.3** Accessing data, a server or an account for any purpose other than conducting Highway District business, even in a circumstance of authorized access, is prohibited.
- 5.10.1.4.4** Introduction of malicious programs into the network or server (e.g., viruses, worms, Trojan horses, e-mail bombs, etc.).
- 5.10.1.4.5** Revealing your account password to others or allowing use of your account by others. This includes family and other household members when work is being done at home.
- 5.10.1.4.6** Using a Highway District computing asset to actively engage in procuring or transmitting material that is in violation of sexual harassment or hostile workplace laws in the user's local jurisdiction.
- 5.10.1.4.7** Making fraudulent offers of products, items, or services originating from any Highway District account.
- 5.10.1.4.8** Circumventing user authentication or security of any host, network or account and effecting security breaches or disruptions of network communication. Security breaches include, but are not limited to, accessing data of which the employee is not an intended recipient or logging into a server or account that the employee is not expressly authorized to access, unless these duties are within the scope of regular duties. For purposes of this section, "disruption" includes, but is not limited to, network sniffing, pinged floods, packet spoofing, denial of service, and forged routing information for malicious purposes.

- 5.10.1.4.9 Providing information about, or lists of, Highway District employees to parties outside the Highway District.
- 5.10.1.5 The Highway District's proprietary information stored on electronic and computing devices whether owned or leased by the Highway District, the employee or a third party, remains the sole property of the Highway District.
- 5.10.1.6 Employees have a responsibility to promptly report the theft, loss, or unauthorized disclosure of the Highway District's proprietary information.
- 5.10.1.7 Employees may access, use, or share the Highway District's proprietary information only to the extent it is authorized and necessary to fulfill your assigned job duties.
- 5.10.1.8 Employees are responsible for exercising good judgment regarding the reasonableness of non-Highway District business/personal use. The Director of Highways together with the Secretary are responsible for creating guidelines concerning personal use of Internet/Intranet/Extranet systems. In the absence of such policies, employees should consult their supervisor or manager.
- 5.10.1.9 For security and network maintenance purposes, authorized individuals within or contracted by the Highway District may monitor equipment, systems, and network traffic at any time.
- 5.10.1.10 The Highway District reserves the right to audit networks and systems on a periodic basis to ensure compliance with this policy.
- 5.10.1.11 System level and user level passwords must comply with the Password Protection Policy found in Article 6 of this Chapter. Providing access to another individual, either deliberately or through failure to secure its access, is prohibited.
- 5.10.1.12 All computing devices must be secured with a password-protected screensaver with the automatic activation feature set to 10 minutes or less. You must lock the screen or log off when the device is unattended.
- 5.10.1.13 Employees must use extreme caution when opening e-mail attachments received from unknown senders, which may contain malware.

## **5.10.2 Email and Communication Activities**

- 5.10.2.1** The purpose of this email policy is to ensure the proper use of email system and make users aware of what deems as acceptable and unacceptable use of its email system. This policy outlines the minimum requirements for use of email within Network.
- 5.10.2.2** All use of email must be consistent with Highway District policies and procedures of ethical conduct, safety, compliance with applicable laws and proper business practices.
- 5.10.2.3** A Highway District email account should be used primarily for business related purposes; personal communication is permitted on a limited basis, but non-Highway District related commercial uses are prohibited.
- 5.10.2.4** Email should be retained if it qualifies as a Highway District business record as defined in the Highway District's Records Policy which is not otherwise classified as a Non-Retained Record in that Policy. Email is a Highway District business record if there exists a legitimate and ongoing business reason to preserve the information contained in the email.
- 5.10.2.5** The Highway District email system shall not to be used for the creation or distribution of any disruptive or offensive messages, including offensive comments about race, gender, hair color, disabilities, age, sexual orientation, pornography, religious beliefs and practice, political beliefs, or national origin. Employees who receive any emails with this content from any Highway District employee should report the matter to their supervisor immediately.
- 5.10.2.6** Users are prohibited from using third-party email systems and storage servers such as Google, Yahoo, etc. to conduct Highway District business, to create or memorialize any binding transactions, or to store or retain email on behalf of the Highway District. Such communications and transactions should be conducted through proper channels using Highway District approved documentation.
- 5.10.2.7** Using a reasonable amount of Highway District resources for personal emails is acceptable, but non-work-related email shall be saved in a separate folder from work related email. Sending chain letters or joke emails from a Highway District email account is prohibited.
- 5.10.2.8** The following email activities are prohibited:

  - 5.10.2.8.1** Sending unsolicited email messages, including the sending of "junk mail" or other advertising material to individuals who did not specifically request such material (email spam).

**5.10.2.8.2** Sending any form of harassment via email, telephone, or paging, whether through language, frequency, or size of messages.

**5.10.2.8.3** Use of unsolicited email originating from within the Highway District's networks of other Internet/Intranet/Extranet service providers on behalf of, or to advertise, any service hosted by the Highway District.

**5.10.2.9** An employee found to have violated this policy may be subject to disciplinary action, up to and including termination of employment.

### **5.10.3 Data Breach Response Policy**

**5.10.3.1** The purpose of the policy is to establish the goals and the vision for the breach response process. This policy will clearly define to whom it applies and under what circumstances, and it will include the definition of a breach, staff roles and responsibilities, standards, and metrics (e.g., to enable prioritization of the incidents), as well as reporting, remediation, and feedback mechanisms. The policy shall be well publicized and made easily available to all personnel whose duties involve data privacy and security protection.

**5.10.3.2** This policy mandates that any individual who suspects that a theft, breach or exposure of the Highway District's Protected data or Sensitive data has occurred must immediately provide a description of what occurred via e-mail to [g Watkins@nphd.net](mailto:g Watkins@nphd.net), by calling (208) 722-5343. This e-mail address and phone number, are monitored by the Highway District's Information Security Administrator. This team will investigate all reported thefts, data breaches and exposures to confirm if a theft, breach, or exposure has occurred. If a theft, breach, or exposure has occurred, the Information Security Administrator will follow the appropriate procedure in place.

**5.10.3.3** As soon as a theft, data breach or exposure containing Highway District's Protected data or Sensitive data is identified, the process of removing all access to that resource will begin.

**5.10.3.3.1** The Director of Highways will chair an incident response team to handle the breach or exposure.

**5.10.3.3.2** The team will include members from:

- IT Infrastructure
- IT Applications

- Finance
- Legal
- Human Resources
- The affected unit or department that uses the involved system or output or whose data may have been breached or exposed
- Additional individuals based on the data type involved or as deemed necessary by the Director of Highways.

**5.10.3.3.3** The Director of Highways will be notified of the theft, breach, or exposure. IT, along with the designated forensic team, will analyze the breach or exposure to determine the root cause.

**5.10.3.4** As provided by Highway District’s cyber insurance, the insurer will need to provide access to forensic investigators and experts that will determine how the breach or exposure occurred; the types of data involved; the number of internal/external individuals and/or organizations impacted; and analyze the breach or exposure to determine the root cause.

**5.10.3.5** Work with the Highway District’s IT contracts, Insurance Officers and District legal Counsel to decide how to communicate the breach to: a) internal employees, b) the public, and c) those directly affected.

**5.10.3.6** Ownership and Responsibilities:

**5.10.3.6.1** Sponsors - Sponsors are those agents of the Highway District that have primary responsibility for maintaining any particular information resource. Sponsors may be designated by the Director of Highways in connection with their administrative responsibilities, or by the actual sponsorship, collection, development, or storage of information.

**5.10.3.6.2** Information Security Administrator is the Highway District’s agent, designated by the Director of Highways, who provides administrative support for the implementation, oversight and coordination of security procedures and systems with respect to specific information resources in consultation with the relevant Sponsors.

**5.10.3.6.3** Users include virtually all agents of the Highway District to the extent they have authorized access to information resources, and may include staff, trustees, contractors, consultants, interns, temporary employees, and volunteers.

5.10.3.6.4 The Incident Response Team shall be chaired by the Director of Highways and shall include, but will not be limited to, the following departments or their representatives: IT-contracts and District Legal Counsel.

5.10.3.7 Any Highway District personnel found in violation of this policy may be subject to disciplinary action, up to and including termination of employment. Any third-party agent found in violation may have their network connection terminated.

#### **5.10.4 Disaster Recovery Plan Policy**

5.10.4.1 This policy defines the requirement for a baseline disaster recovery plan to be developed and implemented by the Highway District that will describe the process to recover IT Systems, Applications and Data from any type of disaster that causes a major outage.

5.10.4.2 This policy is directed to the IT Management contractor who is accountable to ensure the plan is developed, tested and kept up to date. This policy is solely to state the requirement to have a disaster recovery plan, it does not provide requirement around what goes into the plan or subplans.

5.10.4.3 Contingency Plan:

5.10.4.4 In the event that normal staff is not available to perform their duties, the Chairman should contact the Insurance Officer for next steps.

5.10.4.5 After creating the plans, it is important to practice them to the extent possible. Management should set aside time to test implementation of the disaster recovery plan. Table top exercises should be conducted annually. During these tests, issues that may cause the plan to fail can be discovered and corrected in an environment that has few consequences.

5.10.4.6 An employee found to have violated this policy may be subject to disciplinary action, up to and including termination of employment.

#### **5.10.5 Password Protection Policy**

5.10.5.1 The purpose of this policy is to establish a standard for creation of strong passwords and the protection of those passwords.

5.10.5.2 The scope of this policy includes all personnel who have or are responsible for an account (or any form of access that supports or requires a password) on any system that resides at any facility, has access to the network, or stores any nonpublic information.

**5.10.5.3** All user-level and system-level passwords must conform to the Password Construction Guidelines:

- 5.10.5.3.1** It is highly recommended to use a separate, unique password for each of their work-related accounts. Users may not use any work-related passwords for their own, personal accounts.
- 5.10.5.3.2** It is highly recommended that some form of multi-factor authentication is used for any privileged accounts.
- 5.10.5.3.3** Passwords should be changed only when there is reason to believe a password has been compromised.
- 5.10.5.3.4** Passwords must not be shared with anyone except for your supervisor and/or IT contact. All passwords are to be treated as sensitive, Confidential Highway District information.
- 5.10.5.3.5** Passwords must not be inserted into email messages, alliance cases or other forms of electronic communication, nor revealed over the phone to anyone except for your supervisor and/or IT contact.
- 5.10.5.3.6** Passwords may be stored only in “password managers” authorized by the organization.
- 5.10.5.3.7** Do not use the "Remember Password" feature of applications (for example, web browsers).
- 5.10.5.3.8** Any user suspecting that his/her password may have been compromised must report the incident and change all passwords.

# Title 6 Elections

## Chapter 1 Elections

**6.1.1 Election of Commissioners:** Idaho Code § 40-1305 provides that an election for the office of Commissioner is to be held on the third Tuesday of May in odd-numbered years.

**6.1.2 Election Schedule:** The elections for the regular term of office of Commissioners of this Highway District’s three sub-districts are as follows:

Sub-districts No. 1 and No. 2	2023 and every four (4) years thereafter
Sub-district No. 3	2025 and every four (4) years thereafter

**6.1.3 Administration of Elections:** The Board of County Commissioners shall administer all Highway District elections in accordance with the provisions of Idaho Code Title 34 and Idaho Code §§ 40-1305, 40-1305A and C.

**6.1.4 Declaration of Candidacy:** Candidates for election must be nominated by nominating petitions stating, the name of the nominee, the office for which the nomination is made, the term for which the nomination is made, and bear the signature of five electors of the Highway District and be filed with the Secretary of the District. The nominating petition will be provided by the county clerk and shall be uniform for all political subdivisions of the state as required by I.C. § 34-1404. This form is found in the Election Consolidation Manual published by the Secretary of State.

**6.1.5 Declaration of Intent as a Write-in Candidate:** [I.C. § 34-1407] No write-in candidate for any non-partisan elective office will be counted unless a declaration of intent has been filed stating that the person desires the office and is legally qualified to hold the office. The declaration of intent must be filed with the clerk of county commissioners [election official] not less than twenty-five [25] days before the election. A form for declaration of write-in candidacy is found in the Election Consolidation Manual published by the Secretary of State.

**6.1.6 Declaration without Election:** In any election for a Highway District Commissioner, if after the deadline for filing a declaration of intent as a write-in candidate there is only one (1) qualified candidate for any sub-district, it shall not be necessary for the candidate to stand for election. The Secretary shall notify the Board of Commissioners who shall then meet and declare the candidate elected as commissioner, and the secretary of the Highway District shall immediately make and deliver to that candidate a certificate of election signed by the Secretary and bearing the seal of the Highway District [I.C. § 40-1305B].

- 6.1.7 **Canvassing and Certifying Election Results:** The board of county commissioners shall conduct the canvass of the election results [I.C. § 34-1410]. The county clerk shall certify the election results to the Highway District Secretary.
- 6.1.8 **Certificate of Election:** The secretary shall then issue a certificate of election to the candidate who has been certified by the county clerk as having received the highest number of votes.
- 6.1.9 **Tie Votes:** In the case of tie vote between candidates at an election the interested candidates shall appear before the county clerk in an open meeting and within two (2) days after the canvass and the tie shall be determined by a toss of a coin [I.C. § 34-1210].
- 6.1.10 **Recall:** All initiation and recall proceedings shall be conducted in accordance with Idaho Code Chapter 17, Title 34.

## **Chapter 2**

### **Election Prohibitions "Public Integrity in Elections Act"**

- 6.2.1 **Election Prohibitions for Use of District Funds:** Unless specifically required by law, and except as provided in this chapter, neither the District officers or its elected officials or employees may make or authorize, an expenditure from the District's funds or authorize or use District property or resources to advocate for or against a candidate or a ballot measure or otherwise in violation of the "Public Integrity in Elections Act" codified at Chapter 6 of Title 74 Idaho Code.
- 6.2.2 **Exclusions:** Nothing in this chapter shall prohibit a District officer or elected officials or employees from:
  - 6.2.2.1 Speaking, campaigning, contributing personal money or otherwise exercising their individual first amendment rights for political purposes, provided no District funds or property are used for expenditures supporting the public official or employee in such activity; or
  - 6.2.2.2 Providing neutral encouragement of voters to vote; or
  - 6.2.2.3 Personally campaigning or advocating for or against a ballot measure, provided no District funds, property or resources are used for supporting the elected official or employee in such activity; or

- 6.2.2.4** Subject to the approval of the Board of Commissioners, preparing and distributing to electors an objective statement explaining the purpose and effect of a District ballot measure, including in the case of bond or levy elections the cost per taxpayer or taxable value, or similar information based on reasonable estimates prepared in good faith.

## **Title 7 Appointed Offices**

### **Chapter 1 Board Chairman**

- 7.1.1 Election by Board:** The Board shall at its first meeting in October of each year nominate and elect a Board Chairman for a term of one year unless a shorter term is designated and a certified copy of the appointment under the hand of each of the Commissioners shall be forthwith filed by the Secretary with the Canyon County Clerk in accordance with I.C. § 40-1306(1).
- 7.1.2 Board Chairman Duties:** The duties of the Board President/Chairman are as follows:
- 7.1.2.1** Preside over all meetings of the Board and shall apply the adopted rules of order for the meetings and is authorized to vote on all questions before the Board; and
  - 7.1.2.2** May call special meetings of the Board given 24 hours prior written notice and posting as required by law; and
  - 7.1.2.3** Advise and consult with the Director of Highways of the District, the Secretary on the preparation of the agenda for the meetings; and
  - 7.1.2.4** Affix his/her signature to such documents as the annual financial statement, agreements and all other instruments as deemed necessary and/or authorized by the Board; and
  - 7.1.2.5** Exercise such other authority as expressly authorized by the Board; and
  - 7.1.2.6** Take and file an oath of the faithful performance of the duties as herein provided which shall be on file with the official record of the Highway District; and
  - 7.1.2.7** Work in coordination with the other officers herein these policies provided for and appointed by the board.

### **Chapter 2 Board Vice Chairman**

- 7.2.1 Election by Board:** The Board shall at its first meeting in October of each year nominate and elect a Board Vice-President for a term of one year unless a shorter term is designated and who may also be referred to as Board Vice-Chairman.

**7.2.2 Board Vice-Chairman Duties:** The duties of the Board Vice-Chairman are to:

**7.2.2.1** Perform the duties of the Board Chairman in his/her absence.

**7.2.2.2** Take and file an oath of the faithful performance of the duties as herein provided for which shall be on file with the official record of the Highway District; and

**7.2.2.3** Work in coordination with the other officers herein these policies provided for and appointed by the Board.

### **Chapter 3 Board Secretary**

The Board shall appoint a Secretary to serve at the pleasure of the Board.

### **Chapter 4 Board Treasurer**

The Board shall appoint a Board Treasurer to serve at the pleasure of the Board.

### **Chapter 5 Highway District Attorney**

**7.5.1 Appointment by the Board:** The Board shall appoint an attorney to serve at the pleasure of the Board.

**7.5.2 Highway District Attorney Duties:** The duties of the Attorney are to:

**7.5.2.1** Advise the Board regarding all legal matters related to Board actions; and

**7.5.2.2** Prepare any legal documents and/or policy and procedure as requested by the Board; and

**7.5.2.3** Perform such other services as requested and/or as expressly authorized by the Board; and

**7.5.2.4** Work in coordination with the Highway District Secretary, Treasurer, Director of Highways and Highway District Engineer.

**7.5.3 Compensation:** Compensation for Highway District Attorney is established by separate action of the Board.

## **Chapter 6**

### **Highway District Engineer**

- 7.6.1 Appointment by the Board:** The Board shall appoint a District Engineer to serve at the pleasure of the Board.
- 7.6.2 Highway District Engineer Duties:** The duties of the Engineer are to:
- 7.6.2.1** Advise the Board regarding all engineering matters related to Board actions not performed by Highway District personnel and or not under a separately contracted project; and
  - 7.6.2.2** Prepare any engineering documents and/or policy and procedure as requested by the Board; and
  - 7.6.2.3** Perform such other engineering services as requested and/or as expressly authorized by the Board; and
  - 7.6.2.4** Work in coordination with the Highway District Secretary, Treasurer, Director of Highways and Highway District Attorney.
- 7.6.3 Compensation:** Compensation for the Highway District Engineer is established by separate action of the Board.

# Title 8

## Personnel Policies and Procedures

### Chapter 1 Purpose

- 8.1.1 The purpose of this Policy is to establish a safe, efficient, and cooperative working environment, to establish the responsibilities and level of performance expected of all District employees and to explain benefits provided to District employees. **THIS POLICY IS NOT TO BE CONSTRUED AS A CONTRACT OF EMPLOYMENT AND IS NOT INTENDED TO SPECIFY THE DURATION OF EMPLOYMENT OR LIMIT THE REASONS FOR WHICH AN EMPLOYEE MAY BE DISCHARGED. THIS POLICY CREATES NO RIGHTS, CONTRACTUAL OR OTHERWISE, ON BEHALF OF EMPLOYEES OF THE DISTRICT.** The DISTRICT may, at its sole discretion, alter or amend this Policy or portions thereof at any time without prior notice to or consent by its employees.

### Chapter 2 Definitions

- 8.2.1 **Anniversary Date:** means and refers to an employee's original anniversary date is the date of hire for current continuous employment.
- 8.2.2 **Hourly Employee:** means and refers to an employee whose wages are computed on the number of hours worked in a pay period. Hourly employees are eligible for overtime pay.
- 8.2.3 **Exempt Employee:** means and refers to an employee who holds special administrative or staff positions. These employees are NOT eligible for overtime. Included in this definition is the Director of Highways and Assistant Director of Highways
- 8.2.4 **Full-time Employee:** means and refers to an employee in a budgeted, full-time position, who has completed his/her probationary period.
- 8.2.5 **Part-Time Regular Employees:** means and refers to employees whose employment is sustained and continuing, but who typical work week consist of less than 30 hours on a regular basis are considered Part-time Regular Employees.
- 8.2.6 **Temporary Employee:** means and refers to one whose position is established to meet special periods of peak workload, and which is not expected to be budgeted on a permanent basis. Temporary workers receive no fringe benefits except for Worker's Compensation.

- 8.2.7 Elected Officials:** means and refers to elected officials and are not considered regular employees. Elected officials receive employment benefits as identified in a resolution by the governing board.
- 8.2.8 Appointed Officials:** means and refers to positions the Board will appoint, including an attorney, and a District Engineer. These officials serve at the pleasure of the Board of Commissioners and have no rights of appeal or tenure as provided in this policy.
- 8.2.9 Independent contractors:** means and refers to independent contractors which includes the attorney and accountant who provide services to the District on a contractual basis are not considered employees of the District. As such, this Policy does not apply to independent contractors.
- 8.2.10 Payroll Reporting Systems:** means and refers to reports of hours worked and time on and off the job must be completed in a timely manner in accord with procedures established by the Clerk. Each report of employee time must be signed by both the Director of Highways and by the employee and shall contain a certification that it is a true and correct record of the employee's time and benefit usage for the time period covered.
- 8.2.11 Introductory period:** means and refers to new employees to Notus-Parma Highway District or current employees promoted or transferred to new job. Responsibilities are subject to a two (2) month introductory period where employees must demonstrate their abilities to handle the responsibilities of their position. Notus-Parma Highway District uses this two-month period to determine if the employee meets the expectations for the position for which the employee was hired. During this two (2) month introductory period, including any extension of the introductory period, either the employee or Notus-Parma Highway District may end the employment relationship in their respective discretion for any lawful reason, with or without advance notice.

An employee's supervisor may extend the introductory period for up to an additional six (6) months if he/she deems it necessary to work further with an employee who is not meeting the expectations or requirements for his/her position. If a promoted or transferred employee is terminated from a newly assumed position, he/she may be returned to his/her previous position or transferred to another position for which he/she is fully qualified, but only if a qualifying vacancy exists with Notus-Parma Highway District. Any decision to retain a previously promoted or transferred employee who does not succeed in a new position shall be in the sole discretion of Notus-Parma Highway District.

## Chapter 3 General Policies

- 8.3.1 The Organization in which You Work:** Working for Notus-Parma Highway District may be somewhat different from any employer for which you may have worked in the past. Notus-Parma Highway District is a political subdivision of the State of Idaho, though it is not a part of state government. The governing board serves as the governing body for Notus-Parma Highway District carrying out local legislative duties and fulfilling other obligations as provided by law. The governing board is the general policymaker for Notus-Parma Highway District, and as such, has primary authority to establish terms and conditions of employment with Notus-Parma Highway District. As with all elected public officials, the governing board is ultimately responsible to the voters of Notus-Parma Highway District. The terms set forth herein reflect District policy at the time of its printing, but they are subject to change at any time, without prior notice, and at the sole discretion of the governing board.

The governing board has authority to establish general and administrative policy for Notus-Parma Highway District employees. Each employee should recognize that although he/she may serve as an employee supervised by a Department Head, he/she remains an employee of Notus-Parma Highway District, not of the official who supervises his/her work. The terms and conditions set forth in this policy, and in the resolutions and policy statements which support it, cannot be superseded by any other official's pledge, without the express action of the governing board. That is particularly true for terms or conditions which would establish a financial obligation for Notus-Parma Highway District, now or in the future. You may work for a department with an operational policy that provides additional direction to employees on expectations and procedures unique to that department.

- 8.3.2 Equal Employment Opportunity Statement:** The Notus Parma Highway District provides equal employment opportunities (EEO) to all applicants for employment without regard to race, color, national origin, gender, religion, age, or disability as protected by Title VI of the Civil Rights Act of 1964, and the Americans with Disabilities Act. All objections to application of Notus-Parma Highway District policy in this regard shall be brought to the attention of the governing board or Department Head, or in the case of objection to actions undertaken by that person(s), to legal counsel for the District.
- 8.3.3 Veteran's Preference:** Notus-Parma Highway District will accord a preference to employment of veterans of the U.S. Armed Services in accord with provisions of Idaho Code § 65-502 or its successor. In the event of equal qualifications for an available position, a veteran or family member who qualifies for preference pursuant to Idaho Code § 65-502 or its successor will be employed.

Veteran's Rights Following Reinstatement. Any veteran, who has been restored to his/her position in accordance with Idaho Code §46-512, shall not be discharged from such position without cause for a period of one (1) year after such restoration. During this one- year period, a returning veteran shall be entitled to a hearing prior to termination. Such returning veteran shall, also, be considered as having been on leave of absence during his/her period of military duty. He/she shall be restored to his/her position without loss of seniority, status or pay.

- 8.3.4 Preference for Hiring from Within:** Qualified individuals who are already employees of Notus-Parma Highway District may be given preference over outside applicants to fill vacancies in the work force. Employees may be selected for transfer to positions without following the procedures normally required for hiring of new employees.
- 8.3.5 Personnel Policy Subject to Change without Prior Notice:** The rules contained in this Personnel Policy are subject to change, without prior notice, at any time in the sole discretion of the District.

## **Chapter 4 Non Appointed Positions**

- 8.4.1 Director of Highways:** The duties of the Director of Highways are to:
- 8.4.1.1** Serve as the head of and be responsible for the operation, administration, and coordination of the District's operations; and
  - 8.4.1.2** Work in coordination with the other officers herein this policy provided for an appointed by the Board; and
  - 8.4.1.3** Advise the Board Chairman and Secretary of any needed agenda items for upcoming Board of Commissioners' meetings; and
  - 8.4.1.4** As is for the good of the order and management of the District's operations, draft policy and/or makes recommendations to the Board regarding the same; and
  - 8.4.1.5** Review any policy proposals and advises the Board regarding the advisability of the same; and
  - 8.4.1.6** Review and makes recommendations to the Board of Commissioners regarding needed revisions and additions to the *Highway Standards and Development Procedures for the Association of Canyon County Highway Districts [ACCHD]*; and

- 8.4.1.7 Supervise all full-time, part time personnel of the District excluding other appointed officers directly and/or through subordinate supervisors; and
- 8.4.1.8 Be responsible for hiring, promotion, disciplining and termination of employees in accordance with District Policy and report such actions to the board; and
- 8.4.1.9 Assure the proper manning of shifts; and
- 8.4.1.10 Assure the proper training and certification of District personnel; and
- 8.4.1.11 Coordinate with other public agencies involving District Operations; and
- 8.4.1.12 Oversee the review and timely response of all building permit reviews and approvals and other property development requests being processed by Canyon County and/or the Highway District which involve a development application governed under the Local Land Use Planning Act [Chapter 65 of Title 67 Idaho Code] and local ordinance which involve or require either District approval and/or review; and
- 8.4.1.13 Inform the Board of all reviews and approvals as provided and on all major development applications advise the Board and follow the Board direction regarding the action or response; and
- 8.4.1.14 Evaluate the effectiveness of the District's provision of transportation services within the District and advise the Board of the evaluations; and
- 8.4.1.15 Maintain records in coordination with the Secretary of all District operations under the supervision of the Director of Highways, and
- 8.4.1.16 Maintain and makes reports as required under law for all District operations under the supervision of the Board of Directors; and
- 8.4.1.17 Oversee the maintenance and upkeep of equipment, buildings, and real property of the District; and
- 8.4.1.18 Prepare a proposed budget and makes recommendations concerning all line items which are not directly under the authority of another officer of the District, and which shall be developed in coordination with multi-year planning and presented to the Board on or before the 1st of July preceding the commencement of the fiscal year; and
- 8.4.1.19 Oversee and make recommendations to the Board of all equipment, specifications, purchases, and sales; and

- 8.4.1.20** Keep the Board informed of supplies, equipment and facilities needs of the District; and
- 8.4.1.21** Oversee the purchase of District equipment and supplies and road and bridge construction and materials; and
- 8.4.1.22** Execute the policy and procedures adopted by the Board appertaining to the Director of Highways duties and responsibilities; and
- 8.4.1.23** Communicate to the Board matters which those under the Director of Highways' supervision seek to have placed upon the agenda of the Board; and
- 8.4.1.24** Serve as the official representative of the District in mutual organizations as approved by the Board of other districts and/or cities and/or the State of Idaho regarding transportation matters; and
- 8.4.1.25** Report to the Board on the Highway construction and maintenance activity of the preceding month and all expenses related thereto; and
- 8.4.1.26** Inform and recommend to the Board appropriate funding sources such as grants which can support District functions and operations etc.; and
- 8.4.1.27** Prepare and recommend to the Board for adoption long range plans which shall include matters of district staffing, equipment and building needs, Highway maintenance and Highway Improvement projects including possible funding sources and implementation plans; and
- 8.4.1.28** Supervise and evaluate all employees; and
- 8.4.1.29** Establish, with approval of the Board, a plan for personnel recruitment, selection, and retention; and
- 8.4.1.30** Attend Highway transportation conferences, conventions, and other educational meetings to keep current regarding matters relevant to the efficient operation of this District's functions; and
- 8.4.1.31** Oversee the District's maintenance and record keeping of its highways and rights-of-way; and
- 8.4.1.32** Exercise subject to the direction of the Board of Commissioners general supervision over all highways in the Highway District's highway system, including their location, design, construction, reconstruction, repair, and maintenance, and develop, and recommend to the Board of Commissioners policies regarding highway matters; and

- 8.4.1.33 Cause to be surveyed, viewed, laid out, recorded, opened, and worked, any highways or public rights-of-way as are necessary for public convenience as provided in Idaho Code §§ 40-202 and 40-203A; and
- 8.4.1.34 Cause to be recorded all highways and public rights-of-way within the District's boundaries; and
- 8.4.1.35 Oversee and direct, subject to the direction of the Board of Commissioners, highway improvement project protocol; and
- 8.4.1.36 Follow the updating in a timely manner of the Highway District's official map and update of all records relative to the District's highway system and right-of-way designation; and
- 8.4.1.37 Inform the Board regarding the interests of the District regarding all applications for access permits, special permits [utility or otherwise], acceptance of roadway's for perpetual maintenance, subdivision approval, variances; letters of acknowledgment for administrative lot splits, section line set back waivers, petitions for abandonment and vacation, validation, local improvement district formation and provisions, highway work agreements with cities, acceptance of any transfer of right-of-way easement and or deed of conveyance of any interest in real and or personal property and any other application and permit process provided for by law, or the *Highway Standards and Development Procedures* or by this District's policy; and
- 8.4.1.38 Oversee the acquisition of property except for acquisitions directed by the Commissioners through other appointed officers; and
- 8.4.1.39 Oversee and maintain the appropriate signage of all Highways within the Highway System of the District include informational and regulator and warning and all matters of signage and traffic regulations; and
- 8.4.1.40 Give a full account of all bridges for which the District is either in full or in part in charge of and in that regard for those bridges constructed or repaired, and the present and prospective conditions of all bridges; and
- 8.4.1.41 Prepare in a timely manner, in accordance with Idaho Code § 40-1316, a report of the condition of the work, construction, maintenance and repair of all the highways within the District as of the first day of October, accompanied by a map of the highways, together with other facts necessary for setting forth generally the situation and condition of the highways within the District; and

- 8.4.1.42** Oversee the removal of encroachments and/or obstructions to highways and/or rights-of-way and the prosecution of claims for injury to District property including signage; and
- 8.4.1.43** Conduct investigations and advise the Board of Commissioners regarding tort claims filed against the District; and
- 8.4.1.44** Oversee and direct the protection of District highways from flooding and if necessary to pursue abatement actions as provided in Idaho Code § 40-2322; and
- 8.4.1.45** Oversee and direct the building of bridges, culverts and/or the repair of the same as it relates to ditches which cross District highways and to pursue the owner's payment of the expenses related thereto as provided in Idaho Code § 40-2322; and
- 8.4.1.46** Advise and furnish to the Commissioners any specific conditions of road or personnel problems that may be of interest to them; and
- 8.4.1.47** Furnish periodic reports to the Board showing labor performed or now being done under their direction. Any major road or bridgework, when completed, shall be recorded in detail as to cost of materials used and expenses incurred, and made available to the Board or other competent authority as necessary; and
- 8.4.1.48** Develop plans for overall maintenance and road building operations. Conduct or recommend studies to solve local highway problems, and stays abreast, tests, recommends or develops new methods of improved construction or maintenance activities to be utilized by the District; and
- 8.4.1.49** Supervise and designate personnel to assist in respect to the roads under the jurisdiction of the District to make sure they are clear from obstructions and potential hazards to the driving public. Once a hazard or obstruction is identified, he/she shall take such action as may be deemed necessary or legal. He/she should notify verbally, in writing or by signing a complaint or warrant with the Sheriff's office or other legal administration office, to correct the problem; and
- 8.4.1.50** Cause roads or banks to be properly graded and maintained. Inspect special road maintenance problems that may arise, such as slides, snow, ice, flooding, and drainage, and recommend action; and

- 8.4.1.51** Periodically visit and inspect personally all roads in the District to see that they are being properly maintained and gives to the Assistant Director of Highways and Construction Foremen specific instructions as to work he/she deems necessary. Ascertain if they are complying with his/her requests and shall correlate scheduled work; and
- 8.4.1.52** Ensure that roads are properly prepared before the work of oiling and paving begins. He/she shall supervise and inspect (through his/her subordinates) the work of the crews in progress and upon completion of the job; and
- 8.4.1.53** Receive and answer patron complaints regarding road deficiencies, recommendations, or petitions for requests for repair or building of roads, installation of signs or acceptance of roads by the District into its maintenance system. Notify and make recommendations to the Board concerning any of the above; and
- 8.4.1.54** Be familiar with all the equipment and vehicles needed by the District, and prepare a recommendation, in order of priority, for the acquisition, replacement, or repair or lease of such equipment, together with appropriate estimates of the costs thereof; and make recommendations to the Board for the yearly budget as to the amounts needed for the construction, maintenance or repair of roads, purchase of equipment, personnel salary adjustments and benefits, office needs, building requirements or other facility needs; and
- 8.4.1.55** Perform the duties required of the Director of Highways by the Highway District's GASB 34 policy regarding the preparation of the list of all Fixed Capital Assets including personal, infrastructure and real property and in assessing in coordination with the Highway District Secretary and Treasurer and shall develop an up-to-date inventory of this Highway District's Highway System annually establish this Highway District's estimate of the annual cost required to maintain and preserve its Highway Infrastructure Assets at an acceptable level which shall not be below the minimum condition level established by Board of Commissioners policy; and
- 8.4.1.56** The Director of Highways shall assess the Highway Infrastructure Assets conditions at least once every three [3] years; and
- 8.4.1.57** Assume responsibility for observance of safety rules by all personnel. Assess and review the work of the District's employees through his/her subordinate Assistant Director of Highways and Construction Foremen, as appropriate; and

- 8.4.1.58 Oversee the hiring, promoting, dismissing, and disciplining of employees, subject to Board approval; and
- 8.4.1.59 Oversee and make recommendations to the Board regarding highway construction and maintenance materials and contracts for the purchase of the same.
- 8.4.1.60 **Compensation:** The Director of Highways shall receive a reasonable compensation as established by separate action of the Board for his/her services. This position is exempt under the Fair Labor Standards Act [FLSA].

8.4.2 **Board Secretary:** The duties of the Board Secretary are to:

- 8.4.2.1 **Maintain Records:** The Secretary is the **official record keeper and custodian** of the Highway District’s ordinances, resolutions, warranty deeds, deeds of easement, records and policy and contracts and all other legal documents. The Secretary is to maintain the Highway District’s:
  - 8.4.2.1.1 **Minute book** of the meetings of the Board of Commissioners which must record all orders and decisions of the Commissioners and the proceedings at regular and special meetings. It is the duty of the Secretary to take, prepare and keep the official minutes of the Board; and
  - 8.4.2.1.2 **Road book**, which contains all proceedings and adjudications relating to the validation and abandonment and/or realignment of highways, public streets, and public rights-of-way within the highway District’s system; and
  - 8.4.2.1.3 **Ordinance book** which shall contain all ordinances indexed by date enacted and in sequential numerical order; and
  - 8.4.2.1.4 **Resolution book** which shall contain all resolutions indexed by date enacted and in sequential numerical order.
- 8.4.2.2 **Bills/Checks:** The Secretary is to make a list of all bills presented, showing to whom payable, for what service or material, when and where used, amount claimed, allowed, or disallowed and to countersign all drafts and warrants on the highway district treasury [I.C. § 40-1001(1)].
- 8.4.2.3 **Fixed Capital Assets:** The Secretary prepares the list of all Fixed Capital Assets including personal, infrastructure and real property in accordance with the Highway District’s GASB 34 policy.

- 8.4.2.4 **Report to the Board of Commissioners:** The Secretary reports directly to the Board Chairman and the Director of Highways; receives and advises the Board of all communications to the Board of Commissioners; and exercises such other authority as expressly authorized by the Board.
- 8.4.2.5 **Agenda and Notices:** The Secretary prepares the agenda, assures that all notice of Board meetings is posted and published as required by law.
- 8.4.2.6 **Work with other Highway District Officers:** The Secretary provides administrative assistance to the Director of Highways and works in coordination with the other officers herein these policies provided for and appointed by the Board.
- 8.4.2.7 **Receive and Process Highway District Business:** The Secretary of the Highway District receives, and processes as established by policy or by law:
  - 8.4.2.7.1 **Public Records Requests:** The Secretary receives and responds to Public Records Requests.
  - 8.4.2.7.2 **Tort Claims:** The Secretary receives service of tort claims and provides notice of the same to Highway District commissioners, officers, and insurance carrier in accordance with the provisions of Title 11 “Notus-Parma HD Policy Code” Tort Claim Policy.
  - 8.4.2.7.3 **Applications and Permits:** The Secretary verifies the completeness of applications or permits to be approved either by the Director of Highways and/or the Board of Commissioners.
  - 8.4.2.7.4 **Reporting Requirements:** To timely report and update District administrative and financial information, as required by Idaho Code Section 67-450 E, to the online central registry and reporting portal of the Legislative Services Office website in accordance with the format provided; and,
    - 8.4.2.7.4.1 Reporting to commence March 15, 2015 and reporting follows on December 1st of each year.
    - 8.4.2.7.4.2 Update reporting of any changes in the reported information within 30 days of such change.

- 8.4.2.8 **Other:** The Secretary performs such other duties herein this Policy Code provided for and or otherwise required by law of the Secretary of this Highway District.
- 8.4.2.9 **Compensation of Secretary:** The Secretary may receive a reasonable compensation as established by separate action of the Board for secretarial services in the event the Secretary is not a Commissioner.
- 8.4.2.10 **Recording Secretary:** In the event the Secretary is a member of the Board of Commissioners, the Board may determine to retain the services of a Recording Secretary as an independent contractor to perform some or all the functions and duties of the Secretary as determined by the board, except the execution of official documents, as the Secretary's designee and under the Secretary's direction. In such event, the Board shall determine the amount and terms of reasonable compensation for said services by resolution and contract.

**8.4.3 Board Treasurer:** The duties of the Board Treasurer are to:

- 8.4.3.1 Have charge and custody of and be responsible for all funds of the District and oversee all funds drawn only upon voucher and by check bearing the signature of the treasurer and countersigned by the Chairman or upon resolution of the Board by other designate Board member who has been bonded; and
- 8.4.3.2 Exercise such other authority as expressly authorized by the Board; and
- 8.4.3.3 Receive and give receipts for monies due and payable to the District and deposit all such monies in the name of the District in such bank, or other depository as shall be selected by the Board and in accordance with the manner prescribed by the state depository law; and
- 8.4.3.4 Maintain necessary records for accounts payable, accounts receivable, payroll, and other standard bookkeeping functions and as recommended by the auditor and approved by the Board; and
- 8.4.3.5 Prepare a monthly treasurer report to the Board and any other special financial report as requested by the Board - See **Treasurer Report** [Forms Book]; and
- 8.4.3.6 Perform the duties required of the Treasure in the Highway District's GASB 34 policy regarding the preparation of the list of all Fixed Capital Assets including personal, infrastructure and real property; and
- 8.4.3.7 Coordinate and provide necessary information to auditor; and

- 8.4.3.8 Work in coordination with the other officers herein these policies provided for and appointed by the Board; and
  - 8.4.3.9 Prepare the final fiscal year budget resolution and file a certified copy of the same with the appropriate government agencies; and
  - 8.4.3.10 Perform such other duties herein this Policy Code provided for and or otherwise required by law of the Treasurer of this Highway District.
  - 8.4.3.11 **Compensation of Board Treasurer:** The Treasurer may receive a reasonable compensation as established by separate action of the Board for Treasurer for services in the event the Treasurer is not a Commissioner.
  - 8.4.3.12 **Bookkeeper:** In the event the Treasurer is a member of the Board of Commissioners, the Board may determine to retain the services of a Bookkeeper as an independent contractor to perform some or all of the functions and duties of the Treasurer, as determined by the Board, except the execution of official documents, as the Treasurer's designee and under the Treasurer's direction. In such event, the Board shall determine the amount and terms of reasonable compensation for said services by resolution and contract.
- 8.4.4 **Assistant Director of Highways:** The duties of the Assistant Director of Highways are to assist the Director of Highways to assign, direct, and inspect the work of the District maintenance workers in a wide variety of building, maintenance and repair of highways. Assistant Director of Highways also:
- 8.4.4.1 Assist in the development and execution of the District's long-term planning, programs, and policies.
  - 8.4.4.2 Monitor performance as it relates to District mission and goals, policy/procedural conformance, budgetary and financial activities, and overall organizational efficiency, as directed by the Director of Highways.
  - 8.4.4.3 Help maintain an inventory of District Highway system.
  - 8.4.4.4 Help oversee and directs the timely updating of the Highway District's official map and updates of records relative to the District's highway system and right-of-way designation.
  - 8.4.4.5 Prepare cost estimates and recommends feasibility of projects as directed by the Director of Highways
  - 8.4.4.6 Develop and manage special projects at the direction of the Director.

- 8.4.4.7** Perform site development and plat reviews to assure compliance with District standards and general engineering practices; manages site development process; performs field reviews as directed by the Director.
- 8.4.4.8** Responsible for implementing programs and meeting standards for stormwater, right-of-way surveying, road design, storm drainage and traffic control.
- 8.4.4.9** Cause to be surveyed, viewed, laid out, recorded, opened, and worked, any highways or public rights-of-way as are necessary for public convenience.
- 8.4.4.10** Assist in accounting for all bridges for which the District is in charge of either in full or in part including those bridges constructed or repaired and the present and prospective condition of those bridges.
- 8.4.4.11** Is on call as assigned by the Director of Highways.
- 8.4.4.12** Performs duties even in inclement weather and under adverse conditions necessary to complete timely performance of the work assigned.
- 8.4.4.13** Assists in the supervision of employees and the operation of the District with immediate supervision received from the Director of Highways who specifies the kind and quality of work to be performed.
- 8.4.4.14** Maintains a working knowledge of and ability to operate heavy equipment, drive trucks or work where the need exists.
- 8.4.4.15** Maintains a high degree of skill and knowledge of general highway, road and bridge building and safety procedures.
- 8.4.4.16** Assigns work schedules under direction of the Director of Highways, utilizing all Highway District employees to perform in needed capacities.
- 8.4.4.17** Inspect highways for chip sealing priorities and works in progress to assure conformance with specified standard procedures.
- 8.4.4.18** Trains and instruct employees in highway and bridge maintenance, construction, and safety.
- 8.4.4.19** Reviews and assesses the work of employees under the Directors of Highways supervision.
- 8.4.4.20** Inspects trucks and equipment assigned to crews for preventative and needed maintenance.

- 8.4.4.21 Maintains a good driving record and a current Idaho Class A Commercial Drivers' License.
- 8.4.4.22 Maintains a good knowledge of the materials, methods and techniques used in public works maintenance activities; of supervisory techniques; of hazards and safety precautions of laboring work.
- 8.4.4.23 Maintains the ability to plan and supervise the work of District Heavy Equipment Operators and keep records, understand, and transmit oral and written instructions.
- 8.4.4.24 Manages in a skillful manner public relations matters assigned by the Director of Highways or as required to perform the duties of the position.
- 8.4.4.25 In the absence of the Director of Highways is responsible for the operation and coordination of the Districts operation.
- 8.4.4.26 Assures the proper staffing of shifts.
- 8.4.4.27 Oversees the maintenance and upkeep of buildings and real property of the District.
- 8.4.4.28 Oversees and maintains the appropriate signage of all Highways within the Highway System of the District including informational, regulator, warning and all matters of signage and traffic regulations.
- 8.4.4.29 Causes roads or banks to be properly graded and maintained. Inspected special road maintenance.
- 8.4.4.30 Communicate effectively verbally and in writing.
- 8.4.4.31 Operate a computer and related business software.

**8.4.5 Construction Foreman:** The duties of the Construction Foreman are to assist the Director of Highways to manage crew during construction projects. Construction Foreman also:

- 8.4.5.1 Oversees major construction projects to ensure that proper methods are being used as directed by the Director of Highways.
- 8.4.5.2 Be present on major construction projects to make construction decisions in coordination with the Director of Highways.
- 8.4.5.3 Responsible for implementing jobsite safety and precautions for employees and the public.

- 8.4.5.4 Acts as a point of contact on construction projects for employees and the public.
  - 8.4.5.5 Possesses and maintains a high level of proficiency in operating heavy equipment.
  - 8.4.5.6 Maintains a good driving record and a current Idaho Class A Commercial Drivers' License.
  - 8.4.5.7 Ensures that construction equipment is maintained according to manufacturer's recommendations and Highway District policy.
  - 8.4.5.8 Oversees and directs the building of bridges, culverts, and highways as directed by Director of Highways.
  - 8.4.5.9 Trains heavy equipment operators in the safe operation and maintenance of all heavy equipment.
  - 8.4.5.10 Coordinates with the Assistant Director of Highways to select and prepare highways for chip seal.
  - 8.4.5.11 Advises the Director of Highways of equipment and materials needed for construction projects.
  - 8.4.5.12 Responsible for ensuring jobsites and District vehicles are kept clean and tidy.
  - 8.4.5.13 On-call as directed by the Director of Highways.
- 8.4.6 Heavy Equipment Operator:** The duties of the Heavy Equipment Operator are to:
- 8.4.6.1 Operate trucks of various sizes and weights in the loading, hauling & unloading of various equipment, materials, and supplies.
  - 8.4.6.2 Operate trucks and construction or power equipment such as mechanized broom, backhoe, man-lift, dump truck, snowplow, road grader, front-end loader, hydraulic excavators, skid steers, and rollers.
  - 8.4.6.3 Operate jackhammers, mowers, brush chippers and other small equipment and tools to maintain street & utility systems.
  - 8.4.6.4 Works with and assist the crew in digging ditches and trenches, hoisting material, tools, equipment and any related work with backhoe, road grader or front-end loader.

- 8.4.6.5 Performs routine inspection and preventative maintenance on assigned equipment and report defects or repairs to supervisor.
- 8.4.6.6 Serve as lead person on the crew as required and assigned.
- 8.4.6.7 Control traffic at work site by flagging to guide traffic through work areas, as required or assigned.

## **Chapter 5 Employment Start-Up**

- 8.5.1 **Employment Forms to be Completed:** The following pre-employment forms must be completed before the employee may begin work for Notus-Parma Highway District:
  - 1. Employment application form.
  - 2. Insurance forms.
  - 3. Immigration form (I-9).
  - 4. Insurance information about dependents. (If coverage is available.)
  - 5. Any other benefit forms necessary for employee information.
- 8.5.2 **Payroll Reporting Systems:** Reports of hours worked and time on and off the job must be completed in a timely manner in accordance with procedures established by the Clerk. Each report of employee time should be signed by both the supervisor and by the employee and should contain a certification that it is a true and correct record of the employee's time and benefit usage for the time period covered. Any employee with concerns about his/her compensation, rate of pay, payroll status, deductions, etc. shall communicate such concerns to the Clerk as soon as any such concern becomes evident. If the response from the Clerk is unsatisfactory, the employee should address the issue to his/her immediate supervisor to resolve stated concerns. A written record of such issues should be maintained in the employee's personnel file.
- 8.5.3 **Distribution of Policy:** At the time of employment, each employee should receive a copy of this Policy Code. It is the responsibility of the employee to familiarize him/herself with the contents of the personnel policy and to acknowledge its receipt in writing. Periodic updates or changes should be distributed and acknowledged.

#### 8.5.4 **Employee Personnel Files:**

**8.5.4.1 Personnel Records:** The official employee records for Notus-Parma Highway District will be kept in the office of the District. Within these personnel files will be kept all records of employee performance evaluation and other relevant materials related to the employee's service with Notus-Parma Highway District. The employee's supervisor, commissioners, or the employee may contribute materials to the personnel files deemed relevant to the employee's performance and tenure. Each employee shall have the right to review all materials placed in his/her personnel file at any reasonable time. Copies of materials in an employee's personnel file are available to that employee without charge. Personnel files shall not be removed from the premises except as necessary for District purposes.

**8.5.4.2 Access to Personnel Files:** It is the policy of Notus-Parma Highway District to allow only limited access to an employee's personnel file. Those authorized to have access to materials in a personnel file include the employee's supervisors, secretary/clerk, the governing board when acting as a body in the course of its official business, attorneys for the District, and the employee him/herself. Based upon the general confidentiality of personnel files, access of others to such files shall be allowed only with authorization of the supervising official after consultation with the District attorney. Information regarding personnel matters will only be provided to outside parties with a release from the employee or when deemed necessary by legal counsel for the District or pursuant to Court order, or pursuant to a proper subpoena. The District reserves the right to disclose the contents of personnel files to outside State or Federal agencies, to its insurance carrier or its agents for risk management purposes or when necessary to defend itself against allegations of unlawful conduct.

**8.5.4.3 Management of Information in Personnel Files:** Each employee shall be provided an opportunity to contest the contents of his/her personnel file at any time. This is to be done by filing a written objection and explanation which will be included in the file along with the objectionable material. In the sole judgment of the supervising official, after consultation with legal counsel for the District, any offending material may be removed upon a showing by the employee that it is false or unfairly misleading. In general, there should be a presumption that materials are to remain in personnel files accompanied by the employee's written objection and explanation to provide a complete employment history.

**8.5.5 Hours of Work:** The normal work week begins Monday through Friday. Winter hours are: 8:00 A.M. to 4:30 P.M. with a 30 minute lunch break.

Summer hours are Monday through Thursday, 7:00 A.M. to 5:30 P.M. with a 30 minute lunch break.

The nature of the work frequently requires adjustments to this schedule to meet emergencies and other operational requirements. Accepting the adjustments is a condition of employment.

Employees are allowed two 15 minute rest periods or work breaks each day.

- 8.5.6 Attendance:** Employees unable to work due to sickness, injury or other reasons must call the Director of Highways prior to the start of the workday in order to receive sick leave. Failure to do so is considered an un-authorized absence and will be without pay. If vacation leave is to be used for the time lost due to illness or injury the employee must contact the Director of Highways. Use of vacation leave for lost time due to illness is not retroactive and must be approved by the Director of Highways prior to its use.

## **Chapter 6**

### **Rules of Employee Conduct**

Violation of any of the rules set forth below shall be grounds for disciplinary action up to and including termination of employment. However, this list is not all inclusive and other acts of misconduct not specifically set out below may be grounds for disciplinary action up to and including termination.

- 8.6.1 Personal Performance and Behavior:** Each employee of Notus-Parma Highway District is expected to conduct him or herself in a manner that is helpful and productive, and which does not reflect adversely upon Notus-Parma Highway District. Each employee must recognize that public employees are subject to additional public scrutiny in their public and personal lives because the public's business requires the utmost integrity and care. In order to accomplish the goals of Notus-Parma Highway District as a public institution, each employee is expected to scrupulously avoid personal behaviors which would bring unfavorable public impressions upon Notus-Parma Highway District and its officials. In order to accomplish this, each employee must comply with the following expectations:

1. Work cooperatively and constructively with fellow employees and members of the public to provide the highest level of quality and quantity of public service.
2. Shall not use any substances, lawful or unlawful, which will impair the employee's ability to function as a valued and competent part of Notus-Parma Highway District work force. Should the employee be prescribed a lawful substance that may impair the employee's ability to safely do his or her job, the employee is required to provide a physician's note explaining the possible effects of the medication upon the employee's ability to do his

or her job and the length of the time that the employee will be required to take the medication. The employee may be required to take sick leave while taking the medication.

3. Shall be prompt and regular in attendance at work or other required employer functions.
4. Shall comply with dress standards established in the department for which the employee works. Dress standards shall be set by the Director of Highways, but in the absence of any departmental dress standards, clothing shall be appropriate for the functions performed and shall present a suitable appearance to the public.

**8.6.2 Workplace Conduct:** Each employee will be expected to conduct themselves in the workplace in accordance with the following rules. . Each employee of Notus-Parma Highway District shall:

1. Give their best efforts to accomplish the work of Notus-Parma Highway District for public benefit in accordance with policies and procedures adopted by the District displaying an attitude of cooperation and constructive participation.
2. Be subject to the administrative authority of the officials who supervise the department where the employee works even though the officials may not have been involved in the hiring of the employee.
- 3.
4. Follow all rules for care and use of public property to assure that the public investment in such property is protected and that the safety of the public and other workers is maintained.
5. Abide by all departmental rules whether they be written or issued orally by the supervisor. No employee shall be required to follow the directive of a supervisor which violates laws of any local jurisdiction, the state, or nation.
6. Adhere to defined work schedules and follow procedures for requesting exceptions from normal work schedules. Each employee shall follow the rules regarding the reporting of work hours and obtaining the supervisor's approval for time-keeping records.
7. Follow rules regarding breaks and lunch periods, including provisions granting supervisors authority to adjust them. Timing of breaks or lunch periods may be changed to accommodate the completion of necessary work.
8. Report any accidents observed on District property or involving District property. Each employee shall provide as much information as they can from the observations made in the course of activities associated with one's work. Such information should be reported to the employee's immediate supervisor as soon as physically possible and reasonable efforts should be made to assist those in need.

9. Follow all rules regarding safety in the workplace whether established formally by the department or by outside agencies. Employees are encouraged to suggest ways to make the workplace or work procedures safer.
10. Maintain a current class of driver's license with necessary endorsements necessary to conduct work for Notus-Parma Highway District. Each employee must report any state-imposed driving restrictions to their immediate supervisor. Each employee is also obligated to notify their supervisor if their driving abilities are impaired.
11. Perform such obligations as are necessary to carry out the work of Notus-Parma Highway District in an efficient and effective manner at minimal costs and with limited risk to the public and fellow workers.

**8.6.3 Prohibited Workplace Conduct:** Employees of Notus-Parma Highway District shall not:

1. Be present in the workplace under the influence of drugs, alcohol, illegal substances, or other legal substances which would impair the ability of the employee to perform their work competently or which would threaten the safety or well-being of other workers or the public.
2. Engage in abusive conduct to fellow employees or public.
3. Sleep or be absent from the employee's workstation when on duty. Employees shall be always attentive to their work.
4. Engage in malicious gossip and/or spread rumors, engage in behavior designed to create discord and lack of harmony, or willfully interfere with another employee's work output or encourage others to do the same.
5. Use work time for personal business, including the selling of goods or services to the public. Employees should minimize the amount of work time spent on similar activities engaged in with fellow employees.
6. Use work time or public premises to promote religious beliefs to members of the public or fellow employees.
7. Engage in political activities while on duty in public service. This rule shall not apply to elected officials.
8. Provide false or misleading information on employment applications, job performance reports, or any other related personnel documents or papers.
9. Destroy, alter, falsify, or steal the whole or any part of a police report or any record kept as part of the official governmental records of the District (I.C. §§ 18-3201 and 18-3202).
10. Smoke except in designated outdoor smoking areas if so provided.
11. Abuse employee benefit offerings by taking unjustified sick leave, unearned vacation, or otherwise participate in a scheme or deception designed to

create incorrect personnel records or to claim benefits which are not deserved in accordance with Notus-Parma Highway District policy.

12. Violate rules concerning absence from the workplace without proper authorization. Employees must obtain prior permission as required by the Notus-Parma Highway District policy for use of vacation, sick, bereavement, or other types of leave granted by this personnel policy.
13. Engage in prolonged visits with co-workers, children, friends, or family members that interfere with the course of work in the office or department in which the employee serves.
14. Use phones or computers in the workplace in a manner that violates policy, or which disrupts workplace activities.
15. Engage in criminal conduct of any kind while on duty or off. Notus-Parma Highway District employees are expected to behave in a lawful and socially acceptable manner and failure to do so is a violation of the trust placed in such employees by the public and the appointing official.
16. Violate any lawful rule established by the Director of Highways to maintain order and productivity in the workplace.
17. Unlawfully harass a fellow worker or member of the public at any time while in the of Notus-Parma Highway District active service, as outlined in the District's Unlawful Harassment Policy.

#### **8.6.4 Substance Abuse Free Environment**

STATEMENT OF PRINCIPLE- The Notus-Parma Highway District is committed to a substance abuse free working environment. The parties recognize that the Federal Highway Administration (FHWA) has established drug and alcohol testing rules for employees required to have a Commercial Driver's License Notus Parma Highway District adopts the Substance Abuse and Alcohol Misuse Prevention Plan developed for compliance with United States Department of Transportation, Title 49 Code of Federal regulations (CFR), Parts 40 and 382, "Control of Drug and Alcohol Use in Commercial Motor Vehicle Operations" and any changes as made from time to time.

## **Chapter 7 Employee Classification, Compensation, and Benefits**

For varied reasons, employee status must be organized by class or category to administer employee policies, benefits or otherwise address employment issues. It is generally the responsibility of the employee to assure that he/she is properly categorized for purposes of each issue or benefit type. The District will endeavor to assist with such matters, but the employee shall be ultimately responsible to assure that his/her service is properly addressed.

The procedures for hiring, promotion, and transfer of all regular employees shall be subject to the provisions of this policy. Personnel actions concerning temporary or seasonal employees are not subject to the procedures set forth herein to address cause as a basis for employee dismissal or disciplinary action unless the policy provisions expressly provide, therefore.

With the exception of elected officials, any employee, regardless of designation, may utilize the Unlawful Discrimination Hearing procedure should he/she believe that an employment action taken against him/her was the result of unlawful discrimination. For Regular Employees, allegations of unlawful discrimination or the right to a name-clearing hearing may only be addressed in the disciplinary hearing procedure as provided for in this Policy.

## **Job Classification**

Each job in the District is assigned a job classification based on its duties, responsibilities, and requirements. Each job classification has a description, which states the general duties, responsibilities and the qualifications required. Job descriptions are available upon employment. Copies are available in the District Office.

### **8.7.1 Compensation Policies**

- 8.7.1.1 Establishment of Employee Compensation:** Notus-Parma Highway District compensates employees in accord with decisions by the governing board as budgets are set and tax levies are authorized. Pay for any given position is subject to the annual budgetary process and as such may be subject to increase, reduction, or status quo maintenance for any time period. The supervisor may make suggestions about salary compensation and other pay system concerns, but the final decision regarding compensation policy rests with the governing board. The governing board reserves the right to make budget adjustments, and consequently pay adjustments, during the course of the budget year in order to manage cash flow or to deal with other circumstances which justify or require change in District expenditures.
- 8.7.1.2 Compliance with State and Federal Pay Acts:** Notus-Parma Highway District shall comply with all State and Federal Pay Acts respecting the compensation of employees for services performed in the public service.
- 8.7.1.3 Additional Compensation Policies:** Commissioners shall be paid per meeting as established by the governing board in the annual budget. They shall have no right to overtime pay, compensatory time off, sick leave or vacation leave.

Employees determined to be exempt from the hourly requirements of the Fair Labor Standards Act shall be paid on a salary basis as established by the governing board.

- 8.7.1.4 Right to Change Compensation and Benefits:** Notus-Parma Highway District reserves the right to change general compensation for any reason deemed appropriate by the governing board. Compensation may also be adjusted based upon job performance and the availability of funds to maintain a solvent District budget. Hours worked may be reduced or employees may be laid off as necessary to meet budgetary constraints or as workload changes.
- 8.7.1.5 Overtime Compensation - Compliance with Fair Labor Standards Act:** In addition to the employee classifications set forth elsewhere in this policy, all employees are classified as Exempt (salaried) or Nonexempt (hourly) for purposes of complying with the Federal Fair Labor Standards Act (FLSA). The FLSA is the Federal wage and hour law which governs the obligation of employers to pay overtime compensation. Certain employees are exempt from operation of this law because they perform work that qualifies for the professional, executive, or administrative exemption. As such, exempt employees are not required to receive overtime pay for hours worked beyond the limits provided by the statute. Please contact your department supervisor or the office of the clerk for the District (HR) for further clarification of your FLSA status.
- 8.7.1.6 Compensatory Time Policy:** It is the policy of Notus-Parma Highway District that hourly employees who work over the regular hours paid in each seven-day work period will accrue compensatory time. Compensatory time in excess of 40 hours per week shall be computed at 1 ½ hours for each additional hour worked. The governing board has set a maximum accumulation of 40 hours. Any compensatory time over that amount shall be paid in the next pay period unless approved by the Director of Highways.
- 8.7.1.7 Reporting and Verifying Time Records:** It is the responsibility of each hourly employee to properly record time that he or she has worked. Each time sheet shall bear the signature of the employee with a statement verifying its accuracy and a counter signature by a supervisor indicating that the hours claimed were actually worked. These records shall be retained as required by the records retention policy of the District, consistent with state law. Exempt employees may be required to document time worked for accountability and benefit purposes.

**8.7.1.8 Work Periods:** Employment with Notus-Parma Highway District is subject to the Federal Fair Labor Standards Act as previously described. Each employee is responsible for monitoring the status of hours worked in each work period. Overtime will be allowed only when authorized by an appropriate supervisor or when absolutely necessary in an emergency. The work week for all regular employees who are subject to the FLSA will begin at 12:00 a.m. (midnight) on Monday of each week and concludes at 11:59 p.m. of the succeeding Sunday. For regular employees, time actually worked in excess of 40 hours in a work week will be computed at one and one-half (1 ½) times the hours worked. This time will accrue as compensatory time on payroll records following the work period during which it was earned.

**8.7.1.9 Payroll Procedures and Paydays:**

1. Payday shall be the first Thursday after the end of the bi-weekly pay period. Paychecks shall be direct deposited in the employee's bank account unless other arrangements have been made and approved. Employees who resign with two weeks advance notice will receive their checks on the last day worked. Employee who are dismissed will receive their checks at the time of the dismissal. All final checks will be obtained from the District office.
2. All employees will receive their paychecks or Direct Deposit slips at the District Office on the designated payday.
3. W-4 form changes, insurance changes, name and address changes will be handled by the District Clerk. Any changes an employee wishes to make in the above-mentioned deductions must be submitted to the Clerk by Monday prior to the beginning of a pay period.

**8.7.1.10 Compensation while Serving on Jury Duty or as a Witness in a Court Proceeding:** An employee who is directed to appear as a witness for the Federal Government, State of Idaho, or a political subdivision thereof, or to attend court or other hearings in connection with his/her official duties, or in response to a jury summons, or when subpoenaed to attend court, is not to be considered absent from work.

When an employee appears in court for any reason other than as provided above, he/she will be considered absent from work, and such time will be considered annual leave or as leave without pay.

- 8.7.1.11 **Military Leave:** Unpaid leave of absence will be granted to participate in ordered and authorized field training. The District's employment policy will comply with the provisions of Idaho Code § 46-407, et seq., or its successor, as those Code provisions govern leaves of absence for military service and the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA).
- 8.7.1.12 **Reduction in Force:** Employee assignments may be affected by reductions in force made due to economic conditions or to changes in staffing and workload. The governing board reserves the right to make any changes in work force or assignment of resources deemed to be in the organization's best interests.
- 8.7.1.13 **Payroll Deductions:** In accord with Idaho Code § 45-609 or its successor, no payroll deductions will be made from an employee's paycheck unless authorized in writing by the employee or as required by law.
- 8.7.1.14 **Travel Expense Reimbursement:** An employee on approved District business shall be reimbursed for expenses incurred in completing his/her work-related assignment in accord with the policies established by the District.
- 8.7.1.15 **On-the-Job Injuries:** **All on-the-job injuries shall be reported to the employee's supervisor as soon as practical to allow filing of a worker's compensation claim in the proper manner.** If an employee is disabled temporarily by an on-the-job accident, he/she should be eligible for worker's compensation benefits. Return to employment will be authorized on a case-by-case basis upon consultation with the supervising official and the State Insurance Fund. Concerns associated with injured worker status may be brought before the appropriate elected official for review.

8.7.2 **Employee Benefits:** Notus-Parma Highway District offers a number of employee benefits for regular full-time employees. These benefit offerings are subject to change or termination in the sole discretion of the governing board. Each benefit offering is subject to the specific terms of its respective insurance policy and/or official resolution of the governing board.

8.7.2.1 **Vacation Leave:** Vacation leave is available to full-time and part-time regular employees who have completed the equivalent of 6 months of full-time employment. Vacation accrues from the start of employment in the following manner:

Length of Service	Vacation Accrual
0 through 5 years	8 hours / month

5+ years through 15 years	10.5 hours / month
15+ years	12.5 hours / month

Vacation leave can only accrue to an absolute 240 hour maximum. Any excess, over the maximum accrual, not used during the year in which it accrues will be forfeited, without right of compensation, at the conclusion of the fiscal year in which it became excess. This rule may be subject to an exception for one year's additional accrual upon written permission of the Director of Highways, with the concurrence of the governing board. Vacation leave is to be scheduled with consent of the responsible department supervisor. Efforts will be made to accommodate the preference of the employee in vacation scheduling, but priority will be the orderly functioning of affected departments. Upon separation from employment unused vacation leave up to the maximum allowable accrual will be compensated by lump-sum payment at the then-current hourly or daily rate.

An extra 8 hours of vacation can be awarded each January 1st by the Director of Highways for a year of safe conduct on the job. This safety day is at the discretion of the Director of Highways.

**8.7.2.2 Sick Leave:**

**8.7.2.2.1** Sick leave benefits are provided to regular full-time employees at the rate of eight (8) ours per every month of employment. Sick leave is a benefit to provide relief to the employee in the event of illness to the employee or his/her immediate family. It is to be used only in the event of an illness or injury that prevents the employee from working productively or safely or if an immediate family illness presents no practical alternative for necessary care. Sick leave must be requested within at least two hours of the time when the scheduled work period is to begin unless circumstances outside the control of the employee prevent such notice. Elected officials or department supervisors asked to approve use of sick leave may, at Notus-Parma Highway District expense, request an independent review of reported illness at any time by a competent medical authority.

**8.7.2.2.2** Sick leave can accrue to a maximum of 1,000 hours. Sick leave benefit recipients will receive their normal compensation when using sick leave. Implementation of policy regarding sick leave can be found in resolutions adopted by the governing board. All unused sick leave will be forfeited without compensation upon separation from employment. Sick leave is credited at the end of each month and will not be granted prior to the end of each month and will not be granted prior to the time it is earned.

**8.7.2.2.3** If a holiday occurs during the time an employee is on sick leave, he/she will not be charged a day of sick leave. An employee who becomes sick while on annual leave cannot charge any of those days to sick leave.

**8.7.2.2.4** Upon recommendation of the Director of Highways the Commissioners may deny the use and accumulation of sick leave to individuals who improperly use the sick leave privilege. Such abuse may further be the basis of disciplinary action up to and including termination of employment.

**8.7.2.3** **Holidays:** Eleven official holidays are provided for full-time regular employees. Employees who have regular full-time active status on the date of any holiday shall receive compensation for that day even though they do not work. Holidays which fall on Saturday shall be observed on the preceding Friday. Those which fall on Sunday shall be observed on the succeeding Monday. The holiday schedule may be changed at any time by the governing board.

Recognized Holidays:

January 1st	New Years Eve
3rd Monday in January	Martin Luther King Day
3rd Monday in February	President’s Day
Last Monday in May	Memorial Day
June 18	Juneteenth
July 4th	Independence Day
1st Monday in September	Labor Day
2nd Monday in October	Columbus Day
November 11	Veteran’s Day
4th Thursday in November	Thanksgiving Day
December 25th	Christmas Day

**8.7.2.4** **Holiday Pay:** If a holiday falls on Saturday or Sunday; Thursday/Friday or Monday respectively, is observed as a paid holiday.

If an employee is required to work on a holiday, or the observed holiday, he/she will be paid for the holiday in an amount equal to what they would have made had the day not been a holiday.

When a holiday falls during a work week, the eight (8) or ten (10)-hour holiday is to be included in computing the forty-hour ceiling for overtime computation.

- 8.7.2.5 Call Out Pay:** Employees called out due to an emergency and who work less than one (1) hour will be paid a minimum of one (1) hour's wage.

When called out, employees will be paid from the time the employee arrives at the District yard.

- 8.7.2.6 On Call Pay:** Employees required to be on call rotation will be paid at the rate of one (1) hour Friday-Sunday or Holiday and one half (1/2) hour Monday-Thursday when assigned to monitor the sign phone. Employees will record on call pay on their timesheet and it will be added to their accrued vacation balance. On call rotation will begin on Wednesday of each week and Director of Highways will create and maintain a current rotation schedule for employees to follow.

- 8.7.2.7 Bereavement Leave:** No more than five (5) days of paid leave of absence shall be provided for a death in the immediate family (spouse, parents, grandparents, children, grandchildren, brothers and sisters). Additional leave may be granted from accrued vacation leave, sick leave or unpaid leave of absence.

- 8.7.2.8 Leaves of Absence:** Up to thirty (30) days unpaid leave can be granted by the governing board for any justifiable purpose. Paid leave in any amount or unpaid leave in excess of thirty (30) days shall require written approval of the governing board.

- 8.7.2.9 Leave Without Pay:** The Director of Highways may grant leave without pay for employees who do not have sufficient vacation or sick leave to cover an absence. This shall not exceed two (2) days.

Any leave without pay beyond two (2) days is considered extended leave. Extended leave may be granted under special conditions with the recommendation of the Director of Highways and approval of the Commissioners.

An employee on leave without pay for a period of five (5) days or more does not accumulate annual or sick leave for the month. If the leave will be for an extended period of time, the Commissioners shall determine what benefits if any shall be paid. Extended leave without pay does not count toward length of service.

Leave without pay may not be authorized until accrued annual (or sick leave if the leave without pay is granted for illness or injury) has been expended.

**8.7.2.10 Worker's Compensation Salary Policy:** The following represents the policy of the Notus-Parma Highway District, unless special arrangements are approved by the Commissioners, with respect to payments to employees who have been injured while performing their assigned duties.

DEFINITION: The term "salary subsidy" shall mean the amount of pay received by an injured worker over and above the amount received from the State Insurance Fund.

**8.7.2.10.1** The District shall pay the difference between the employee's gross salary and the amount received from the State Insurance Fund, less normal deductions, for the length of time it takes the salary subsidy to exhaust the equivalent value of unused sick leave time the injured employee had available at the time of receiving worker's compensation. The total number of sick leave days available determines the duration of the salary subsidy.

**8.7.2.10.2** Travel to and from employment shall not be considered as on-the-job accident related.

**8.7.2.10.3** After any salary subsidy runs out, an employee shall be terminated, medically retired, or given up to a maximum of one year leave of absence subject to Board of Commissioners approval.

**8.7.2.10.4** If terminated, the District will pay accrued vacation time.

**8.7.2.10.5** If an employee is terminated, he/she cannot be reinstated as an employee for at least thirty (30) days due to complication with the Retirement System.

**8.7.2.10.6** If the employee is terminated, benefits are not retained.

**8.7.2.11 Change in Benefits:** Notus-Parma Highway District, through its governing board, reserves the right to change, condition, or terminate any benefits set forth in this section. No employee shall acquire any rights in any current or future status of benefits except as the law otherwise requires.

**8.7.2.12 Benefits for Part-Time or Temporary Employees:** All employees shall receive benefits as required by law to include Workers Compensation insurance. All other benefits are to be determined by the governing board.

**8.7.2.13 Insurance Coverage Available to Employees:**

**8.7.2.13.1** Health insurance is available to all full-time District employees and Commissioners. The employees' dependents may be added pursuant to the terms and conditions of the health care provider's contract with the District. Said dependent health insurance coverage shall be at the cost of the employee.

**8.7.2.13.2** An employee on leave without pay may self-pay the health care premium on said insurance for a period of time to be determined by the commissioners.

**8.7.2.13.3** Employees and Commissioners may elect to enroll their dependents in the District offered health insurance program. They do so at their own expense. Cost of the premium will be deducted from employee's paycheck each pay period.

**8.7.2.14 Retirement:** The retirement plan of Notus-Parma Highway District combines benefits of the Public Employees Retirement System of Idaho (PERSI) with Social Security (FICA). PERSI mandates withholding a percentage of an employee's gross salary for pension purposes, which is presently exempt from Federal and State income taxes, and Notus-Parma Highway District matches this with an additional larger contribution. Contact the office for further information.

**8.7.2.15 Miscellaneous Benefits:** In addition to the benefits listed on the previous pages, the following miscellaneous benefits may be available to employees for participation in accordance with the terms of their respective policy or agreement:

Life Insurance plan, paid for by the District, is available to all permanent employees. A second life insurance plan is available to all permanent employees at the cost of the employee.

Any such offerings are subject to change at the governing board sole discretion at any time.

## **Chapter 8**

### **Employee Performance and Discipline**

- 8.8.1 Purpose of Discipline/Performance Policy:** The purpose underlying the discipline/performance policy of the Notus-Parma Highway District is to establish a consistent procedure for maintaining suitable behavior and a productive working environment in the workplace. These procedures are directory in nature and minor variations of the processes set forth herein shall not affect the validity of any actions taken pursuant to this policy.
- 8.8.2 Disciplinary/Performance System Framework:** Notus-Parma Highway District adopts the following framework for actions to be taken in the event that any employee subject to this policy violates employment policies or fails to perform adequately. Progressive steps may be implemented in order to encourage improved performance or attitude but are not required. Notus-Parma Highway District reserves the right to take any of the prescribed steps in any order in the event that a supervisor deems a policy violation or action of the employee to be serious enough to warrant a certain step.
- 8.8.3 Disciplinary Actions Available:** The following actions are among the disciplinary steps that may be taken by the supervisor in response to personnel policy violations:
- Oral warning
  - Written warning or reprimand
  - Suspension without pay
  - Probation
  - Demotion
  - Dismissal
- 8.8.4 Opportunity to be Heard Concerning Proposed Discipline or Failure to Perform:** The personnel policy of the Notus-Parma Highway District establishes the right of regular employees (but not independent contractors, introductory employees, temporary employees, seasonal employees or attorney for the District) to be heard in the event of contemplated demotion with an attendant change in pay, suspension without pay or dismissal from employment. The opportunity to be heard is designed to be informal, allowing the employee to discuss with the Director of Highways or Commissioners (at the employer's discretion) the facts surrounding the proposed disciplinary action or performance-based personnel action and to provide any additional documentation that the employee believes would be helpful in explaining his/her actions, attitude, or behavior.

The following steps should be followed at the direction of the Director of Highways or Commissioners.

1. The employee shall be provided with a written notice of the reasons for the proposed personnel action that would affect him/her, along with an outline of the District's supporting information and the proposed personnel action.
2. The written notice will include a date, time, and place for the employee to be heard to discuss the proposed personnel action.
3. The notice should state whether the employee is being placed on suspension pending the outcome of the opportunity to be heard, and whether any such suspension will be with or without pay.
4. If the employee is unable to participate in the scheduled opportunity to be heard, he/she may request an alternate date and time. Any approved alternate date that falls after the scheduled date and time will not extend any continuing pay allowance if one has been provided by the District.
5. The employee must notify his/her employer within two (2) business days of the date of the notice that he/she desires to be heard as scheduled in order to discuss the reasons for the proposed personnel action. If notice of acceptance of the opportunity to be heard is not received within two business days, the opportunity to be heard will be vacated and deemed waived.
6. As an alternative to an opportunity to be heard, the employee may choose to provide a written response to the basis for the proposed personnel action. This written response must be submitted no later than the scheduled date and time initially set for the opportunity to be heard.
7. The opportunity to be heard, if chosen, will last no longer than one hour, unless otherwise approved by the employer, and will be limited to discussion of the issues contained in the notice and to any allegations by the employee of unlawful discrimination in employment.
8. The employee will not be prohibited from having an attorney assist him/her at the employee's own expense.
9. The employee will be allowed to present oral testimony from his/her witnesses (or provide written statements) about the issues contained in the notice.
10. The employer may ask the employee's witnesses questions for clarification purposes should that be necessary during the discussion.
11. The employee shall not have the opportunity to question the supervisor unless the supervisor introduces a new basis for the personnel action during the discussion.
12. The Idaho Rules of Evidence shall not apply to the opportunity to be heard.

13. Unlawful discrimination allegations must be raised during this process, or they will be deemed waived by the employee.
14. There will be a record maintained, including a tape recording of the discussion that constitutes the opportunity to be heard.
15. The commissioners will render a written decision after considering employee's responses, if any, to the allegations set out in the notice.

FAILURE TO PARTICIPATE IN THIS OPPORTUNITY TO BE HEARD ALLOWED HEREIN SHALL CONSTITUTE A FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES UNDER THIS POLICY.

**8.8.5 Opportunity to be Heard - Assertions of Unlawful Discrimination and "Name-Clearing Hearing":** This policy establishes an opportunity to be heard in the event of a discharge or demotion; and 1) the employee asserts that the discharge or demotion is actually the consequence of alleged unlawful discrimination by the District or 2) if the allegation involves dishonesty, immorality or criminal misconduct that would entitle the employee to a "name-clearing hearing." *Cox v. Roskelley*, 359 F.3d 1105 (9th Cir. 2004).

Unlawful discrimination addresses actions that are alleged to involve decisions based upon age, sex, race, religion, national origin, or disability that is not a bona fide occupational qualification. Issues of job performance or employee attitude are not the proper subject of this opportunity to be heard. Notus-Parma Highway District does not condone discrimination on the basis of the foregoing unlawful categories. Failure to seek an opportunity to be heard pursuant to this policy shall constitute a failure to exhaust remedies under this policy. Any employee entitled to an opportunity to be heard as a result of a disciplinary action that concerns job performance or behavior must raise allegations of unlawful discrimination or the need for a "name-clearing hearing" in the course of that disciplinary process, with such issues to be addressed as provided by this section of the policy.

When the employee asserts an allegation of unlawful discrimination or the need for a "name-clearing hearing," the elements of procedure to be followed and undertaken at the direction of the Director of Highways or Commissioners, unless waived by the employee, are as follows:

1. The employee may, within fourteen (14) days of his/her termination or demotion, submit a written allegation of unlawful discrimination or a request for a "name-clearing hearing," stating with particularity the basis for the requested opportunity to be heard. Complaints filed untimely or failing to state a particular, legally recognized basis for this opportunity will not be heard.
2. The opportunity to be heard with regard to the employee's allegations shall be provided as promptly as possible after receipt of a properly documented request.

3. An employee alleging unlawful discrimination or entitlement to a “name-clearing hearing” shall be allowed one (1) hour, unless otherwise approved by the Commissioners, to meet and discuss the allegations with the Commissioners or Director of Highways.
4. There shall be a record maintained, including a tape recording, of the discussion that constitutes the opportunity to be heard.
5. The employee’s supervisor shall provide a brief, written statement in response to the particular allegation of discrimination or “name-clearing” request. The Commissioners may request that the employee’s supervisor participate in the discussion.
6. The employee will not be prohibited from having an attorney assist them at the employee’s own expense.
7. The employee will be allowed to present oral testimony (or provide written statements) concerning evidence upon which the alleged discrimination or “name-clearing” is based.
8. The Commissioners may ask the employee’s witnesses questions for clarification purposes should that be necessary during the discussion process.
9. The employee shall not have the opportunity to question any participants during this process but may submit written questions for the Commissioners to consider.
10. The Idaho Rules of Evidence do not apply to this opportunity to be heard.

After the conclusion of the discussion, Commissioners will consider the information submitted and such other information as might be in the District’s records to arrive at a decision concerning the employee’s allegations. Said decision shall set forth the reasons for the Board’s determination in writing. If as a result of this opportunity to be heard, the Commissioners finds fault with the basis for the District’s action, remedial action may be prescribed, including restoration of employment and payment of back pay.

**8.8.6 Discrimination Complaint Procedure:** Any person who believes that he or she, individually as a member of any specific class, or in connection with any disadvantaged business enterprise, has been subjected to discrimination prohibited by Title VI of the Civil Rights Act of 1964, the American with Disabilities Act of 1991, section 504 of the Vocational Rehabilitation Act of 1973 and the Civil Rights Restoration Act of 1987, as amended, may file a complaint with Notus- Parma Highway District No.2. A complaint may also be filed by a representative on behalf of such person. All complaints will be referred to the Notus-Parma Highway District No. 2’s Title VI Coordinator for review and action.

In order to have the complaint considered under this procedure, the complainant must file the complaint no later than 180 days after:

- a) The date alleged act of discrimination; or
- b) Where there has been a continuing course of conduct, the date on which the conduct last occurred.

In either case, the Notus-Parma Highway District No.2 or his/her designee may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for so doing.

Complaints shall be in writing and shall be signed by the complainant and/or the complainant's representative. Complaints shall set forth as fully as possible the facts and circumstances surrounding the claimed discrimination. In the event that a person makes a verbal complaint of discrimination to an officer or employee of the Notus-Parma Highway District No. 2, the person shall be interviewed by the Title VI Coordinator. If necessary, the Title Coordinator will assist the person introducing the complaint to writing and submit the written version of the complaint to the person for signature. The complaint shall then be handled according to the Sponsor's investigative procedures as outlined below.

Please Note This Exception to the Procedures Below: All complaints regarding accessibility for the disabled must be forwarded directly to the Idaho Transportation Department (ITD) for investigation.

Within ten (10) days, the Title VI Coordinator will acknowledge receipt of the allegation, inform the complainant of action taken or proposed action to process the allegation, and advise the complainant of others avenues of redress available, such as to ITD and/or the US Department of Transportation (USDOT).

The Notus-Parma Highway District No.2 will advise ITD within ten (10) days of receipt of the allegations. Generally, the following information will be included in every notification to ITD:

- a) Name, address, and phone number of the complainant.
- b) Name(s) and address(es) of alleged discriminating official(s).
- c) Basis of complaint ( i.e., race, color, national origin or sex).
- d) Date of alleged discriminatory act(s).
- e) Date of complaint received by the Notus-Parma Highway District No. 2.
- f) A statement of the complaint.
- g) Other agencies (state, local or Federal) where the complaint has been filed.
- h) An explanation of the actions the Notus-Parma Highway District No. 2 has taken or proposed to resolve the issue raised in the complaint.

Within sixty (60) days, the Title VI Coordinator will conduct an investigation of the allegation and based on the information obtained, will render a recommendation for action in a report of finding to the Notus-Parma Highway District No.2's authorized representative. The complaint should be resolved by informal means whenever possible. Such informal attempts and their results will be summarized in the report of findings.

Within ninety (90) days of receipt of the complaint, the Notus-Parma Highway District No.2's authorized representative will notify the complainant in writing of the final decision reached, including the proposed disposition of the matter. The notification will advise the complainant of his/her appeal rights with ITD, or USDOT, if they are dissatisfied with the final decision rendered by the Notus-Parma Highway District No.2. The Title VI Coordinator will also provide ITD with a copy of the decision and summary of findings upon completion of the investigation.

Contacts for the different Title VI administrative jurisdictions are as follows:

<b>Notus-Parma Highway District No.2</b> <b>Director of Highways</b> P.O. Box 719 Parma, Idaho 83660
<b>Idaho Transportation Department</b> <b>Equal Employment Opportunity Office- External Programs</b> <b>EEO manager, Title VI &amp; ADA Coordinator</b> PO Box 7149 Boise, Idaho 83707-1129 208-334-8852
<b>Federal Highway Administration</b> <b>Idaho Division Office</b> <b>Division Administer</b> 3050 Lake harbor Lane, Suite 126 Boise, Idaho 83703 208-334-9180

## Chapter 9

### Discriminatory Workplace Harassment Policy and Complaint Procedure

- 8.9.1 Purpose:** The purpose of this Harassment Policy is to clearly establish the District's commitment to work to provide a work environment free from unlawful harassment, to define discriminatory harassment, and to set forth the procedures for investigating and resolving internal complaints of harassment. Because of the importance of a workplace free from unlawful harassment, this policy should be reviewed with each employee on a regular basis.

It is important that all employees treat all other employees and members of the public with decency and respect. It is the responsibility of each and every employee to prevent inappropriate behavior in the workplace. Inappropriate behavior which impacts the workplace, or has the potential to impact the workplace, will not be tolerated.

This Policy applies to all terms and conditions of employment, including but not limited to, hiring, placement, job retention, promotion, disciplinary action, layoff, reinstatement, transfer, leave of absence, compensation, and training.

- 8.9.2 Policy:** Harassment of an applicant for employment, a member of the public, or an employee by any employee of the District on the basis of race, color, religion, national origin, sex, age (40 and over) and disability are in violation of State and/or Federal law and will not be tolerated by Notus-Parma Highway District.

Employees found to be participating in any form of employment-related unlawful harassment or retaliating against another employee for filing a complaint or cooperating with an investigation shall be subject to disciplinary action up to and including termination of employment.

### **8.9.3 Responsibilities**

- 8.9.3.1 The District:** It is the responsibility of the District to develop this policy, provide training on this policy, keep it up to date, and to ensure that any violation of this policy brought to its attention is dealt with as required by law and according to this Policy.

The Director of Highways is responsible for following the Complaint Procedures as set out in this policy.

- 8.9.3.2 Supervisors:** It is the responsibility of Director of Highways to enforce the policy, to train new employees on the policy, to make a regular review with all employees to ensure they know the policy and to regularly check the workplace to make sure the policy is being followed.

If the Director of Highways observes that unlawful discrimination, harassment, or retaliation is occurring, he/she should take immediate action to address the problem. Such action should include, but is not limited to, speaking directly with the affected person, developing a specific account of the actions, omissions or occurrences that are deemed discriminatory and taking corrective or disciplinary action as appropriate.

If unlawful harassment is reported or alleged, it must be followed up. No complaining party should be allowed to retract an allegation of unlawful harassment without proving that it was made erroneously. If the Director of Highways receives information that discrimination, unlawful harassment or retaliation might be occurring, he/she should follow the Complaint Procedure as set out in this policy below.

**8.9.3.3 Employees:** It is the responsibility of each and every employee to know this policy and to follow it. All District employees share the responsibility of understanding and preventing unlawful discrimination and harassment. But, ultimately, no satisfactory investigation or resolution of complaints can occur without the initiative and continued cooperation of the affected person. Individuals who believe they have been discriminated against or unlawfully harassed have the primary obligation of informing the Director of Highways or legal counsel for the District of the act of discrimination, unlawful harassment, or retaliation, recounting specific actions or occurrences whenever possible. It is imperative that every employee treat every other employee and members of the public with decency and respect so as to facilitate a sound professional work environment.

**8.9.4 Definitions:** For purposes of clarification unlawful harassment includes, but is not limited to, the following behaviors:

**8.9.4.1 Verbal Harassment:** Epithets, derogatory comments, slurs, propositioning, or otherwise offensive words or comments on the basis of race, color, religion, national origin, sex, age (40 and over) and disability whether made in general, directed to an individual, or directed to a group of people regardless of whether the behavior was intended to harass. This includes, but is not limited to, inappropriate sexually oriented comments including dress or physical features, sexual rumors, code words, and race-oriented stories, as well as jokes of a sexual or discriminatory nature or “kidding” which is oriented towards a prohibited form of harassment.

**8.9.4.2 Physical Harassment:** Assault, impeding or blocking movement, leering, or the physical interference with normal work, privacy or movement when directed at an individual on the basis of race, color, religion, national origin, sex, age (40 and over) and disability. This includes pinching, patting, grabbing, inappropriate behavior in or near bathrooms, sleeping facilities and eating areas, or making explicit or implied threats or promises in return for submission to physical acts.

- 8.9.4.3 Visual Forms of Harassment:** Derogatory, prejudicial, stereotypical, or otherwise offensive posters, photographs, cartoons, e-mails, notes, bulletins, drawings or pictures on the basis of race, color, religion, national origin, sex, age (40 and over) and disability. This applies to both posted material and material maintained in or on Notus-Parma Highway District equipment or personal property in the workplace.
- 8.9.4.4 Sexual Harassment:** Any act which is sexual in nature and is made explicitly or implicitly a term or condition of employment, is used as the basis of an employment decision, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile or offensive work environment.

The two most common types of sexual harassment are:

- 8.9.4.4.1** "Quid pro quo" harassment, where submission to unlawful harassment is used as the basis for employment decisions.

Employee benefits such as raises, promotions, better working hours, job retention, etc., are directly linked to compliance with sexual advances. Therefore, only someone in a supervisory capacity (with the authority to grant such benefits) can engage in quid pro quo harassment.

- 8.9.4.4.2** "Hostile work environment," where the unlawful harassment creates an offensive and unpleasant working environment.

Hostile work environment can be created by anyone in the work environment, whether it be supervisors, other employees, or the public. Hostile environment harassment consists of verbiage of a sexual nature, unwelcome sexual materials, or even unwelcome physical contact as a regular part of the work environment. Cartoons or posters of a sexual nature, vulgar or lewd comments or jokes, or unwanted touching all fall into this category.

- 8.9.5 Compliant Procedure:** The following complaint procedure will be followed in order to address a complaint regarding harassment, discrimination, or retaliation:

- 8.9.5.1** A person who believes he/she has been unlawfully harassed, discriminated, or retaliated against should report it to their supervisor, Director of Highways or legal counsel for the District. If the Director of Highways becomes aware that unlawful harassment or discrimination is occurring in any District department as a result of an employee coming forward, the Director of Highways should immediately report it to the legal counsel for the district pursuant to this policy. Once a complaint of unlawful harassment, discrimination or retaliation has been made, the complaint cannot be withdrawn by the complainant without a determination that it was made erroneously.
- 8.9.5.2** Promptly upon receiving the complaint, the Director of Highways or legal counsel for the District should initiate the investigation to determine whether there is a reasonable basis for believing that an alleged violation of this Policy occurred.
- 8.9.5.3** Upon receiving the complaint or being advised by that violation of this policy may be occurring, the Director of Highways should review the complaint with the legal counsel for the district.
- 8.9.5.4** The Director of Highways in conjunction with legal counsel for the District, should engage an appropriate person to investigate the complaint. The investigator should be a neutral party.
- 8.9.5.5** The investigator will interview the complainant, the respondent, and any relevant witnesses to determine whether the conduct occurred.
- 8.9.5.6** As soon as practical, the investigator will conclude the investigation and submit a report of his or her findings to the Director of Highways and legal counsel for the District, who then will route it as appropriate.
- 8.9.5.7** If it is determined that unlawful harassment or discrimination in violation of the District's policy has occurred, the appropriate official will recommend the appropriate course of action to be taken by the District. The appropriate action will depend on the following factors:
- (i) The severity, frequency, and pervasiveness of the conduct;
  - (ii) Prior complaints made by the complainant;
  - (iii) Prior complaints made against the respondent; and
  - (iv) The quality of the evidence (firsthand knowledge, credible corroboration, etc.).
- 8.9.5.8** If the investigation is inconclusive or it is determined that there has been no unlawful harassment or discrimination in violation of this Policy, but some potentially problematic conduct is revealed, corrective action may be taken.

- 8.9.5.9** Promptly after the investigation is concluded, the Director of Highways or legal counsel for the district will meet with the complainant and the respondent separately in order to notify them in person of the findings of the investigation.
- 8.9.5.10** The complainant and the respondent may submit statements to the Director of Highways or legal counsel challenging the factual basis of the findings. Any such statement must be submitted no later than five (5) working days after the meeting with the supervisor(s) in which the findings of the investigation are discussed.
- 8.9.5.11** Promptly after the Director of Highways has met with both parties and reviewed the documentation, he or she will decide, after consultation with legal counsel for the district, what action, if any, should be taken.
- 8.9.6 **Disciplinary Action:**** If unlawful harassment is determined to have occurred, the supervisor should take prompt and effective remedial action against the harasser. The action should be commensurate with the severity of the offense, up to and including termination of employment.
- 8.9.7 **Retaliation:**** Retaliation in any manner against a person for filing a harassment charge or initiating a harassment complaint, testifying in an investigation, providing information or assisting in an investigation, is expressly prohibited and subject to disciplinary action up to and including termination. The Director of Highways should take reasonable steps to protect the victim and other potential victims from further harassment or related consequences.
- 8.9.8 **Confidentiality:**** Confidentiality will be maintained to the fullest extent possible in accordance with applicable Federal, State, and local law. However, a complete and thorough investigation of the allegations will require the investigator to inform witnesses of certain aspects of the complaint in order to obtain an accurate account of the actions of the parties involved.
- 8.9.9 **False Complaints:**** Any complaint made by an employee of the District regarding employment-based harassment, which is conclusively proven to be false, will result in discipline. This discipline may include up to and including termination of employment. This section is not intended to discourage employees from making complaints regarding employment-based harassment. However, false complaints adversely impact the workplace and the career of the accused, even when disproved, and will not be tolerated.
- 8.9.10 **Distribution:**** This policy should be disseminated to all employees, supervisors, and the Board of Commissioners of the District. Any questions, concerns or comments related to this policy should be directed to the Director of Highways.

The governing board hereby appoints the position of Director of Highways as the Designated Official for the purposes of this Policy.

## **Chapter 10**

### **Separation from Employment**

**8.10.1 Reductions in Force (RIF):** When financial circumstances or changes of workload require, Notus-Parma Highway District reserves the right to reduce forces in such manner as it deems necessary to maintain the effective functioning of Notus-Parma Highway District services. Decisions about the functions or positions to be reduced are not subject to the hearing procedure established by Notus-Parma Highway District.

Reorganization initiated to make more efficient use of resources or to accommodate budgetary needs shall not be subject to the hearing procedure established by Notus-Parma Highway District.

**8.10.2 Retirement Policy:** The retirement policy of Notus-Parma Highway District shall comply in all respects with federal and state requirements respecting mandatory retirement and the obligations established by the Public Employees Retirement System of Idaho (PERSI).

Employees who are retiring are required to give notice to the Director of Highways. They should contact the District Clerk at least two months prior to their retirement date so benefit program arrangements may be made.

**8.10.3 Cobra Benefits:** Notus-Parma Highway District does not meet the requirements for Cobra Benefits.

**8.10.4 Exit Interview:** Each employee who terminates their employment with Notus-Parma Highway District is encouraged to participate in an exit interview with the designated representative of the District, or in the event of involuntary termination, with the personnel officer. In such interview, the employer should notify the employee when certain benefits will terminate, when final pay will be issued. The employee will be invited to inform the interviewer about his/her impressions of employment in such interview. An employee exit form may be completed at this point and will be retained in the employee's personnel file.

**8.10.5 Resignation Policy:** Voluntary resignations will generally be made in writing. If the employee wants his/her formal records to indicate "voluntary resignation", he/she must do so in writing to his/her supervisor or department head. Oral resignations will be documented by the supervisor after consultation with the elected official or department head in charge. Evidence of acceptance of a resignation should be provided to the ex-employee if possible. Employees who have an unexcused or unauthorized absence of three (3) working days or more may be considered to have abandoned their position and therefore resigned.

# Title 9

## Budget and Special Events Officer Expense Authorization

### Chapter 1 Fiscal Year

- 9.1.1 The Notus-Parma Highway District No. 2 Fiscal Year is prescribed by Idaho Code § 40-1330 to commence on October 1 of each year.

### Chapter 2 Budget Preparation and Approval

- 9.2.1 The following is provided as a guideline to the Commissioners, officers, and staff of this district regarding the preparation and approval of the budget. It is not the intention of this policy to set forth mandatory dates, or procedures, other than those required by Idaho law. The following are set forth in chronological order for ease of reference:
- 9.2.1.1 **April Commissioners meeting:** Set the date and location for the budget hearing and direct the secretary to notify the Clerk of Canyon County of the same.
  - 9.2.1.2 April 30th is the last day to notify the County Clerk of Canyon County, of the date and location set for the budget hearing of the District. [Required by law, Idaho Code § 63-802A].
  - 9.2.1.3 **April Commissioners meeting:** Review by Director of Highways of preliminary budget Income/Expense Report forms and review of needed budget information in order to prepare the initial draft budget within 30 to 60 days.
  - 9.2.1.4 Meeting(s) consisting of the Director of Highways and Secretary/Treasurer to review the preliminary budget Income/Expense Report forms to formulate an initial draft of the budget.
  - 9.2.1.5 **June Commissioners Meeting:** The Director of Highways and the Secretary/Treasurer complete the initial draft of the Budget and report to the Commissioners.
  - 9.2.1.6 **June Commissioners Meeting:** The Commissioners establish the date, time, and location of workshop meeting(s) to review the proposed budget for consideration of approval for publication and public hearing.

- 9.2.1.7 **August:** Notice of Budget Hearing to be posted at least ten (10) full days prior to the date of said meeting in at least one (1) conspicuous place in the District and published in the official paper of the District during the ten (10) day period posting period [Required by Idaho Code § 40-1326].
  - 9.2.1.8 **Late August:** Conduct the budget hearing and consider approval of the budget.
  - 9.2.1.9 The Secretary enters the resolution adopting the budget upon the minutes of the Board of Commissioners and then certifies the same to the Canyon County Commissioners and the Canyon County Auditor as provided in Idaho Code § 40-1325.
  - 9.2.1.10 The Secretary-Treasurer certifies the total dollar amount to the County Clerk of Canyon County, of the property tax money required by proposed budget, no later than the Thursday prior to the second Monday in September, unless upon application therefor, the County Commissioner grants an extension of seven (7) working days [required by Idaho Code § 63-803 (3)].
  - 9.2.1.11 **Foregone Amount:** Any time the approved fiscal year budget is less than the maximum allowable increase in the dollar amount of property taxes the ability of the District to reserve the right to recover all or any portion of that year's foregone increase in a subsequent year must be reserved by the adoption of a resolution specifying the dollar amount of property taxes reserved or otherwise it is lost.
- 9.2.2 It is hereby found by the Board of Commissioners that:
- 9.2.2.1 The Board of Commissioners has established policy, in accordance with the performance of its duty to meet certain minimum audit requirements as set forth in Sections 9.3.3 and 9.3.4 of the Notus-Parma Highway District No. 2 Policy Code, for the reporting of value of capital assets inclusive of newly acquired, constructed or significantly renovated or improved Highway Infrastructure Assets, real property, right-of-way and personal property which has a value that exceeds \$5,000.00; and
  - 9.2.2.2 The costs of repair and replacement of existing Highway Infrastructure Assets, of the acquisition of real property and right-of-way, of new Highway Infrastructure Assets and of major equipment often requires planning and appropriations which exceed available revenues within one fiscal year; and

9.2.2.3 House Bill 312 [enacted into law by the approval of the 2015 Idaho Legislature and was signed by the Governor] provides at Section 11 therein:

*LEGISLATIVE INTENT. It is the intent of the Legislature that all additional funds collected under the provisions of this act, remitted to ...entities subject to the distribution provisions of Section 40-709, Idaho Code, shall be used exclusively for road and bridge maintenance and replacement projects....*

9.2.2.4 It is in the best interest of the Highway District to establish two separate standing funds to enable the Board of Commissioners in the budget process to appropriate funds and carry unexpended fund balances over into ensuing fiscal years with one standing fund established for the repair and replacement of existing highway infrastructure assets, acquisition of real property and right-of-way and new highway infrastructure assets; and, the other standing fund established only for road and bridge maintenance and replacement projects on existing highway infrastructure assets.

9.2.2.5 For all purposes of budget preparation and appropriations and spending the following are established as standing funds of the Highway District budget with restrictions on appropriations and providing for any remaining funds within each fund, not expended within a fiscal year, are to be carried over in that fund and appropriated in the following fiscal year.

9.2.2.5.1 **INFRASTRUCTURE AND EQUIPMENT FUND:** The Board of Commissioners does hereby establish a “Infrastructure and Equipment Fund” which shall be included in the budget in order to appropriate funds and carry fund balances into ensuing fiscal years for; the purchase of and/or to pay the costs of repair and/or replacement of existing highway infrastructure assets, acquisition of real property and right-of-way and/or new highway infrastructure assets and/or major equipment.

9.2.2.5.1.1 The “Infrastructure and Equipment Fund” shall be included in each fiscal year budget of the Highway District, and all appropriations to this fund shall be specifically accounted for, and all carry over fund balances shall be continued from one fiscal year to the next; and

9.2.2.5.1.2 Expenditures from this fund shall be limited to the purchase of and/or costs of 1) repair and replacement of existing highway infrastructure assets, 2) acquisition of real property and right-of-way, 3) new highway infrastructure assets, 4) major equipment, 5) improvement of District real property, and 6) the acquisition of District real property.

9.2.2.5.2 **ROAD AND BRIDGE MAINTENANCE FUND:** The Board of Commissioners does hereby establish a “Road and Bridge Maintenance Fund” which shall be included in the budget in order to appropriate funds and carry fund balances into ensuing fiscal years for the receipt of funds distributed to the Highway District pursuant to Idaho Code Section 40-709 and carry fund balances into ensuing fiscal years for maintenance and replacement of roads and bridges projects on existing highway infrastructure assets.

9.2.2.5.2.1 The “Road and Bridge Maintenance Fund” shall be included in each fiscal year budget of the Highway District, and all appropriations to this fund shall be specifically accounted for, and all carry over fund balances shall be continued from one fiscal year to the next; and

9.2.2.5.2.2 Expenditures from this fund shall be limited to the purchase of and/or costs of maintenance and replacement of roads and bridges projects on existing highway infrastructure assets.

9.2.3 For all purposes of budget preparation and appropriations and spending the following is established as a standing fund of the Highway District budget with restrictions on appropriations and providing for any remaining funds within each fund, not expended within a fiscal year, are to be carried over in that fund and appropriated into the following fiscal year.

9.2.3.1 **PAYROLL AT SEPARATION FUND:** The Board of Commissioners does hereby establish a “Payroll at Separation Fund” which shall be included in the budget in order to appropriate funds and carry fund balances into the ensuing fiscal year for the payment of payroll and accrued benefits due at the time of employment separation

## **Chapter 3**

### **Financial Statement and Audit**

**9.3.1 Annual Financial Statement:** The Treasurer shall prepare for approval by the Board of Commissioners of the Highway District a full, true and correct statement of the financial condition of the Highway District as that financial conditions existed on October 1st of the preceding year which statement shall contain the liabilities and assets of the Highway District on October 1st of the preceding year and which statement shall be published once in the official paper and which statement upon approval of the Board of Commissioners shall be on file in the with the Secretary on or before the 1st day of January of each calendar year [see I.C. § 40-1317].

#### **9.3.2 Annual Audit**

**9.3.2.1** The Board of Commissioners shall cause a full and complete audit of its financial statements to be made each fiscal year in compliance with the provisions of I.C. § 67-450B, or any amendments or re-codifications thereof to be performed by independent auditors in accordance with generally accepted governmental auditing standards, as defined by the United States general accounting office.

**9.3.2.1.1** In the event the Highway District's annual expenditures from all sources exceeds two hundred-fifty thousand dollars (\$250,000), the Board of Commissioners is required to cause a full and complete audit of its financial statement to be made each fiscal year; and

**9.3.2.1.2** In the event the Highway District's annual expenditures exceed one hundred fifty thousand dollars (\$150,000) but is less than \$250,000, the Board of Commissioners may elect to have its financial statements audited on a biennial basis and may continue biennial auditing cycles in subsequent years as long as its annual expenditures do not exceed two hundred fifty thousand dollars (\$250,000) during either year of any biennial period. Biennial audits shall include an audit of each fiscal year since the previous audit; and

**9.3.2.1.3** In the event the Highway District's annual expenditures do not exceed \$150,000 in the fiscal year, there is no minimum audit or review requirement.

**9.3.2.2** The auditor shall be employed on written contract.

**9.3.2.3** The Commissioners shall include in the Highway District's annual budget all necessary expenses for carrying out the provisions of this Section.

9.3.2.4 The Secretary shall file one (1) copy of each completed audit report with the Legislative Services Office of the State of Idaho [PO Box 83720, Boise ID 83720-0054] within nine (9) months after the end of the audit period.

**9.3.3 Selection, Accounting, and Reporting of Assets for Audit purposes:**

9.3.3.1 **Findings:** The Board of Commissioners makes the following Findings as a basis of the provisions of this Section:

9.3.3.1.1 This Highway District is required by Idaho Law at I.C. § 67-450 B to meet certain minimum audit requirements as provided therein; and

9.3.3.1.2 Government Accounting Standards Board Statement 34 (GASB 34), [hereinafter referred to as GASB 34 Statement], the GASB 34 Statement provides that governmental agency, with annual revenues under \$10,000,000.00, must begin reporting more extensive asset valuations beginning in the fiscal year immediately following June 15, 2003, which is this current fiscal year of 2003-2004; and

9.3.3.1.3 The GASB 34 Statement provides some of the broadest changes in government accounting practices since the inception of Generally Accepted Accounting Practice (GAAP), for governmental agencies, dating back to the 1930s. The principal change that GASB 34 Statement requires, is reporting of the value of capital assets on Consolidated Annual Financial Reports (CAFR); and

9.3.3.1.4 The GASB 34 Statement provides that prospective reporting of newly acquired, constructed, or significantly renovated or improved Highway Infrastructure Assets is required at the date of the application of the Statement. The reporting of existing major general Highway District Highway Infrastructure Assets is encouraged on the date of the application of the Statement. The Highway District is allowed to report retroactively only major Highway Infrastructure Assets acquired or significantly reconstructed or improved during the previous 25 years and is provided four (4) years from the effective date of this policy to do so. Because this Highway District's revenues are under Ten Million Dollars [\$10,000,000.00], it is encouraged to report its Highway Infrastructure Assets retroactively, but may elect to report prospectively only.

9.3.3.1.5 The Board of Commissioners herein establishes a policy in the development of the procedure, and process, to comply with The GASB 34 Statement, which shall include provisions for the initiation of the process of reporting, and to provide a format and procedure for the: application of standard depreciation approach for the reporting of capital fixed assets; the Assets, and for the reporting of real property.

9.3.4 **GASB 34 Statement Policy:** The Board of Commissioners herein establishes a policy in the development of the procedure, and process, to comply with the GASB 34 Statement.

9.3.4.1 **Policy Title:** This policy shall be referred to, and cited as, the GASB 34 Statement Policy.

9.3.4.2 **Policy Application:** This policy shall apply to all reporting by this Highway District of its personal, Highway Infrastructure Assets and real property capital fixed assets for audit purposes.

9.3.4.2.1 This policy does not apply to matters of reporting of personal and real property fixed assets of this Highway District for insurance coverage and or other purposes.

9.3.4.3 **Mixed Assets Subject to Policy:** This policy applies to real, personal and Highway Infrastructure Assets property to which this Highway District has an ownership interest, which has a value of Five Thousand and No/100 Dollars [\$5,000.00] and/or greater, beginning in the fiscal year immediately following June 15, 2003, which is the fiscal year of 2003-2004 commencing October 1, 2003.

9.3.5 **Secretary/Treasurer to Develop and Keep List:** The Secretary/Treasurer shall prepare a list [in accordance with the provisions of this Policy] of all Fixed Capital Assets, [personal, infrastructure and real property] and which list shall include the identification of the fixed asset statement relative to the type of Highway District ownership, date of purchase and or acquisition, the present age and useful life of the fixed asset, and its cost [if cost is not known use estimated value]. The Secretary/Treasurer shall keep the Capital Fixed Asset List up to date as required by new acquisitions and transfers of Highway District's ownership interest, and shall recommend needed valuation adjustments, and changes, as reasonably required for the maintenance of an accurate listed value, and consideration of depreciation, and/or appreciation, as the case may be.

**9.3.6 Secretary/Treasurer Annual Report of Fixed Capital Assets List:** The Secretary/Treasurer annually, at a time set by the Board of Commissioners, and in advance of the preparation of the Highway District's audit, the Secretary/Treasurer shall update the Fixed Capital Assets List for consideration and approval by the Board of Commissioners.

**9.3.7 Board of Commissioners approval of Fixed Capital Assets list:** The Fixed Capital Assets List of the Highway District is subject to approval and adoption by the Board of Commissioners.

**9.3.7.1 Infrastructure Reporting:** All fixed Capital Assets of this Highway District which are part and parcel of its Highway System and which are improvements as herein set forth and identified in **Section 9.3.7.1.1.3** are herein referred to as Highway Infrastructure Assets shall be reported using the modified depreciation approach as the same are to be managed and preserved.

**9.3.7.1.1** The Director of Highways shall develop an up-to-date inventory of this Highway District's Highway System which shall include:

**9.3.7.1.1.1** Identification of Highways which are maintained and in the Highway System in segments [include portions of Highways that are reasonably logical breaking points for reporting maintenance purposes; and

**9.3.7.1.1.2** Identification within each Highway Segment the length and width or area [includes the entire Segment Highway Right-of-Way]; and

**9.3.7.1.1.3** Identification of the Highway Infrastructure improvements within the Highway Segments, which includes all sub-base, asphalt, curb, gutter or other drainage, sidewalk, bridges and culvert improvements within the Segment, but not including signage, which is included and reported as Non-Infrastructure as hereinafter provided.

- 9.3.7.1.2 The Director of Highways shall annually establish this Highway District's estimate of the annual cost required to maintain and preserve its Highway Infrastructure Assets at an acceptable level, which shall not be below the minimum condition level established by Board of Commissioners policy.
- 9.3.7.1.3 The Director of Highways shall make an assessment of the Highway Infrastructure Assets conditions at least once every three [3] years.
- 9.3.7.1.4 The method for determining the current conditions of Highway Infrastructure Assets [appertaining to highways within the Highway District's system] for reporting purposes shall be on a rating basis of condition using a numerical scale which accounts for a perfect condition and a minimum acceptable level of condition (terminal condition) at which this Highway District will maintain the Highway Infrastructure Assets.
- 9.3.7.1.5 Factors for consideration for Highway Infrastructure Assets include width, length, depth and any other relevant factors of sub-base, base, asphalt paving, curb and gutter or other drainage, sidewalk bridge and culvert improvements within the Segment.
- 9.3.7.1.6 Valuation of Highway Infrastructure Assets historic costs starting when the asset was put into use. If historic costs are not known the same shall be estimated discounting the same back to historical value.
- 9.3.7.1.7 Using the modified depreciation approach for Highway Infrastructure Assets both maintenance and preservation costs are considered expenses and only construction costs which are improvements to a Highways Infrastructure Assets are capitalized as an increase in the value of the same which are costs of construction that increase the efficiency or capacity of the existing Infrastructure Asset can be capitalized.

### **9.3.8 Right-of-Way and Real Property Reporting**

- 9.3.8.1 The Director of Highways in accordance with the provisions of this policy shall prepare an inventory of all the Highway District's rights-of-way and other real property including those with Highway Infrastructure Assets and those without.
- 9.3.8.2 The Director of Highways may estimate the historical cost of right-of-way and/ other real property assets only not including improvements [Highway Infrastructure assets and or buildings etc.] by using the purchase price of real property the Highway District either purchased or acquired the same, and deflating this cost through price-level indexes to the acquisition year. An estimated acquisition year can be used if the actual year is unknown. There are a number of price-level indexes that may be used to remove the effects of price-level changes from current prices.
- 9.3.8.3 The assistance of appraisers and engineers, and any other knowledgeable expertise, may be utilized in the process of Infrastructure, Right-of-Way, and Real Property reporting.
- 9.3.9 **Non-Highway Infrastructure Asset reporting:** All Fixed Capital Assets which are not included in Highway Infrastructure Asset Reporting or as Real Property [personal property, equipment, signs, buildings and other non-Highway Infrastructure Assets] shall be reported using the standard depreciation approach as herein this policy provided.
- 9.3.9.1 The reporting of the value of Capital Fixed Assets, using the standard depreciation approach, depreciates said assets annually and any expense of the Highway District in preserving such assets are capitalized [added to its value] and all maintenance costs are expensed.
- 9.3.10 **Initial Reporting:** The initial list of all Fixed Capital Assets prepared by the Secretary/Treasurer shall include all Fixed Capital Assets with the exception of Highway Infrastructure Assets and Real Property and Rights-of-Way, which shall only include those Highway Infrastructure Assets, Rights-of-Way and other Real Property and improvements which are newly acquired, constructed, or significantly renovated or improved infrastructure assets commencing on October 1, 2003.
- 9.3.11 **Subsequent Reporting:** The Director of Highways shall propose to the Highway District Commissioners, at the time of their consideration of the approval of the initial Fixed Capital Assets list, a time table for the identification, assessment, and reporting of the remaining Highway Infrastructure Assets and Rights-of-Way and other Real Property for listing in subsequent years and in accordance with the stated Governmental Accounting Standards Board Statement No. 34 as set forth herein this section.

9.3.12 **Reporting Forms:** The following are examples for use in reporting under the provisions of this chapter:

- Fixed Capital Straight Depreciation Assets List** [Forms Book];
- Fixed Capital Infrastructure Modified Depreciation Assets List** [Forms Book];
- Fixed Capital Real Property / Right-of-Way Assets List** [Forms Book]

## **Chapter 4 Custodial Holding Fund**

### **9.4.1 Findings**

- 9.4.1.1 The Board of Commissioners and the Highway District are empowered by I.C. § 40-1310 (7) to hold, manage and possess property; and
- 9.4.1.2 The Board of Commissioners and the Highway District are empowered by I.C. § 40-1310 (4) to accept aid or contributions in the construction or maintenance of any highway; and
- 9.4.1.3 From time to time in the process of the administration of Highway District business there is a need to hold funds to secure performance of regulated and/or permitted activity; and
- 9.4.1.4 From time to time in the process of the administration of Highway District business there are occasions when persons or entities tender funds to the Highway District in payment of expenses incurred by the Highway District in the pursuit of special projects and/or otherwise received by the Highway District in a custodial capacity; and
- 9.4.1.5 It is found by the Board of Commissioners that it is in the best interest of the Highway District to establish a separate fund within which to deposit custodial funds received by the Highway District and to be held and accounted for separate and apart from the Highway District's assets and its budget process.
- 9.4.1.6 Based upon the above and foregoing declarations and further based upon the authority of the Board of Commissioners, the Board of Commissioners of Notus-Parma Highway District No. 2, Canyon County, State of Idaho, establishes the following:

9.4.2 **Fund Name:** This Fund shall be known and administered as "NPHD Custodial Holding Fund," hereinafter in this instrument referred to as "Fund."

9.4.3 **Fund Deposits:** The Treasurer shall place in the Fund those funds received by the District under the following circumstances:

- 9.4.3.1 To secure performance of a regulated and/or permitted activity; and
  - 9.4.3.2 Specially tendered to the Highway District for purposes of the construction and/or maintenance of any particular highway subject to acceptance by the Board of Commissioners; or
  - 9.4.3.3 Specially tendered to the Highway District in payment of expenses incurred by the Highway District in the pursuit of special projects and/or otherwise received by the Highway District as a custodian subject to acceptance by the Board of Commissioners.
- 9.4.4 **Fund Purposes:** The Purpose for which this fund is created is to receive, administer and account for custodial funds held by the Highway District.
- 9.4.5 **Accounting and Distribution Restrictions**
- 9.4.5.1 **Accounting:** The Highway District Treasurer shall maintain separate accounting for deposits to this Fund in accordance with the directive of the Board of Commissioners in the acceptance of funds to this Fund.
    - 9.4.5.1.1 This fund is a custodial account and not an asset of the Highway District and shall not be included in the budget of the Highway District.
  - 9.4.5.2 **Distribution:** Distributions from this fund shall be subject to approval by the Board of Commissioners unless otherwise provided by Highway District Policy in regard to deposits to secure performance of regulated and/or permitted activity as authorized by the Board of Commissioners in the ordinary course of Highway District business.
- 9.4.6 **Accounting and Investment Guidelines**
- 9.4.6.1 **Fund Account Guidelines:** The treasurer shall account by separate line item for each sub-fund established within this fund as designed by the Board of Commissioners.
  - 9.4.6.2 **Fund Investment Guidelines:** This fund's investment guidelines are as follows: The principle shall be invested in accordance with the policy established by the Board of Commissioners.
  - 9.4.6.3 **Fund Income:** The income (i.e., interest) generated by the investment of the principal of this Fund shall be transferred from this fund upon approval of the Board of Commissioners to the Highway District's General Fund in order to offset the costs incurred by the Highway District in the administration of this Fund.

## Chapter 5 Public Depository Law Compliance

- 9.5.1 The Public Depository Law set forth in Chapter 1 of Title 57, Idaho Code, governs the management of public funds of this District, and the Board finds it reasonable to establish a policy to provide guidance to the Board and the Treasurer in compliance with that law.
- 9.5.2 All funds of this Highway District shall be deposited by the Treasurer in a qualified depository designated by the Board of Commissioners.
- 9.5.3 As provided and required by Idaho Code § 57-110, a qualified depository includes any national bank, state bank, trust company, federal savings and loan association, state savings and loan association, federal credit union or state credit union which lies within the boundaries of the Highway District and otherwise complies with Idaho Code § 57-113.
- 9.5.4 When there is more than one qualified depository, the process for designation shall be upon recommendation of the Treasurer after competitive bidding or by other means acceptable as a standard business practice.
- 9.5.5 The type of account upon designation shall be a demand deposit account, except for surplus or idle District funds as designed by the Board of Commissioners.
- 9.5.6 **Policy Name:** This Policy and Chapter shall be known as the “Highway District Investment Process Policy.”
- 9.5.6.1 **Policy Application:** This Policy and Chapter applies to the determination and investment of the Highway District’s capital and surplus reserve and unallocated or undivided earnings funds.
- 9.5.6.2 **Certification for Investment:** The board of commissioners shall, at least once every six (6) months, certify to the treasurer the Highway District’s capital and surplus or reserves and unallocated or undivided earnings, funds as applicable, of each public depository, which funds are not needed for anticipated expenditures of the Highway District for the period of time so certified using and delivering a copy to the treasurer of the completed Certification form [Appendix 9.5.6.2] which form is herein approved for such action.
- 9.5.6.3 **Investment:** The Treasurer, having been served with a completed Certification, the treasurer is then authorized and empowered to invest the certified funds in investments permitted by section 67-1210, Idaho Code, for the certified period.

**9.5.6.3.1 Investment Consideration:** The following are the guidelines to the treasurer for investments made pursuant to this policy and in accordance with the following priority:

**First Priority:** Probable safety of the capital investment

**Second Priority:** Probable income to be derived from the investment

**Third Priority:** Liquidity of the investment at the conclusion of the certified period.

**9.5.6.4 Interest Earned:** The interest earned on investments made pursuant to this Policy, unless otherwise required by law, shall become part of the general fund of the Highway District unless otherwise provided by law

## **Chapter 6**

### **Special Events Officer Expense Authorization Policy**

**9.6.1 Special Events Expense Attendance Policy:** The payment of Highway District employee's, officer's and commissioner's expenses for attendance at events relevant to operations of the Highway District or the performance of their duties which are not a part of the day to day business performance or assignments, or governed under Section 9.6.2 of this Chapter, are subject to application to and the approval by the Board of Commissioners subject to the expense requested is included in the budget for the fiscal year may include any of the following at the discretion of the Board of Commissioners:

- 1) Registration Fee; and
- 2) Travel expense which is the most efficient [considering time and distance and expense of the mode of travel]; and
- 3) Lodging based upon the current and regionally applicable Federal per diem rates as set by the General Services Administration (GSA); and
- 4) Meal expense not included in Registration Fee for the day of travel to and including the day the event ends based upon the current and regionally applicable Federal Per Diem Rate.

**9.6.2 Idaho Association of Highway District Annual Convention Expense Policy:** The following expenses of the Commissioners, Director of Highways, Secretary-Treasurer and Foreman (the "District Officers") for their attendance to the Idaho Association of Highway District Annual Convention (the "Convention") is authorized in accordance with the following conditions:

- 1) The District Officers have communicated either at a Board of Commissioners' meeting or in writing to the Secretary-Treasurer on or before 28 days before the start of the Convention their intent to register and attend and whether or

not their spouse will attend the convention proceedings intended for the spouse.

- 2) Registration Fees
- 3) Travel expense based upon efficiency and expense [considering time and distance and expense of the mode of travel]
- 4) Lodging.
- 5) Meal expense not included in Registration Fee for the day of travel to and including the day the Convention ends based upon the current and regionally applicable Federal per diem rates as set by the General Services Administration (GSA).
- 6) The Expense has been included in the current fiscal year budget.

# Title 10 Procurement

## Chapter 1 Short Title

10.1.1 This policy shall be known and referred to as the “Highway District Procurement Policy”.

## Chapter 2 General Provisions

10.2.1 Any interpretation of this Title shall be in accordance with the State of Idaho Purchasing by Political Subdivisions Law as set forth in Chapter 28 of Title 67 Idaho Code.

### 10.2.2 Purposes, Rules of Construction

10.2.2.1 **Interpretation:** This chapter shall be construed and applied to promote its underlying purposes and policies.

10.2.2.2 **Purposes and Policies:** The underlying purposes and policies of this chapter are to:

10.2.2.2.1 Provide increased economy in Highway District's procurement activities and to maximize to the fullest extent practicable the purchasing value of public funds of the District.

10.2.2.2.2 Simplify, clarify, and modernize the law governing procurement by the Highway District.

10.2.2.2.3 Provide for increased public confidence in the procedures followed in public procurement.

10.2.2.2.4 Ensure the fair and equitable treatment of all persons who deal with the procurement system of the Highway District.

10.2.2.2.5 Foster effective broad-based competition within the free enterprise system.

10.2.2.2.6 Provide safeguards for the maintenance of a procurement system of quality and integrity.

- 10.2.2.2.7 Provide for a maximum return to the Highway District on surplus property sales.
- 10.2.2.3 **Singular-Plural and Gender Rules:** In this Chapter, unless the context requires otherwise:
  - 10.2.2.3.1 Words in the singular number include the plural, and those in the plural include the singular; and
  - 10.2.2.3.2 Words of a particular gender include any gender and the neuter, and when the sense so indicates, words of the neuter gender may refer to any gender.

### **Chapter 3 Definitions**

- 10.3.1 **Acquisition Cost:** Cost includes unit price plus delivery, installation, and any other associated charges to place in service.
- 10.3.2 **Addenda:** Changes to project specifications or bid documents that are essential to the project and that require recognition and acknowledgment by participating vendors.
- 10.3.3 **Award:** Award of a contract or purchase approved by Commissioners or officer, the Director of Highways as appropriate, and is evidenced by an approved Purchase Order or Contract.
- 10.3.4 **Business:** Any corporation, limited liability company, partnership, individual, sole proprietorship, joint stock company, joint venture, trust, or any other private legal entity.
- 10.3.5 **Construction Contract:** An agreement for the construction, installation, major maintenance or repair of Highways, public building, facility or works.
- 10.3.6 **Contract:** All types of Highway District agreements, regardless of how designated, for the procurement or disposal of supplies, equipment, services, or construction.
- 10.3.7 **Contract Change Order:** A change in an authorized contract made necessary, because of circumstances not foreseen in preparing the project bid or the contract specifications, for proper completion of the project or which is in the best interest of the Highway District.
- 10.3.8 **Contractor:** Any person having a contract with a governmental body.
- 10.3.9 **Designee:** A duly authorized representative.

**10.3.10 District:** The Notus-Parma Highway District No. 2, a highway district, duly formed and existing under and by virtue of the laws of the State of Idaho, located in Canyon County.

**10.3.11 Documentation:** Written description of the competitive bid process, including bid summaries and copies of bids.

**10.3.12 Emergency:** A situation resulting from circumstances generally outside of the control of the Highway District (such as disasters, "acts of God," damage likely to continue, both physical and monetary, etc.) which require prompt action to protect the public interest, health, and/or welfare.

**10.3.13 Employee:** An individual drawing a salary from the District, (whether elected or not,) and any non-compensated individual performing personal services for the District.

**10.3.14 Equipment:** Items of tangible, non-expendable, personal property.

**10.3.15 Established Catalogue Price:** Price included in a catalogue, price list, schedule, or other form that:

**10.3.15.1** Is regularly maintained by a manufacturer or contractor; and

**10.3.15.2** Is either published or otherwise available for inspection by customers; and

**10.3.15.3** States prices at which sales are currently or were last made to a significant number of any categories of buyers or buyer constituting the general buying public for the supplies or services involved.

**10.3.16 Expendable Property:** All commodities which are ordinarily consumed or expended within one year after they are placed in use, or which are converted in the process of construction or manufacture.

**10.3.17 Expenditure:** The word "expenditure" shall mean the granting of a contract, franchise or authority to another by the Highway District, and every manner and means whereby the Highway District disburses funds or obligates itself to disburse funds; provided, however, that "expenditure" does not include disbursement of funds to any Highway District employee, official, agent or for the performance of personal services to the District or for the acquisition of personal property through a contract that has been competitively bid by the State of Idaho, one of its subdivisions or an agency of the federal government.

**10.3.18 Facsimile (Fax):** A facsimile (fax) qualifies as an original document for bid purposes, except in the case of checks, as long as the facsimile complies with other purchasing requirements.

- 10.3.19 Formal Bid (FB):** A bid for construction, goods or services with a contemplated acquisition cost as defined in §§ 67-2806(2) and/or 67-2805(3) Idaho Code. Formal bids require newspaper advertisement, sealed bids, and are generally awarded by District Commission.
- 10.3.20 Governmental Body:** Any Federal, State, County, City or other government subdivision of the State of Idaho, and/or a governmental entity created by them and it shall include any department, commission, council or board thereof.
- 10.3.21 Idaho Domiciled Bidder:** A bidder shall qualify as an Idaho Domiciled Bidder if they demonstrate a significant Idaho economic presence for a period of one (1) year preceding the date of the bid and show that the bidder has maintained in Idaho fully staffed offices, or fully staffed sales offices or divisions, or fully staffed sales outlets, or manufacturing facilities, or warehouses, or other necessary related property; and in the event it is a corporation or other legal entity and is currently registered with the Secretary of State it is licensed as required of the legal entity in order to do business in State of Idaho.
- 10.3.22 Independent Contractor:** A person or firm or other legal entity which performs work, and/or services for the Highway District for consideration who is not an employee of the District.
- 10.3.23 Informal Bid (IFB):** A bid for goods or services with an estimated acquisition cost in the ranges defined in §§ 67-2806(1) and 67-2805(2) Idaho Code.
- 10.3.24 Invitation For Bids:** All documents, whether attached or incorporated by reference, utilized for soliciting bids.
- 10.3.25 Non-expendable Property:** Includes property which has continuing use as a self-contained unit; is not consumed in use; does not ordinarily become a fixture or lose its identity, nor form a component of equipment, machine, plant, or other facility.
- 10.3.26 Open Purchase Order:** A blanket order, chiefly used by revolving inventory accounts (i.e., auto parts, paper products), between the Highway District and supplier for a specific period of time and establishing certain terms and conditions under which material is delivered upon request by authorized individuals.
- 10.3.27 Parts:** Items of personal property acquired for repair or replacement of unserviceable existing items or for preventative maintenance of equipment. Procurement rules related to equipment apply to purchases of parts. Parts lose their identity as components of equipment, machinery, or other facilities.
- 10.3.28 Person:** Any legal entity, individual, union, committee, club, other organization, or group of individuals.

**10.3.29 Personal Property:** Includes all supplies, materials and equipment procured by the District.

**10.3.30 Piggy Back Bid:** Circumstance where buying, purchasing and or leasing equipment, supplies which has previously been competitively bid by the State of Idaho, one of its subdivisions or an agency of the Federal Government and the successful bidder is willing to honor the successful bid to the Highway District. [See Idaho Code § 67-2803 such is not considered an expenditure requiring a separate bid process]

**10.3.31 Procurement/Purchase:** Buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction. Refers to all functions that pertain to the obtaining of any supply, service, or construction, including description of requirement, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

## Chapter 4

### Non-Professional Services and Personal Property Procurement

**10.4.1 General Provisions: Documentation of Award to Lowest Responsible and Responsive Bidder or Offeror:** All contracts or award of bids shall be awarded to the lowest responsible and responsive bidder, with all costs to the Highway District considered. In any instance in which a bidder is declared non-responsible or non-responsive, and therefore ineligible for award as the lowest responsible or responsive bidder, the record shall reflect the basis for the determination.

**10.4.2 Purchasing and Contracting:** All purchasing and contracting shall be accomplished in the best interests of the Highway District and in accordance with State Law and Highway District Procurement Policy.

**10.4.2.1** The Director of Highways shall be responsible for anticipating needs in a timely fashion in order to consolidate and expedite procurement of the same type of supplies or construction contracts.

**10.4.3 Authority to Make Awards for Contracts, Reject Bids or Offers, and Proceed in the Event of No Bids or Offers:** Award to the low, responsive bidder shall be approved as follows:

**10.4.3.1** For contracts of less than \$50,000 by the Director of Highways upon approval of the Commissioners.

**10.4.3.2 Award of Identical Bids:** If two (2) or more bids for a contemplated purchase are the same and the lowest responsible bids, the Commissioners may accept the one they choose. If the identical bids, the bid shall be awarded to the firm, if any, having a significant Idaho presence as defined in Idaho Code § 67-2349 I.

**10.4.4 Written Contracts:** All contracts shall be in writing and shall be approved prior to execution as to form and content by the Director of Highways, District Engineer when appropriate, and District Attorney, with final approval resting with the Board of Commissioners.

**10.4.5 Expenditure Time:** To determine the appropriate bid method for accomplishing the expenditure, the period over which funds are to be expended shall be calculated as either one year, or the exact time period, as specified by the bid documents or the contract.

**10.4.6 Formal Bidding:** All contemplated non-professional service and personal property expenditures, except as otherwise provided herein [including Piggy Back Bid], with an estimated cost in excess of the amount defined in Idaho Code § 67-2806 shall be awarded through open competitive sealed bid procedures in compliance with the Idaho Code and District Procurement Policy.

**10.4.6.1 Invitation for Bids:** An Invitation for Bids shall be issued and shall include a purchase description and all contractual terms and conditions applicable to the procurement.

**10.4.6.2 Public Notice:** Adequate public notice of the Invitation for Bids shall be given a reasonable time prior to the date set forth therein for the opening of bids, in accordance with Idaho Code § 67-2806.

**10.4.6.2.1 Example of Bid Notice: General Bid Specifications** [Forms Book]

**10.4.6.3 Bid Security:** The District may require bid security, if deemed appropriate by the Director of Highways and the Purchasing Director, to guarantee execution of a contract by the bidder. Bid security, if required by the District, shall be an amount equal to at least five percent (5%) of the amount bid. Bid security shall be in the form of cash, cashier's check made payable to the District, certified check made payable to the District, or a bidder's bond executed by a qualified surety company, made payable to the District. If required, a bid shall not be considered unless one (1) of the forms of bid security is enclosed with it or otherwise submitted prior to bid opening.

**10.4.6.4 Bid Opening:** Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation for Bids. All bidders have the right to be present at said bid opening. The amount of each bid, and such other relevant information as may be specified, together with the name of each bidder shall be recorded; the record and each bid shall be open to public inspection.

**10.4.6.5 Bid Acceptance and Bid Evaluation**

**10.4.6.5.1** Bids, if accepted, shall be unconditionally accepted without alteration or correction, except as authorized by this Chapter. Typographical errors, errors in mathematical computation, and other errors of non-substantive nature may be corrected by stipulation between the Highway District and Vendor prior to award. Bids shall be evaluated based on the requirements set forth in the Invitation for Bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose and upon other criteria in the best interests of the Highway District. Those criteria that will affect the bid price and be considered in evaluation for award shall be, as far as reasonable, objectively measurable, such as discounts, transportation costs, and total or life cycle costs and shall be added to the bid price to determine the low, responsible bidder.

**10.4.6.5.2 Multi-Step Sealed Bidding:** When it is considered impractical to initially prepare a purchase description to support an award based on price, and if consistent with funding sources, a Request for Proposals may be issued requesting the submission of un-priced offers to be followed by an Invitation for Bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation. This process may be used to purchase very technical or specialized products/services.

**10.4.6.5.3 Award of Bids:** The award of Formal Bids shall be by the Commissioners to the qualified bidder submitting the lowest bid price complying with bidding procedures and meeting specifications for the goods and/or services sought to be procured.

**10.4.6.5.4** In its discretion, the Commissioners may reject all bids presented and re-bid, or the Commissioners may, after finding it to be a fact, pass a resolution declaring that the goods or services may be procured more economically on the open market.

**10.4.6.5.5** If the Commissioners choose to award a formal bid contract to a bidder other than the apparent low bidder, the Commissioners shall declare its reasons on the record and communicate such reasons in writing to all who have submitted a competing bid.

**10.4.7 Informal Bidding:** All contemplated non-professional service and personal property expenditures, except as otherwise provided herein [including Piggy Back Bid] , with an estimated cost between the amounts defined in § 67-2806(1) Idaho Code shall be awarded through solicitation for bid procedures in compliance with the Idaho Code and District Procurement Policy.

**10.4.7.1 Solicitation for Bids:** A solicitation for bids shall be supplied to not less than three (3) vendors by either electronic or physical deliver and shall describe the personal property or services to be purchased or leased in sufficient detail to allow the vendor to understand what is being procured.

**10.4.7.2 Requirements:** The solicitation for bids shall describe the authorized methods for bid submittal, the dated and time by which a bid proposal must be received by the District secretary and shall provide a reasonable time to respond to the solicitation, provided that except in an emergency, such time shall not be less than three (3) days.

**10.4.7.3 Bid Opening and Award:** When written bid have been received, they shall be compiled and submitted to the Commissioners or their authorized official, which shall approve the responsive bid proposing the lowest procurement price or reject all bids and re-solicit as before.

**10.4.7.4 Non-award:** If the Commissioners find that it is impractical or impossible to obtain three (3) bids for the proposed procurement, the District may acquire the property in any manner the District deems fit from a qualified vendor quoting the lowest price. When fewer than three (3) bids are considered, a description of the efforts undertaken to procure at least three (3) bids shall be documented and maintained for at least six (6) months after such procurement is made.

**10.4.8 Request for Proposals:** The Board of Commissioners may determine [as provided in Idaho Code Section 67-2806a] to use a request for proposal process as an alternative to the competitive bidding process in accordance with the following:

- 10.4.8.1** The Board of Commissioners shall first determine that:
- Fixed specifications might preclude the discovery of a cost-effective solution; or
  - A specific problem is amenable to several solutions; or
  - Price is not the sole determining factor for selection.
- 10.4.8.2** In regards to the District's intentions to procure goods or services, factors which may be considered in the evaluation of vendors in a request for proposal process may include but are not limited to the following as may be relevant:
- An innovative solution that is offered;
  - Unique product features;
  - Price;
  - Vendor experience in the market;
  - Financial stability of a vendor;
  - Differences among vendors in their ability to perform contract requirements in a timely or efficient manner;
  - Ability to meet product specifications;
  - Product quality;
  - Product performance records;
  - Past performance by a vendor;
  - Future product maintenance or service requirements; and
  - Product warranties.
- 10.4.8.3** A request for proposal shall state the instructions of the process, the scope of work for the goods or services contemplated, the selection criteria, contract terms and the scoring methodology applying relative weights to factors considered.
- 10.4.8.4** Notification, solicitation, and consideration of contests concerning the award of procurement pursuant to a request for proposal shall be in accordance with the minimum requirements established in section 67-2806, Idaho Code, subject to the selection criteria established at the outset of each such procurement. Records compiled in the scoring process shall be made available for public inspection when a procurement recommendation is made to the governing board.

## **Chapter 5**

### **Professional Service Contracts**

**10.5.1 Policy Application:** This section concerns and applies to the securing of professional Engineering, Architectural, Landscape Architecture, and Construction Management and Professional Land Surveying services as defined in Idaho Code § 67-2320 and shall be referred and cited as the “Professional Services Procurement Policy.”

#### **10.5.2 Statutory Authority**

**10.5.2.1** Notus-Parma Highway District No. 2 is subject to the provisions of Idaho Code § 67-2320 which provides that all political subdivisions of the State of Idaho and their agents shall make selections for professional engineering, architectural, landscape architecture, construction management and professional land surveying services on the basis of qualifications and demonstrated competence and are to then negotiate contract for those services based upon demonstrated competence and qualifications at fair and reasonable prices; and

**10.5.2.2** Idaho Code § 67-2320 provides certain minimum statutory guidelines when the professional service fee is anticipated to exceed twenty-five thousand and No/100 Dollars [\$25,000.00] and for circumstances when the professional service fee is anticipated to be less than twenty five thousand and No/100 Dollars [\$25,000.00]; the said statute provides the political subdivision may establish its own guidelines; and

**10.5.2.3** It is the intent and purpose of the Board of Commissioners of this Highway District, pursuant to the provisions of Idaho Code § 67-2320, to establish the following policy for the selection and securing of such professional services governed under I.C. § 67-2320.

#### **10.5.3 Definitions:** As used in this section:

**10.5.3.1 Director of Highways:** means and refers to the duly appointed Director of Highways of the Highway District or designee.

**10.5.3.2 Firm:** means and refers to a firm or person offering professional services as defined herein.

**10.5.3.3 Highway District:** means and refers to Notus-Parma Highway District No. 2.

- 10.5.3.4 **Professional Services:** means and refers to Engineering, Architectural, Landscape Architecture, and Construction Management and Professional Land Surveying services including services by persons licensed pursuant to Chapters 3, 12, 30 and 45, Title 54, Idaho Code.
- 10.5.3.5 **PSA or Agreement:** means and refers to a Professional Services Agreement or contract between the Highway District and the professional services provider (firm).
- 10.5.3.6 **RFP:** means and refers to a Request for Proposals.
- 10.5.3.7 **RFQ:** means and refers to a Request for Qualifications.
- 10.5.3.8 **Secretary:** means and refers to the duly appointed Secretary of the Highway District or designee.
- 10.5.3.9 **SOQ:** means and refers to a Statement of Qualifications.
- 10.5.4 **Basis for Obtaining Professional Services:** All professional services obtained by the Highway District shall be based on demonstrated competence and qualifications of the firm(s) or person(s).
- 10.5.5 **Request for Proposals Notice:** When the anticipated total professional service fee is in excess of twenty-five thousand dollars (\$25,000), the District shall publish notice in accordance with Idaho Code § 67-2320 requesting statements of qualifications and performance data.
- 10.5.6 **Fees Anticipated to Not Exceed \$25,000:** When the anticipated Professional Services fee are less than \$25,000, selection based on the evaluation of a single firm's or person's qualifications is permitted in order to facilitate timely response to small projects at the discretion of the Director of Highways.
- 10.5.7 **Procedural Guidelines:** The following guidelines shall be used to determine the RFQ method for a minimum number of firm(s) to be considered based on the anticipated Professional Services fees.

Anticipated Fee	RFQ Method(s)	Minimum # Considered	Contract Approval
\$0 - \$25,000	Direct Request; Consultant Roster	1	Director of Highways
\$25,000 +	Published Public Notice; Consultant Roster;	3	Board of Commissioners

- 10.5.8 **Request for Qualifications (RFQ):** Statements of Qualifications shall be solicited in one of the following ways:

- 10.5.8.1 **Published Public Notice:** A RFQ will be published by the Secretary twice in at least one official newspaper in general circulation within Canyon County [I.C. §§ 67-2320 (2) (g) and 40-907 and 67-5711C] with the first being published at least two (2) weeks before the date of selection, with the second notice to be published in the succeeding week at least seven (7) days before the selection, one week apart, with the first publication at least fourteen (14) days before the date of opening the proposals. The RFQ will include a description of the project, required services, proposal content (including a description of firm, experience, personnel, and for specific projects a project approach and project schedule shall be included), selection criteria, Highway District contact name and phone number, and proposal deadline. No request for qualifications will be published without authorization of the Board of Commissioners. The Secretary may also solicit SOQ from firms or persons by sending them a copy of such notice. See **“Notice of Request for Qualifications”** and **“Request for Qualifications”** [Forms Book].
- 10.5.8.2 **Direct Request:** A SOQ may be requested directly from a firm or person by the Director of Highways for consideration of their competency and qualifications for the project.
- 10.5.8.3 **Consultant Roster:** The Highway District establishes the Idaho Transportation Department’s Term Agreement List, as updated from time to time, as the Highway District Consultant Roster.
- 10.5.9 **Selection Criteria:** Selection of professional services shall be based on the criteria developed by the Director of Highways for the project and included in the RFQ. See **“Consultant Proposal Evaluation Criteria”** [Forms Book] for additional guidance in evaluating the referenced criteria. The criteria shall include the following, but additional criteria may be included for specific projects:
  - 10.5.9.1 Firm History and Capability to Perform Project.
  - 10.5.9.2 Relevant Project Experience.
  - 10.5.9.3 Qualifications of Project Team Members.
  - 10.5.9.4 Familiarity with Area and Project.
  - 10.5.9.5 Project Approach; and
  - 10.5.9.6 Schedule.

**10.5.10 Selection Procedure:** Where consideration of a single firm's qualifications is permitted by this policy, the Director of Highways shall evaluate the qualification to determine that the firm or person is qualified to perform the anticipated services.

**10.5.10.1** When consideration of more than one firm's qualifications is required by this policy, the qualifications shall be reviewed by at least three (3) persons selected by the Director of Highways, one of which may be the Director of Highways. A person not on Highway District staff may be selected as determined by the Director of Highways.

**10.5.10.2** The reviewers shall review the SOQ and may meet to discuss the qualifications. The references provided in the SOQ may be checked and the results provided to the reviewers for consideration.

**10.5.10.3** Interviews may be conducted as part of the selection procedure at the sole discretion of the Highway District Commissioners. When interviews are to be conducted and the number of firms submitting SOQ exceeds three (3), the evaluation and ranking of SOQ shall be used to determine the ranking for invitations to interview. At least three (3) firms shall be interviewed. When interviews are to be conducted and the number of firms submitting SOQ is less than three (3), all firms submitting shall be interviewed and no initial evaluation and ranking of SOQ is necessary. The reviewers shall evaluate the firms based upon their SOQ and information provided at the interview. Each reviewer shall complete an "**Evaluation Form**" [see Forms Book] listing each firm considered and the reviewers' evaluation of that firm against the selection criteria. Each reviewer shall rank the firms in order of preference. The rankings of each reviewer shall then be combined to determine a final ranking. When contract approval of the Board of Commissioners is required in accordance with Section 10.5.12 of this Policy, the final ranking shall be forwarded to the Board of Commissioners with a recommendation.

**10.5.10.4** The Board of Commissioners may request to have presentations from the highest ranked firm or firms as they determine before authorizing the Negotiations process. The Board of Commissioners will determine their intended process prior to receiving proposals in those circumstances when notice is published, and the process will be included in the public notice.

**10.5.11 Negotiations:** The Director of Highways shall initiate negotiations for an agreement with the highest ranked firm, based on the selection procedure. Negotiations shall be to perform the project services at a price determined by the Board of Commissioners of the Highway District to be reasonable and fair to the public considering the estimated value, the scope, and nature and complexity of the services. If unable to negotiate a satisfactory agreement, negotiations shall be formally terminated by notifying the firm in writing by certified return receipt mail. Once negotiations have been formally terminated, negotiations with the next highest ranked firm may begin.

**10.5.12 Contract Extension:** When the Highway District has previously entered into a Professional Services Agreement with a firm for an associated or phased project, an extended or new professional service agreement may be negotiated with that firm upon the recommendation of the Director of Highways and at the Board of Commissioners' discretion. In this case, it is not necessary to conduct the qualifications evaluation and selection process.

**10.5.13 Contract Approval:** The Director of Highways has the authority to authorize and bind the Highway District to a Professional Services Agreement up to an amount of \$25,000 when within a line item of the District's budgeted appropriation. Only the Board of Commissioners has the authority to authorize and bind the Highway District to a Professional Services Agreement of \$25,000 or greater or exceeding a line item of an appropriation.

## **Chapter 6 Public Works Construction**

**10.6.1 Licensing Requirement:** Idaho Code requires that the District review the licensing requirements for public works contractors based on the contemplated amount of the project being procured.

**10.6.1.1 Under \$50,000:** The Idaho Code specifically exempts any requirements that the District contract with a licensed public works contractor if the amount of the project is anticipated to be less than \$50,000.

**10.6.1.2 \$50,000 and Over:** The District shall award the contract to a licensed public works contractor.

**10.6.2 Bidding Requirements:** The District's bidding requirements are determined by the anticipated amount of the public works construction procurement.

**10.6.2.1 Under \$50,000:** If the anticipated award is under \$50,000, the District is not required to follow any formal bidding procedures and may be guided by the best interests of the District as determined by the Commissioners.

**10.6.2.2 \$50,000 - \$200,000.** If the anticipated award is between \$50,000 and \$200,000, the District shall follow the following solicitation for bid procedures.

**10.6.2.2.1** The solicitation for bids for the public works construction to be performed shall be supplied to no fewer than three (3) owner-designated licensed public works contractors by written means, either by electronic or physical delivery. The solicitation shall describe the construction work to be completed in sufficient detail to allow an experienced public works contractor to understand the construction project the District seeks to build.

**10.6.2.2.2** The solicitation for bids shall describe the electronic or physical delivery method or methods authorized to submit a bid, the date and time by which a bid proposal must be received by the secretary or other authorized official of the District, and shall provide a reasonable time to respond to the solicitation, provided that except in the event of an emergency, such time shall not be less than three (3) business days.

**10.6.2.2.3** Written objections to specifications or bid procedures must be received by the secretary or other authorized official of the District at least one (1) business day before the date and time upon which bids are scheduled to be received.

**10.6.2.2.4** When written bids have been received, by either physical or electronic delivery, they shall be submitted to the Commissioners or other approved official who shall approve the responsive bid proposing the lowest procurement price or reject all bids and publish notice for bids, as before.

**10.6.2.2.5** If the District finds that it is impractical or impossible to obtain three (3) bids for the proposed public works procurement, the District may acquire the work in any manner the District deems best from a qualified public works contractor quoting the lowest price. When fewer than three (3) bids are considered, a description of the efforts undertaken to procure at least three (3) bids shall be documented by the District and such documentation shall be maintained for at least six (6) months after the procurement decision is made. If two (2) or more price quotations offered by different licensed public works contractors are the same and the lowest responsive bids, the District or authorized official may accept the one (1) it chooses.

**10.6.2.3** **Over \$200,000:** If the anticipated public works construction award is greater than \$200,000, the District shall have the option to follow either of the following bid solicitation procedures:

**10.6.2.3.1** **Option A:** Competitive bidding procedures shall be open to receipt of bids from any licensed public works contractor desiring to bid upon a public works project. For an Option A bid, the District may only consider the amount bid, bidder compliance with administrative requirements of the bidding process, and whether the bidder holds the requisite license, and shall award the bid to the qualified bidder submitting the lowest responsive bid.

**10.6.2.3.1.1** The request for bids for an Option A procurement shall set a date and place for the public opening of bids. Two (2) notices soliciting bids shall be published in the official newspaper of the political subdivision. The first notice shall be published at least two (2) weeks before the date for opening bids, with the second notice to be published in the succeeding week at least seven (7) days before the date that bids are scheduled to be opened. The notice shall succinctly describe the project to be constructed. Copies of specifications, bid forms, bidder's instructions, contract documents, and general and special instructions shall be made available upon request and payment of a reasonable plan copy fee by any interested bidder.

- 10.6.2.3.1.2** Written objections to specifications or bidding procedures must be received by the secretary or other authorized official of the District at least three (3) business days before the date and time upon which bids are scheduled to be opened. The Commissioners supervising the bidding process shall respond to any such objection in writing and communicate such response to the objector and all other plan holders, adjusting bidding timeframes if necessary.
- 10.6.2.3.1.3** All bids shall be presented or otherwise delivered under sealed cover to the secretary of the District or other authorized agent designated by the information provided to bidders with a concise statement marked on the outside generally identifying the expenditure to which the bid pertains.
- 10.6.2.3.1.4** If the District deems it is in the District best interest, it may require the bidder to provide bid security in an amount equal to at least five percent (5%) of the amount bid. If required, a bid shall not be considered unless one (1) of the forms of bidder's security is enclosed with it, and unless the bid is submitted in a form which substantially complies with the form provided by the District. The District may require that the bid security be in one (1) of the following forms: a) Cash; b) Cashier's check made payable to the District; c) Certified check made payable to the District; or d) Bidder's bond executed by a qualified surety company, made payable to the District.
- 10.6.2.3.1.5** Any bid received by the District may not be withdrawn after the date and time set in the notice for opening of bids. When sealed bids have been received, they shall be opened in public at a designated place and time, thereafter to be compiled and submitted to the Commissioners for award.

- 10.6.2.3.1.6** If the successful bidder fails to execute the contract, the amount of his bidder's security may be forfeited to the District at the sole discretion of the Commissioners and the proceeds shall be deposited in a designated fund out of which the expenses of procuring substitute performance are paid.
- 10.6.2.3.1.7** The District may, on the refusal or failure of the successful bidder to execute the contract, award the contract to the qualified bidder submitting the next lowest responsive bid. If the Commissioners award the contract to the next lowest qualified bidder, the amount of the lowest qualified bidder's security may be applied by the District to the difference between the lowest responsive bid and the next lowest responsive bid, and the surplus, if any, shall be returned to the lowest bidder if cash or check is used, or to the surety on the bidder's bond if a bond is used, less reasonable administrative costs not to exceed twenty-five percent (25%) of the amount of the bidder's security to the owner.
- 10.6.2.3.1.8** In its discretion, the Commissioners may reject all bids presented and re-bid, or the Commissioners may, after finding it to be a fact, pass a resolution declaring that the project sought to be accomplished by the expenditure can be performed more economically by purchasing goods and services on the open market. If identical bids are received, the Commissioners may choose the bidder it prefers. If no bids are received, the Commissioners may procure the goods or services without further competitive bidding procedures.

**10.6.2.3.2**      **Option B:** Competitive bidding procedures shall be open to licensed public works contractors only after meeting preliminary supplemental qualifications established by the District. The solicitation for bids in *Option B* procurement shall consist of two (2) stages, an initial stage determining supplemental pre-qualifications for licensed contractors, either prime or specialty contractors, followed by a stage during which bid prices will be accepted only from prequalified contractors.

**10.6.2.3.2.1**      Notice of the prequalification stage of the *Option B* competitive bidding process shall be given in the same manner that notice of competitive bidding is provided for an *Option A* competitive bid request, providing a specific date and time by which qualifications statements must be received. The District may establish prequalification standards premised upon demonstrated technical competence, experience constructing similar facilities, prior experience with the District, available non-financial resources, equipment and personnel as they relate to the subject project, and overall performance history based upon a contractor's entire body of work. Such request must include the standards for evaluating the qualifications of prospective bidders.

**10.6.2.3.2.2**      During the initial stage of the *Option B* bidding process, licensed contractors desiring to be prequalified to bid on a project must submit a written response to a District's request for qualifications.

**10.6.2.3.2.3** Written objections to prequalification procedures must be received by the secretary or other authorized official of the District at least three (3) business days before the date and time upon which prequalification statements are due. The administrative officer or Commissioners supervising the bidding process shall respond to any such objection in writing and communicate such response to the objector and all other contractors seeking to pre-qualify, adjusting bidding timeframes if necessary. After a review of qualification submittals, the District may select licensed contractors that meet the prequalification standards. If any licensed contractor submits a statement of qualifications but is not selected as a qualified bidder, the District shall supply a written statement of the reason or reasons why the contractor failed to meet prequalification standards.

**10.6.2.3.2.4** Any licensed contractor that fails the prequalification stage can appeal any such determination to the Commissioners within seven (7) days after transmittal of the prequalification results to contest the determination. If the Commissioners sustain the decision that a contractor fails to meet prequalification standards, it shall state its reason or reasons for the record. A decision concerning prequalification may be appealed to the public works contractor's license board no more than fourteen (14) days following any decision on appeal made by the Commissioners. The public works contractors' license board shall decide any such appeal within thirty-five (35) days of the filing of a timely appeal. The public works contractor's license board shall allow participation, written or oral, by the appealing contractor and the political subdivision, either by employing a hearing officer or otherwise. The public works contractors' license board shall not substitute its judgment for that of the District, limiting its review to determining whether the decision of the Commissioners is consistent with the announced prequalification standards, whether the prequalification standards comport with the law and whether the Commissioners' decision is supported by the entirety of the record. The decision of the public works contractors' license board shall be written and shall state the reason or reasons for the decision. Option B prequalification procedures that are appealed shall be stayed during the pendency of the prequalification appeal until the public works contractors' license board completes its review, but in no instance more than forty-nine (49) days after the appellate decision of the Commissioners regarding prequalification. Any licensed public works contractor affected by a decision on appeal by the public works contractors' license board may, within twenty-eight (28) days of the final decision, seek judicial review as provided by Chapter 52, Title 67, Idaho Code.

- 10.6.2.3.2.5** Following the conclusion of the prequalification administrative procedures, the bidding stage shall proceed by the setting of a time, date and place for the public opening of bids. In circumstances involving prequalified prime contractors, a notice soliciting bids shall be transmitted to prequalified bidders at least fourteen (14) days before the date of opening the bids. In circumstances involving prequalified specialty or subordinate contractors, the notice soliciting bids shall be published in the same manner applicable to *Option A* bids. The notice shall succinctly describe the project to be constructed. Copies of specifications, bid forms, bidder's instructions, contract documents, and general and special instructions shall be made available upon request and payment of a reasonable plan copy fee by any eligible bidder.
- 10.6.2.3.2.6** Written objections to specifications or bidding procedures must be received by the secretary or other authorized official of the District at least three (3) business days before the date and time upon which bids are scheduled to be opened.
- 10.6.2.3.2.7** All *Option B* bids shall be presented or otherwise delivered under sealed cover to the secretary or other authorized agent of the District designated by the instructions to bidders with a concise statement marked on the outside generally identifying the expenditure to which the bid pertains.

**10.6.2.3.2.8** If the District deems it is in the District's best interest, it may require the bidder to provide bid security in an amount equal to at least five percent (5%) of the amount bid. If required, a bid shall not be considered unless one (1) of the forms of bidder's security is enclosed with it, and unless the bid is submitted in a form which substantially complies with the form provided by the District. The District may require that the bid security be in one (1) of the following forms: a) Cash; b) Cashier's check made payable to the political subdivision; c) Certified check made payable to the political subdivision; or d) Bidder's bond executed by a qualified surety company, made payable to the political subdivision.

**10.6.2.3.2.9** Any *Option B* bid received by the District may not be withdrawn after the date and time set in the notice for opening of bids. When sealed bids have been received, they shall be opened in public at a designated place and time, thereafter to be compiled and submitted to the Commissioners for award. If identical bids are received, the Commissioners may choose the bidder it prefers. If the successful bidder fails to execute the contract, the amount of his bidder's security may be forfeited to the District, in the sole discretion of the Commissioners, and the proceeds shall be deposited in a designated fund out of which the expenses for procuring substitute performance are paid.

**10.6.2.3.2.10** The District may, on the refusal or failure of the successful bidder to execute the contract, award the contract to the qualified bidder submitting the next lowest responsive bid. If the Commissioners award the contract to the next lowest qualified bidder, the amount of the lowest qualified bidder's security, if forfeited, shall be applied by the District to the difference between the lowest responsive bid and the next lowest responsive bid, and the surplus, if any, shall be returned to the lowest bidder if cash or check is used, or to the surety on the bidder's bond if a bond is used, less reasonable administrative costs not to exceed twenty-five percent (25%) of the amount of the bidder's security.

**10.6.3** In its discretion, the Commissioners may reject all bids presented and re-bid, or the Commissioners may, after finding it to be a fact, pass a resolution declaring that the project sought to be accomplished by the expenditure can be performed more economically by purchasing goods and services on the open market. If no bids are received, the Commissioners may make the expenditure without further competitive bidding procedures.

**10.6.4** If the Commissioners chooses to award a competitively bid contract involving the procurement of public works construction to a bidder other than the apparent low bidder, the District shall declare its reason or reasons on the record and shall communicate such reason or reasons in writing to all persons who have submitted a competing bid.

**10.6.5** If any participating bidder objects to such award, such bidder shall respond in writing to the notice from the District within seven (7) calendar days of the date of transmittal of the notice, setting forth in such response the express reason or reasons that the award decision of the governing board is in error. Thereafter, staying performance of any procurement until after addressing the contentions raised by the objecting bidder, the Commissioners shall review its decision and determine whether to affirm its prior award, modify the award, or choose to re-bid, setting forth its reason or reasons therefore. After completion of the review process, the District may proceed as it deems to be in the public interest.

## **Chapter 7**

### **Emergency, Sole Source, Public Auction Purchases, and Exceptions**

**10.7.1 Emergency Procurement:** The Commissioners may declare that an emergency exists and that the public interest and necessity demand the immediate expenditure of public money if:

- 10.7.1.1** There is a great public calamity, such as an extraordinary fire, flood, storm epidemic or other disaster;
- 10.7.1.2** It is necessary to do emergency work to prepare for the national or local defense; or
- 10.7.1.3** It is necessary to do emergency work to safeguard life, health, or property.
- 10.7.1.4** Upon making such a declaration of emergency, any sum required in the emergency may be expended without compliance with formal bidding procedures.

#### **10.7.2 Sole Source**

**10.7.2.1** The Commissioners may declare that there is only one (1) vendor if there is only one (1) vendor for the personal property to be acquired. For purposes of this Section, "only one (1) vendor" shall refer to situations where, after surveying available sources, the Director of Highways concludes that there is only one source reasonably available, and shall include, but is not limited to:

- 10.7.2.1.1** Where public works construction, service, or personal property is required to respond to a life-threatening situation or a situation that is immediately detrimental to the public welfare or property;
- 10.7.2.1.2** Where the compatibility of equipment, components, accessories, computer software, replacement parts, or service is the paramount consideration;
- 10.7.2.1.3** Where a sole supplier's item is needed for trial use or testing;
- 10.7.2.1.4** Purchase of mass-produced movie, video, books or other copyrighted materials;

- 10.7.2.1.5 Purchase of property for which it is determined there is no functional equivalent;
- 10.7.2.1.6 Purchases of public utility services;
- 10.7.2.1.7 Purchase of products, merchandise, or trademarked goods for resale at a political subdivision facility; or
- 10.7.2.1.8 Any other situation deemed appropriate by the Director of Highways for sole source declaration.

10.7.2.2 Upon making a declaration that there is only one (1) vendor for public works construction, services, or personal property, unless the public works construction, service or personal property is required for a life-threatening situation or a situation that is immediately detrimental to the public welfare or property, notice of a sole source procurement shall be published in the official newspaper of the District at least fourteen (14) calendar days prior to the award of the contract.

10.7.2.3 A sole source declaration made pursuant to this section may be made without an emergency declaration under section 15.2.1.

10.7.3 **Piggy Back Bid:** In the event either equipment, supplies or other item qualifies as a Piggy Back Bid the Director of Highways shall report the same to the Commissioners confirming the bid process followed by the State of Idaho, or one of its subdivisions and or agency of the Federal Government, and that the successful bidder will honor the successful bid to this Highway District and that the equipment, supplies or other item which was successfully bid is the same sought to be purchased by the Highway District.

**10.7.4 Cooperative Purchasing:**

10.7.4.1 Subject to the approval of the Commissioners the Director of Highways shall have the authority to join with other units of government in cooperative purchasing plans when the best interest of the District would be served thereby, and the requirements of the Idaho Code have been met.

10.7.4.2 In the event the state of Idaho, one of its subdivisions, or an agency of the federal government, has competitively bid for the acquisition of personal property, the Director of Highways, after finding such competitive bid to be in the best interest of the District may proceed to acquire the personal property through the use of that contract with the approval of the Commissioners.

**10.7.4.3** Subject to the approval of the Commissioners, the District may participate in cooperative purchasing agreements with the state of Idaho, other Idaho political subdivisions, other government entities, or associations thereof and may also participate in cooperative purchasing programs established by any association that offers its goods or services as a result of competitive solicitation processes. [I.C. § 67-2807]

**10.7.5 Public Auction Purchase Authorization:** The Board of Commissioners may, preauthorize the purchase of equipment at a public auction, by motion or resolution in an open meeting. [I.C. § 67-2803 (18)]

**10.7.6 Other purchases which are exempted from the Procurement Law:** [I.C. § 67-2803 (3 - 16)]

- (3) Disbursement of wages or compensation to any employee, official or agent of a political subdivision for the performance of personal services for the political subdivision;
- (4) Procurement of personal or professional services to be performed by an independent contractor for the political subdivision;
- (5) Procurement of an interest in real property;
- (6) Procurement of insurance;
- (7) Costs of participation in a joint powers agreement with other units of government;
- (8) Procurement of used personal property by irrigation districts, drainage districts and their boards of control;
- (9) Procurement from Federal government general services administration (GSA) schedules or federal multiple award schedules (MAS); or
- (10) The acquisition Procurement of personal property or services through contracts entered into by the division of purchasing of the department of administration of the state of Idaho;
- (11) Procurement of goods for direct resale;
- (12) Procurement of travel and training;
- (13) Procurement of goods and services from Idaho correctional industries;
- (14) Procurement of repair for heavy equipment;
- (15) Procurement of software maintenance, support and licenses of an existing system or platform that was bid in compliance with state law;
- (16) Procurement of public utilities;

## **Chapter 8**

### **Surplus Personal Property**

- 10.8.1 Surplus Property:** Surplus Materials, supplies, equipment or personal and acquired for Highway District use and which is no longer required for Highway District use either because of obsolescence, deterioration, or other circumstances. The term does not include items acquired by the Highway District for retail sale or public right-of-way which is subject only to the process and procedure for abandonment and vacation.
- 10.8.2 Procedure for Sale and or disposition of Surplus Personal Property:** The Director of Highways may recommend to the Board of Commissioners that certain identified personal property is no longer useful to the Highway District and provide an estimate of the value of the identified property and recommendation whether the same shall be transferred to another government subdivision of the state of Idaho pursuant to the provisions of I.C. §§ 67-2322- 67-2324 either for and or without consideration or other method of disposition of the surplus property and use the following format for the report: See **Surplus Property List And Disposition** [Forms Book]
- 10.8.2.1** The Board of Commissioners may then adopt a resolution declaring the property to be no longer useful and determine in the case of personal property that its value either exceeds or does not exceed \$10,000.00 in value and which resolutions shall include the intent to sell or exchange the property; and
- 10.8.2.2** In the event of real property and/or personal property which exceeds \$10,000.00 in value the Board of Commissioners shall set a date for hearing where interested persons may appear and show cause why the sale or exchange should not take place notice of which shall be provided in accordance with I.C. §§ 40-1309 and 40-206; and
- 10.8.2.3** In the event the personal property determined value is less than \$10,000.00 the same may be sold at private auction without advertisement as the Board of Commissioners may determine; and
- 10.8.2.4** In the event the property is real property the Board of Commissioners shall have the same appraised its current market value; and
- 10.8.2.5** Sale or transfer conducted in accordance with the requirements of I.C. § 40-1309 and or in the case of a transfer to a qualifying government subdivision with the requirements of I.C. §§ 67-2322- 67-2324.

## **Chapter 9**

### **Surplus Real Property**

- 10.9.1 Surplus Property:** Surplus real property acquired for Highway District use and which is no longer required for Highway District use is subject to this policy. The term does not include any highway and or public right-of-way which are subject only to the process and procedure for abandonment and vacation. Idaho Code § 40-1309 prescribes a procedure to be followed regarding the disposition of real property.
- 10.9.2 Procedure for Sale and or Disposition of Surplus Real Property:** The Director of Highways may recommend to the Board of Commissioners that certain identified real property is no longer useful to the Highway District and provide an estimate of the value of the identified property and recommendation whether the same shall be transferred to another government subdivision of the state of Idaho pursuant to the provisions of I.C. §§ 67-2322- 67-2324 either for and or without consideration. In event of a transfer of the real property to another government subdivision of the state of Idaho the provisions of I.C. §§ 67-2322-67-2324 shall be followed and which may include the appraisal process provided in this Chapter.
- 10.9.3 Appraisal Obtained:** If the Board of Commissioners agrees that the real property is no longer useful, they shall cause an appraisal from a licensed appraiser to report to the board on the reasonable value of the subject property. The Board shall determine whether or not the appraisal is reasonable and may request additional appraisal/s as they deem necessary in this process.
- 10.9.4 Determination of Ownership of Adjacent Real Property:** If the Board of Commissioners agrees that the real property is no longer useful, they shall also cause an investigation and report to the Board by engineering staff of the existence and ownership of any real property which is contiguous to the subject real property.
- 10.9.5 Public Hearing Held:** Following the receipt and acceptance of the appraisal of the real property, and the investigation report of the engineering staff regarding the existence and ownership of any contiguous real property, the Board of Commissioners shall set a date, time and location for a public hearing and authorize the publication of notice in accordance with I.C. § 40-206 of its intent to declare the real property surplus. At the public hearing interested persons may appear and show cause that such real property is still useful to the District and that the sale or exchange should not be made. The form of the resolution may be as follows: **Intent to Declare Real Property Surplus and Hold a Public Hearing** [Forms Book]
- 10.9.6 Resolution call for Sale:** Following the public hearing the Board of Commissioners may adopt a resolution finding that the real property is no longer useful to the District should be sold.

**10.9.6.1 Notice to Owners of Continuous Real Property:** In the event there is real property which is continuous to the District real property which is to be sold, then in that event, the Board of Commissioners shall cause notice to be given to the owner/s of all contiguous real property which notice shall be sent by certified mail to the last known address of the owner/s and which notice shall include:

- The Board's resolution finding the Subject Real Property is no longer useful to the District, and
- The current appraised value, and
- Notification of their right of option to purchase at appraised value; and
- That there will be a private sale if more than one continuous real property owner wants to exercise their right to purchase; and
- The date and time [not less than two weeks] when the contiguous property owners must provide written notice to the District of their exercise of their right to purchase the subject real property at appraised value.

**10.9.7 Resolution Establishing Procedure for Sale of Real Property:** In the event no owner/s of contiguous real property provide notice of their exercise of their right of option to purchase, or in the event there are not contiguous real properties; the Board of Commissioners shall establish by resolution the procedure for the sale of the real property which maybe by live public auction, or receipt of sealed bids or by some other reasonable commercial means. Notice of the sale shall, at a minimum be in compliance with I.C. §74-204, and the sale cannot take place at the same regular meeting as the public hearing referenced in this Chapter.

The form of the resolution may be as follows: **Intent to Declare Real Property Surplus and Hold a Public Hearing** [Forms Book]

## **Chapter 10**

### **Independent Contractors for Personal Services Exceeding \$10,000**

**10.10.1** At such time as the Board of Commissioners enters into a personal service contract with an independent contractor which is over ten thousand dollars (\$10,000.00) in annual payment the following shall then occur:

**10.10.1.1** Notice: The District Secretary shall then cause notice to be published within fifteen (15) days of the date the Board of Commissioners enters into the personal service contract.

**10.10.1.2** The Notice shall be published in the official paper once within 15 days of entering contract. [I.C. § 59-514 (1)]

**10.10.1.3** The Notice shall be substantially in the form provided in the Forms Book and Operations Manual under Secretary named “Notice of Personal Service Contract”.

**10.10.1.4** Personal Service is defined by Idaho Code Section 59-514 (2) as follows:

*(2) "Personal service" means performance for remuneration by an individual on a specified contractual basis of specialized professional or consultive expertise germane to administration, maintenance or conduct of governmental activities which require intellectual or sophisticated and varied services, dependent upon facilities, invention, imagination, or a specific talent which the state or the taxing entity itself cannot provide or accomplish.*

# **Title 11 Tort Claims**

## **Chapter 1 Service of Tort Claims**

- 11.1.1** Idaho Code § 6-906 provides and requires that all tort claims [claims for money damages arising out of a claim of negligence or otherwise wrongful acts or omissions governed under chapter 9 of title 10 Idaho Code] against the Notus-Parma Highway District No. 2 or an employee thereof for an act or omission of the employee acting within the scope and course of employment shall be presented to and filed with the Secretary of the Highway District.
- 11.1.2** No employee, officer, Commissioner, or agent of the Notus-Parma Highway District No. 2 is authorized to accept service on behalf of the Highway District other than the Secretary and/or the Secretary's designee which designee shall be approved by the Commissioners.

## **Chapter 2 Process of Tort Claims**

- 11.2.1** At such time as a tort claim is properly served upon the Secretary or the Secretary's designee, he/she shall notify and provide a copy to the Director of Highways, Commissioners, Attorney, and the Highway District's liability insurance carrier and shall issue a Do Not Destroy Records directive pursuant to the Highway District's Records Policy.
- 11.2.2** An investigation should be commenced in coordination with the Highway District's insurance carrier. All records created as a part of the investigation of a tort claim should be placed in a separate file designating the name of the claimant and labeled "Claim Investigation and Claims Evaluation File" and naming the designated custodian who manages that file.
- 11.2.3** Under law, the Commissioners have ninety [90] days from the date of service of the Tort claim in which to respond. If no response is made, the tort claim is deemed denied as provided by Idaho Code § 6-909.

## **Title 12 Annual Report**

### **Chapter 1 Annual Report**

- 12.1.1** Idaho Code § 40-1316 requires that on or before January of each year this Highway District shall make a report of the condition of the work, construction, maintenance, and repair of all of the highways within the Highway District on the 1st of October.
- 12.1.2** The Director of Highways is responsible for the preparation of the annual report of the Highway District which report shall contain all of the highways within the Highway District under its jurisdiction and which shall be known as the Annual Report of Highways.
- 12.1.3** The Annual Report of Highways shall contain the condition of the work, construction, maintenance, and repair of all the highways which are in the Highway Districts Highway System and which report shall contain a map and such other facts necessary for setting forth generally the situation and condition of the Highway District's highway System.
- 12.1.4** In order to assure consistency and continuity as can best be accomplished the Director of Highways shall include the process of the preparation of the Annual Report of Highways with the process of the Secretary/Treasurer in the preparation and update of the list of all Fixed Capital Assets of the Highway District for audit purposes.
- 12.1.5** The Annual Report of Highways shall not become official until approved by the Highway District Commissioners.

# Title 13

## HSDP Standards & Amendments Permits

### Chapter 1

#### HSDP Standards Adopted

- 13.1.1 Purpose:** This Highway District Board of Commissioners has the exclusive general supervisory authority over all public highways, public streets, and public rights-of-way under its jurisdiction, with full power to establish design standards, establish use standards, and to control access to the same as well as the authority to regulate the acceptance of public highways, public streets into its highway system.
- 13.1.2 Adoption of HSDP Standards:** The Board of Commissioners adopts the *Highway Standards and Development Procedures for the Association of Canyon County Highway Districts (ACCHD) Manual* [2022 Edition], hereinafter also referred to as HSDP, for all matters of its provisions, for application to the jurisdiction of this Highway District and its Board of Commissioners.
- 13.1.3 Adoption of Functional Classification Map 2040:** The Board of Commissioners adopts the *Notus-Parma Highway District No. 2 Functional Classification Map 2040* dated May 9, 2019.

### Chapter 2

#### Fees

- 13.2.1 Fee Schedule:** The following are the findings of the Board of Commissioners considering their authority and the adoption of a fees schedule:
- 13.2.1.1** Idaho Law at § 50-1312 provides that no plat shall be accepted for recording by the county recorder unless the acceptance of said plat by the Commissioners of the Highway District is endorsed thereon in writing; and
  - 13.2.1.2** In order for the Highway District to assure its responsibility in the approval of a plat, it requires review of plat application, drawings, and inspection of construction where public dedication of highways is involved; and
  - 13.2.1.3** Section 07-10-15 Canyon County Code provides: No permanent structure shall be located closer than seventy feet (70') to any section line unless the Board of Commissioners of the Highway District having jurisdiction waives the seventy foot (70') set back requirement; and
  - 13.2.1.4** The agents of this Highway District must provide a service in the administration and process of plat and variance applications; and

- 13.2.1.5 This Highway District Commissioners have the authority to manage and conduct the business and affairs of the Highway District [I.C. § 40-1310 (1)]; and
- 13.2.1.6 Idaho Code § 63-1311 provides that the governing board of any taxing district may impose and cause to be collected fees for services provided which would otherwise be funded by property tax revenues; and
- 13.2.1.7 It is determined by the Board of Commissioners of this Highway District that there is a reasonable relationship of the fees herein established to the cost incurred by this District, of the administration and staffing, of services required for inspection and/or plan review and application process as hereinafter provided; and
- 13.2.1.8 In order to avoid funding the costs incurred by this Highway District to provide the services for plan review and inspections and for variance applications with property tax, the following fees are herein enacted and established; and
- 13.2.1.9 The Board of Commissioners has provided all notice and conducted a public hearing in accordance with the provisions of Idaho Code § 63-1311A, prior to the adoption of this policy.
- 13.2.1.10 The Board of Commissioners does hereby adopt and enact the following fee schedule to be imposed and collected by this Highway District as a condition of conducting the service of applications process, including needed inspection and/or plan review as hereinafter specified:

**FEE SCHEDULE  
NOTUS-PARMA HIGHWAY DISTRICT NO. 2**

**Development Fees**<sup>2</sup>

<b>Improvement Drawing Review (Payable with Plan Submittal)</b>	-\$200.00 plus \$6.00 per lot <sup>3</sup>
<b>Final Plat Review (Payable with Final Plat Submittal)</b>	-\$300.00 plus \$6.00 per lot <sup>3</sup>
<b>Construction Phase (Payable at Preconstruction Meeting)</b>	-\$600.00 plus \$40.00 per lot <sup>3</sup>
<b>Testing</b>	- Actual cost
<b>Traffic Impact Study Review</b>	-\$200.00
<b>Other Development Review</b>	-\$200.00

<sup>2</sup> For multi-phase developments, complete Final Plat(s) and Improvement Drawings may be submitted for the entire development for review at one time and will be subject to review fees based on the total number of lots. If Final Plats and Improvement Drawings are submitted separately for each phase, review fees will be based on each phase as a separate development. Construction phase fees will apply to each individual phase of construction.

<sup>3</sup> Subdivision fees shall be based on buildable lots.

**Application and Permit to Use Right-of-way<sup>4</sup> (Special Use Permits)**

(Administrative Fee and Deposit shall be separate, but both payable at time of application.)

<b>Administrative Fee<sup>5</sup></b>	
<b>Lot Split (Administrative Land Division)</b>	-\$250.00
<b>Approach, Subdivision – 1 or 2 Residential Properties</b>	-\$50.00
<b>Approach, Non-Subdivision – 1 or 2 Residential Properties</b>	-\$100.00
<b>Approach, Commercial &amp; 3 or more Residential</b>	-\$150.00
<b>Street Cut, Perpendicular to Roadway</b>	-\$150.00
<b>Street Cut, Parallel to Roadway<sup>6</sup></b>	-\$700.00 plus \$0.50 per foot
<b>Utilities<sup>7</sup></b>	-\$50.00
<b>Other</b>	-\$75.00
<b>Deposit<sup>8</sup> (Deposit Refundable upon satisfactory completion of work)</b>	
<b>Approach, Subdivision – 1 or 2 Residential Properties</b>	-\$200.00
<b>Approach, Non-Subdivision – 1 or 2 Residential Properties</b>	-\$400.00
<b>Approach, Commercial &amp; 3 or more Residential</b>	-\$2,500.00
<b>Street Cut, Perpendicular to Roadway</b>	-\$2,000.00
<b>Street Cut, Parallel to Roadway<sup>6</sup></b>	-\$40.00 per foot
<b>Other</b>	- Based on estimated construction, as determined by Highway District

**Variance**

<b>Highway District Standards</b>	-\$750.00 plus any additional cost <sup>9</sup>
<b>Setback (Section or Quarter Section Line)</b>	-\$150.00

<b>Right-of-way Vacation/Abandonment/Validation</b>	-\$1,600.00 plus any additional cost <sup>9,10</sup>
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<b>Right-of-way Reclassification</b>	-\$650.00 plus any additional cost <sup>9</sup>
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**Other Fees**

<b>House Moving Permits</b>	-\$ 5.00	
<b>Wide Load Permits</b>	-\$ 5.00	
<b>129K Route Permits</b>	-\$50.00	
<b>Sign Installation Cost (Per Sign or Sign Post)<sup>11</sup></b>	-\$ 75.00	
<b>No Spray Zones</b>	<b>Initial Application</b>	-\$25.00
	<b>Renewal</b>	-\$10.00
<b>Highway Standards Manual</b>	-\$10.00, plus tax, if applicable.	

<sup>4</sup> The Highway District reserves the option to increase this fee or deposit under special conditions.

<sup>5</sup> Administrative fees for approaches, street cuts, or other work within the right-of-way for which construction commences without first obtaining a permit to use the right-of-way, shall be triple the amount otherwise required

<sup>6</sup> Administrative Fees and Deposits for Street Cuts, Parallel to Centerline shall apply to off-site roadway widening and frontage improvements for subdivisions in other jurisdictions.

<sup>7</sup> Utilities include power, gas, telecommunications, and cable.

<sup>8</sup> In lieu of deposit, major utility companies shall provide an annual Bond in the amount of \$7,500.00 to the Highway District.

<sup>9</sup> Any additional costs will be charged at the actual amount above those included in the fee.

<sup>10</sup> Fee includes \$300.00 in legal costs and \$300.00 for public hearing legal advertisement.

<sup>11</sup> Sign installation applies to locations within public highway right-of-way and at the discretion of the Highway District. Cost does not include actual sign and sign post assembly costs. Administrative permit fee applies at time of permit issuance for initial sign installation.

## Chapter 3 Applications, Permits, Forms & Process

**13.3.1 Application for Special Permit HSDP § 2120:** The Board of Commissioners adopts the following for the application form and process for Special Permit:

**Application for Special Permit HSDP § 2120** [Forms Book]

**13.3.1.1 License Form for Non-Utility:** The Board of Commissioners adopts the following form for use in the issuance of a non-utility license under HSDP § 2120: **Non-Utility Permit/License for Special Use of Right-of-Way** [Forms Book]

**13.3.2 Application for Special Permit Access HSDP § 2120:** The Board of Commissioners adopts the following for the application form and process for Special Permit Access:

**Application for Special Permit Access HSDP §2120** [Forms Book]

**13.3.3 Application for Variance HSDP § 2140:** The Board of Commissioners adopts the following for the application form and process for Variances of its adopted standards:

**Application for Variance Permit HSDP §2140** [Forms Book]

**13.3.4 Petition And Process Form for Abandonment and Vacation of Highway District System Highway and/or Right-of-Way, Idaho Code §§ 40-203 and HSDP § 2150:**

The Board of Commissioners adopts the following for the application form and process for Abandonment and Vacation petitions: Idaho Code § 50-1330 and 50-1306A each provide that if the right-of-way is within 1 mile of a city or impact area the consent of the City Council shall be necessary prior to the granting of acceptance or vacation of public street or public right-of-way by the Board of Highway District Commissioners [I.C. § 50-1330]. It is therefore very important in the plat process to assess early on whether or not the subject land of the proposed plat is within 1 mile of a city or within the city impact area or adjacent to a platted area that is within 1 mile of a City. See **Petition for Abandonment and Vacation of Highway and/or Right-of-Way** [Forms Book]

**13.3.5 Application and Process Form for Acceptance of Roadway into Highway System for Continuous Maintenance** (*Highway Standards and Development Procedures for the Association of Canyon County Highway Districts (ACCHD) Manual, January 2010 Revision, § 2110*).

The Board of Commissioners adopts the following for the application form and process for acceptance of a roadway into the highway system for continuous

<sup>12</sup> Plotting shall be for standard maps produced for Highway District purposes.

<sup>13</sup> Square footage of map shall be based on the area of the paper rounded to the nearest square foot.

maintenance: **Application and Process Form for Acceptance of Roadway into Highway System for Continuous Maintenance** [Forms Book]

## **Chapter 4**

### **Special Events and House Structure Moving**

- 13.4.1** Use of the Public Rights-of-Way of this Highway District is processed under the Highway Standards and Development Procedures [Section 2120] - Special Permits. See **Application for Special Permit to Move Building on Highway** [Forms Book] See **Permit to Move Building** [Forms Book]
- 13.4.2 Special Permits:** Since the Highway Districts have the administrative responsibility for use of public road rights-of-way, any use of the rights-of-way for purposes other than vehicular travel along the main roadway shall be by permit only, obtained from the Highway District. Such uses will include, but not be limited to, driveways, non-public approach roads, buried utilities, signs, utility poles, conduits, landscaping, etc. The use of right-of-way for other than vehicular travel shall be in accordance with the State of Idaho Transportation Department latest edition of A Policy for The Accommodation of Utilities within the Right-of-Way of The State Highway System in The State of Idaho.
- 13.4.2.1** Fees for special permits shall be in accordance with the Fee Schedule.
- 13.4.2.2** At utility/culvert crossings, all utilities shall be installed under culverts unless otherwise approved by the Highway District.
- 13.4.2.3** Underground utilities within the Right-of-Way shall be installed at a minimum depth of 30 inches.
- 13.4.2.4** Moving a Structure/Manufactured Home/Other Buildings upon a Highway requires a Highway District permit in accordance with the following:
- 13.4.2.4.1** The Applicant and permit holder shall be the mover; and
- 13.4.2.4.2** The Applicant shall make application for a permit, under this section, upon a form adopted by the Board of Commissioners which shall include information regarding the Applicant and Applicant contact information, Structure/Manufactured Home/Other Buildings to be moved, date and time and the route; and

- 13.4.2.4.3 In the event there is reasonable risk that there may be damage to the highway and/or signage the District may require, as a condition of the issuance of the permit, that the Applicant post a Bond/Letter of Credit/ Cash as surety for the performance of the move without damage to District Highway and/or signage; and
  - 13.4.2.4.4 The time and date of the move is subject to determination by Highway District considering Highway District staff availability and traffic safety and congestion; and
  - 13.4.2.4.5 The Highway route of the move should be the shortest distance depending upon highway conditions; and
  - 13.4.2.4.6 Any change in the route and/or time of the move as herein permitted and stated in the Application will invalidate the Permit, unless 24 hours Written Notice of any such change is provided to the Highway District and the District approves any such change in writing, which must be appended to the permit; and
  - 13.4.2.4.7 Applicant will notify the Highway District by phone when the move is commenced and will coordinate the move with the Canyon County Sheriff's office, and will maintain the Permit in the vehicle moving the Structure/Manufactured Home/Other Building at all times during the move.
- 13.4.2.5 Applications for license/permits for irrigation [pressurized and gravity flow] and/or drainage pipelines for farm and or individual residence uses should be made by completion of the approved application form for a license/permit for irrigation [pressurized and gravity flow] and/or drainage pipelines for farm and/or individual residence uses which is processed as follows:
- 13.4.2.5.1 The Application shall be completed by the owner of the subject of the licensed permit for irrigation and/or drainage pipelines for farm and/or individual residence uses and signed by the contractor who is and then filed with the Secretary together with the payment of any fees established for by the Board for the processing of the application.
  - 13.4.2.5.2 Completed applications shall be forwarded by the Secretary to the Director of Highways or the Director's designee for processing.

- 13.4.2.5.3 The Director of Highways has authority to issue a license/permit for irrigation and or drainage pipelines for farm and/or individual residence uses, as the case may be, for such applications that comply with the policy standards of the Highway District.
- 13.4.2.5.4 Applications which require variances of Highway District standards or policies, be processed as a variance.
- 13.4.2.5.5 Applications which are denied by the Director of Highways may be appealed to the Board of Commissioners. Notice of appeal must be filed with the Secretary within fourteen (14) days of the issuance of the denial. The Secretary shall then present the appeal to the Board of Commissioners at their next regular meeting, at which time they shall set the matter for hearing and direct the Secretary to provide notice of the hearing to the applicant.

**13.4.3 Special Events:** To hold a special event upon or other non-vehicular use of a Highway requires a Highway District permit in accordance with the following:

- 13.4.3.1 The Applicant and permit holder shall be, and are, the responsible person(s) and/or entity for the requested event and/or use; and
- 13.4.3.2 The Applicant shall make application for a permit, under this subsection, upon a form adopted by the Board of Commissioners which shall include information regarding the Applicant and Applicant contact information, date and time, highway location/s, purpose of event and/or use, security being provided for the protection of persons and property, applicant's liability insurance coverage and arrangements, if any, which have been made with Canyon County Sheriff's office; and
- 13.4.3.3 In the event there is reasonable concern that there may be damage to the highway and/or signage the District may require, as a condition of the issuance of the permit, that the Applicant post a Bond/Letter of Credit/Cash as surety for the performance of the special event or other use without damage to District Highway and/or signage; and
- 13.4.3.4 Applicant shall, as a condition of the issuance of the permit, have and carry liability insurance naming the Highway District as an additional insured for liability arising out of, and/or by reason of the special event, and/or other permitted use in an amount not less than the liability insurance coverage then carried by the Highway District, and shall provide to the Highway District a certificate of insurance; and

- 13.4.3.5 The time and date and location of the special event and/or other use is subject to determination by Highway District considering Highway District staff availability, traffic safety and congestion, damage to neighboring property, and/or persons and traffic control; and
- 13.4.3.6 The Board of Commissioners may designate and/or limit the highway/s upon which it will allow special events, and/or other permitted use and/or times, with primary consideration to vehicular traffic use and safety and risk of damage to Highway District and neighboring property; and
- 13.4.3.7 Any change in the special event and/or other use, as herein permitted and stated in the Application, will invalidate the Permit unless 24 hours Written Notice of any such change is provided to the Highway District and the District approves any such change in writing, which must be appended to the permit; and
- 13.4.3.8 Applicant will notify the Highway District by phone when the special event and/or other use is commenced and will coordinate, if required, the special event and/or other use with the Canyon County Sheriff's office, and will maintain the Permit on the site at all times during the special event and/or other permitted use; and
- 13.4.3.9 All special traffic signage reasonably required by reason of the special event and/or other permitted use shall be under the direction and control of the Highway District and all expense associated therewith shall be paid by the Applicant as a condition of the issuance of the permit in addition to the permit fee; and
- 13.4.3.10 In the event the Applicant is a government subdivision of the State of Idaho, agency of the State of Idaho, and/or the Federal Government, the Highway District may not impose any fee.
- 13.4.3.11 The Highway District may impose any other reasonable conditions upon the issuance of a permit in order to assure traffic safety, protection of persons and property and orderly use of the permit.

## **Chapter 5**

### **Canyon County Permits & Process**

- 13.5.1 **Administrative Land Division:** The Board of Canyon County Commissioners has adopted on December 19, 2008 Ordinance No. 08-026 amending its Zoning Ordinance No. 05-002, adopted on the 19th of January, 2005, which now provides for the following Administrative Land Divisions:

- 13.5.1.1 Administrative land division contiguous platted or un-platted land [Canyon County Code § 07-10-25 (5) (A)];
- 13.5.1.2 Administrative land division of platted or un-platted land which is not viable farmland [Canyon County Code § 07-10-25 (5) (B)];
- 13.5.1.3 Administrative land divisions of platted or un-platted land for relocation of building permits between contiguous parcels [Canyon County Code § 07-10-25 (5) (C)] Administrative land division of platted or un-platted land not viable farm ground [Canyon County Code § 07-10-19 (9) (C)]; and
- 13.5.1.4 All subsections of Canyon County Code § 07-10-25 (5) governing Administrative Land Division of Original Parcels provides:
  - Proposed Land Division Acknowledgment by Highway District and Rural Fire Districts:** To provide the opportunity for the applicant to coordinate/mitigate certain issues, a letter of acknowledgment from the appropriate highway and rural fire district shall be submitted along with an application for an administrative land division. The final decision shall be determined by the director. The letter of acknowledgement, specific to the individual highway/rural fire department district standards/regulations and enforced by the appropriate district, shall become part of the administrative land division decision issued by the director. The final decision shall be determined by the director.*
- 13.5.1.5 The Commissioners of the Notus-Parma Highway District No. 2 have established an application form and process for administering a letter of acknowledgment for the Canyon County administrative land division ordinance provisions above referenced.
- 13.5.1.6 The Commissioners have adopted a form and process for Letter of Acknowledgment for Canyon County Administrative Land Division applications, as follows:
  - 13.5.1.6.1 The following form is adopted for official use by this Highway District: **Administrative Land Division Application for Letters of Acknowledgement** [Forms Book]
  - 13.5.1.6.2 The Director of Highways is authorized as the official duly authorized agent to approve, conditionally approve and or deny Administrative Land Division Applications for Letter of Acknowledgment.

13.5.1.6.3 The Commissioners will decide any dispute filed by the applicant of a decision of the Director of Highways, which must be filed within 14 days of the date a copy of the decision is served on the applicant.

13.5.1.6.4 The fee for processing these applications will be set by separate action of the Board of Commissioners.

**13.5.2 County Section Line Set-Back:** In accordance with Section 07-10-15 Canyon County Code: No permanent structure shall be located closer than seventy feet (70') to any section line (or quarter-section line) unless the Board of Commissioners grants a waiver in accordance with the following criteria:

**13.5.2.1 Full Waiver:** A full waiver may be granted in the event any of the following circumstances are present:

- Construction of a highway is not economically feasible or would create significant safety issues or would be inconsistent with highway design practices due to topographic constraints; or
- Is located within a subdivided or platted parcel such that a section or quarter section line bisects an existing lot/parcel or permanent, or structures within the plat or subdivision encroach within the setback; or
- A continuation of a highway along the section or quarter section line is unlikely, as determined by the Highway District due to topographic or physical constraints; or
- Transportation plans, corridor plans, or other planning documents approved by the Highway District specifically exclude a section or quarter section line for a future highway; or,
- Existing highway or right-of-way provides a desired interconnectivity and access that a section or quarter section line highway or right-of-way would provide (i.e. parallel and proximate roadway).

**13.5.2.2 Partial Waiver:** A partial waiver may be granted, in the event a full waiver may not be granted, in the event the following circumstances are present:

- The locations of existing permanent structures are consistently less than 70-foot setback; or
- The location is within a City Impact Area and applicable City street standards and setback requirements are less than a seventy-foot (70') setback; or,
- Existing highway centerline alignment deviates from the section or quarter section line, and realignment is not anticipated due to existing highway widening/improvements or existing permanent structures or other improvements or topographic constraints.

## **Chapter 6**

### **Other Applications, Forms & Process**

- 13.6.1 Canyon County Set Back Waiver Applications:** The Board of Commissioners adopts the following for the application form and process for Canyon County Set Back Variance Applications: **Set Back Waiver Application & Transmittal** [Forms Book]
- 13.6.2 Administrative Lot Split Letter of Acknowledgment Requests:** The Board of Commissioners adopts the following for the application form and process for Canyon County Administrative Lot Split Letter of Acknowledgment Requests:
- Administrative Lot Split Application** [See Forms Book]  
**Notice of Action to Development Services Office, Canyon County** [See Forms Book]
- 13.6.3 To Move Structure/Manufactured Home/Other Buildings on Highway:** The Board of Commissioners adopts the following for the application forms and process for the moving of structures/manufactured homes and/or other buildings on highways:
- Special Use Permit Application** [See Forms Book]  
**Special Use Permit - HSDP §2120** [See Forms Book]
- 13.6.4 For Special Event Upon or Other Non-Vehicular Use of Public Highway:** The Board of Commissioners adopts the following application forms and process for special events upon or other non vehicular use of public highway:
- Special Event Application - HSDP § 2120** [See Forms Book]  
**Special Event Permit - HSDP §2120** [See Forms Book]

## **Chapter 7**

### **Drainage Regulation and Irrigation Policy**

- 13.7.1 Title:** This Policy shall be known and referred to as the “Drainage and Artificial Water Course Policy”.
- 13.7.2 Definitions:** For purposes of this Chapter, the terms herein set forth shall have the meaning as provided unless the context of the word clearly requires otherwise.

- 13.7.2.1 Natural Watercourse:** means and refers to a stream of water flowing in a definite channel, having a bed and sides or banks, and discharging itself into some other stream or body of water. The flow of water need not be constant, but must be more than mere surface drainage occasioned by extraordinary causes; there must be substantial indications of the existence of a stream, which is ordinarily a moving body of water. A natural watercourse exists throughout the year, even if normally carries water only during certain months of the year. [See *Burgess v. Salmon River Canal Co., Ltd.*, 119 Idaho 299, 305 (1991)]
- 13.7.2.2 Artificial Watercourse:** means and refers to any conveyance of water whether ditch, canal, pipe or otherwise that is not a Natural Watercourse.
- 13.7.3 Highway Right-of-Way Natural Surface Drainage:** In circumstances where District's highway drains surface waters naturally, without accumulating it in unnatural qualities, there is no legal obligation for the highway district to obtain any easement rights from adjacent property owners for the natural flow of such highway surface waters. Lower landowners are obligated to accept this drainage of surface water and cannot alter the natural drainage in a way that harms the lands of upper landowners. The lower landowner may alter the natural watercourse by changing its location or installing pipes provided that the natural flow of surface water is not impeded.
- 13.7.3.1** The Board of Commissioners will only acquire easement rights from adjacent property owners in such circumstances that the same is required by the funding source or there is a need to alter the natural flow on adjacent property in order to maintain and/or protect the Highway.
- 13.7.4 Highway District's Responsibility for Proportionate Contribution to Maintain Drainage Facilities:** In circumstances where the District's highway drains surface waters by accumulation in unnatural qualities and channels the same into an Artificial Watercourse [drainage facility] the District shall contribute proportionately to the costs of maintenance and protection of that Artificial Watercourse along with the other users and/or owners of the Artificial Watercourse.
- 13.7.5 Permit Requirement to Drain Water into Irrigation Ditch or Canal:** The Highway District shall not cause water from its highways and rights-of-way to flow into a ditch or canal owned by an irrigation district, drainage district, lateral ditch water users' association or other entity without first obtaining a permit and or permission from the entity that owns the ditch or canal.

**13.7.6 Highway District's Right to Enter Neighboring Property to Protect Highways from Drainage and Flooding:** The Highway District, pursuant to Idaho Code Section 40-2323 and under the authority of the Board of Commissioners, has the right when a lower landowner fills in a natural watercourse which causes water to back up onto the District's highway, or in order to prevent the flooding of its highways from adjacent property, to enter the property of the landowners to install pipes or culverts and the right to sue the lower landowner for abatement. The Highway Law also gives a highway district the authority to take necessary measures to prevent flooding of its highways, including entering the property of neighboring landowners and installing culverts or drains.

**13.7.7 The Owner and/or User of any Artificial Watercourse, that Crosses and/or Within Highway District Highways or Rights -of -Way, is Responsible to Maintain the Artificial Watercourse:** The owner and/or users of any Artificial Watercourse that crosses or is otherwise within the Highway District Highways or Rights-of-Way are responsible for maintaining their Artificial Water Course in good repair and condition, so as not to damage or in any way injure the District's Highway or Right-of-Way.

**13.7.8 Artificial Watercourse in the Highway or Right-of-Way Licensing Process:** Unless the Highway District's Highway or Right-of-Way is burdened by the prior rights of the owners of an Artificial Watercourse, the owners of an Artificial Watercourse located or to be located within the Highway District's Highway and or Right-of-Way are required to obtain either a noninterference licensed use, in the those circumstances where the District holds highway easement rights, and a licensed use when the District has fee ownership rights thereto.

**13.7.8.1** The requirements of this section shall apply at such time as an existing Artificial Watercourse has to be replaced or undergo repair that requires a cut of the District's highway; or when a new Artificial Watercourse is to be placed within a District Highway or Right-of-Way.

**13.7.8.2** The Application process and form for an Artificial Watercourse licensed use permit of the Highway or Public Right-of-Way are as follows:

**13.7.8.2.1** Process and Form for Noninterference Licensed Artificial Watercourse Use Permitting is set forth in **Form 13.7.8.2.1** attached and by this reference incorporated herein.

**13.7.8.2.2** Process and Form for Licensed Artificial Watercourse Licensed Use Permitting is set forth in **Form 13.7.8.2.2** attached and by this reference incorporated herein.

**13.7.9 Relocating within the Right-of-Way an Artificial Watercourse with Prior Rights of Ownership:** The District may relocate an Artificial Watercourse with prior rights of ownership within its Right-of-Way subject to the following conditions:

**13.7.9.1** The District constructs a new Artificial Watercourse in a manner that it does not impede the flow or injure any persons interested in the Artificial Watercourse and subject to the owner's agreement, and in those circumstances when the District does not have fee simple ownership of the Right-of-Way, agreement of the underlying fee owner is required.

**13.7.10 Irrigation and Drainage District Artificial Watercourses and Appurtenances in District Highways and Rights-of-Way:** Irrigation District and Drainage District Artificial Watercourses and appurtenances within Highway District Highways and Rights-of-Way are administered in accordance with the provisions of this Chapter with the following exceptions:

**13.7.10.1** When provisions of this Chapter conflict with a Highway District Agreement with the Irrigation District or Drainage District agreement then the provisions of the agreement apply.

**13.7.10.2** A licensed use permit is not required for Irrigation District and or Drainage District Artificial Watercourses with prior rights.

**13.7.10.3** In the event there is an existing operational practice that operates otherwise.

**13.7.10.4** A Highway District Encroachment on existing Irrigation District or Drainage District Artificial Watercourse with prior rights. The District shall seek the permission of the Irrigation District and/or Drainage District with prior rights when it pursues a highway or right-of-way improvement which may encroach upon an existing Irrigation District and/or Drainage District Artificial Watercourse or appurtenance. The proposed encroachment must not unreasonably or materially interfere with the use and enjoyment of the Irrigation District and/or Drainage District's existing Artificial Watercourse or appurtenance.

# Title 14 Subdivisions

## Chapter 1 Authority

- 14.1.1 State Law Provides:** that subdivisions in the county must be approved by the County Board of Commissioners {I.C. § 50-1308}.
- 14.1.1.1** No dedication or transfer of a private road to the public can be made without the specific approval of the Highway District Board of Commissioners [I.C. § 50-1309 (2)].
- 14.1.1.2** Any plat which involves property within the Highway District cannot be accepted for recording by the Recorder unless there has been acceptance of said plat by the Commissioners of the Highway District [I.C. § 50-1312].
- 14.1.1.3** No street or alley or highway can be dedicated by the owner to the public or under the use or control of the Highway District unless the dedication is accepted and confirmed by the Commissioners of the Highway District.
- 14.1.1.4** The acceptance does not impose an obligation and/or a duty to maintain until the highway district declares the same open to the public [I.C. §§ 50-1313 and 40-2302 (3)].

## Chapter 2 Process of Applications

- 14.2.1** Canyon County Subdivision Ordinance provides the following procedure:
- 14.2.1.1 Short Plat** Combines Preliminary and Final Plat is in one process for the following:
- 14.2.1.1.1** Subdivision of 4 lots or less; and
- 14.2.1.1.2** Subdivision of up to 10 lots with no street dedication or street widening. [Canyon County Ordinance § 08-03-09]

**14.2.1.2 Preliminary Plat:** The Canyon County Development Services transmits a copy of the application to the Highway District. The Highway District submits a written reply within response time period to Development Services. If additional time is needed, the notification should state that the application has been received when review will be complete.. At this stage, it is very important to conduct a thorough review of the plat and that a written report of all the conditions of the Highway District for acceptance of the plat be included in a written reply. The Highway District review should include payment of any required fee. The review should include conditions which provide that all proposed dedicated rights-of-way and streets will meet the Highway Standards and Development Procedures of the Highway District. If there is a need to obtain a variance of those standards, the staff report should include reference to the same. The written report should then be served upon Canyon County Development Services and the Highway District request a copy of the findings of the Planning and Zoning Commission [This is recommended so the Highway District can monitor this process to assure its requirements are being met]. The Board of Commissioners will be notified of the response during the next regularly scheduled Board meeting. The preliminary plat and recommendations of the Planning and Zoning Commission and comments are then submitted by Development Services to the Canyon County Commissioners. The Canyon County Commissioners are required to act within 10 days and hold a hearing. The Findings and Decision of the County Commissioners are then issued on the Preliminary Plat. A copy of those findings should be requested and received by the Highway District. This decision can be an approval or a conditional approval [See Canyon County Code Section 08-03-05].

**14.2.1.3 Final Plat:** After approval or conditional approval by the County Commissioners of the preliminary plat, the subdivider may cause the subdivision, or part thereof, to be surveyed and a final plat prepared in accordance with the preliminary plat as approved.

**14.2.1.3.1**

The Development Services Office will transmit a copy of the final plat to the Highway District. The Highway District must be prepared to submit a written reply within 10 days from the date of notification to Development Services of the final plat. If additional time is needed, the notification should state that the application for final plat approval has been received and that in order for the Highway District to complete its review additional time is required. At this stage, it is very important to conduct a thorough review of the final plat to determine if it has complied with the written comment of the Highway District in the preliminary plat approval and any additional relevant issues that may then present. The Highway District review should include payment of any required fee for final plat review. The approval of the written response on a final plat application should be approved by the Highway District Commissioners. This report should then be sent to Development Services Development of Canyon County to be included in the action of the Canyon County Commissioners for final acceptance of the Plat. These would be the minimum requirements for final plat approval [See Canyon County Code § 08-03-07 for final plat approval].

**Plat Approval Applicant Request** [Forms Book];

**Subdivision Application Review Process** [Forms Book];

**Preliminary Plat Application and Comment Process** [Forms Book];

**Final Plat Approval Process** [Forms Book];

**Final Plat Comment and Approval Process** [Forms Book];

**Final Request for Acceptance of a Roadway for Continuous Maintenance** [Forms Book]; and

**Final Action by Board of Commissioners** [Forms Book]

### **Chapter 3**

## **Approval Acceptance Process**

**14.3.1 Request for Draft Order of Plat Acceptance without Acceptance of Highway Improvements for Perpetual Maintenance:** The Board of Commissioners adopts the following form and process for requests for an Order of Plat Acceptance without acceptance of highway improvements for perpetual maintenance as follows:

**Request for Order of Plat Acceptance without Acceptance of Highway Improvements for Perpetual Maintenance** [Forms Book]

**14.3.2 Request for Order of Plat and Public Highway Acceptance for Perpetual Maintenance:** The Board of Commissioners adopts the following form and process for requests for a Order of Plat and Public Highway Acceptance for perpetual maintenance as follows:

**Request for Order of Plat and Public Highway Acceptance for Perpetual Maintenance** [Forms Book]

**14.3.3 Request for Order of Public Highway Acceptance in a Subdivision for Perpetual Maintenance:** The Board of Commissioners adopts the following form and process for requests for an Order of Public Highway Acceptance in a Subdivision for perpetual maintenance as follows:

**Request for Order of Public Highway Acceptance in a Subdivision for Perpetual Maintenance** [Forms Book]

# **Title 15**

## **Public Rights-of-Way Classification & Use**

### **Chapter 1**

#### **Authority/Purpose**

The Board of Commissioners does hereby make the following findings:

- 15.1.1** This Highway District is a “Public Highway Agency” as defined by Idaho Code § 40-114 (4) as a highway district with jurisdiction over public highway systems and public rights-of-way within its boundaries; and
- 15.1.2** The Board of Commissioners of this Highway District has established a system of highways within the Highway District’s boundaries, which highway system the Board of Commissioners of the Highway District maintains and improves within the limits of the funds available in accordance with their statutory duty, as provided in Idaho Code §§ 40-201 and 40-1311 to; and
- 15.1.3** The legal title to all property acquired by this Highway District under the provisions of Chapter 13 of Title 40, Idaho Code, immediately, and by operation of law, vests in the Highway District, and is held by the Highway District in trust for, and is dedicated and set apart for highway and public right-of-way uses and purposes; and
- 15.1.4** The Board of Commissioners has the exclusive general supervisory authority over all public highways, public streets, and public rights-of-way within the boundaries of the Highway District and under its jurisdiction with full power to establish design standards, establish use standards, pass resolutions, and establish regulations in accordance with the provisions of Title 49, Idaho Code, and control access to said public highways, public streets, and public rights-of-way, as provided in Idaho Code § 40-1310(8); and
- 15.1.5** The Highway District has acquired and holds public right-of-way under various circumstances in accordance with the laws of the state of Idaho as follows:

- 15.1.5.1** There are “Public Rights-of-Way” within this Highway District’s boundaries which are rights-of-way intended for development as a highway and were accepted on behalf of the public by the Highway District or by the County [prior to the right-of-way being annexation into the Highway District] in various ways such as deed of purchase in fee simple title, public right-of-way easement, by eminent domain, by plat or by prescriptive use all of which public rights-of-way this Highway District now holds title for public right-of-way purposes without having incurred an obligation to construct or maintain a highway within the right-of-way until the Board of Commissioners determines that the necessities of public travel justifies opening a highway within said right-of-way, and the lack of an opening does not constitute abandonment, and mere use by the public does not constitute an opening of the public right-of-way, as provided in Idaho Code § 40-202 (2)(b); and
- 15.1.5.2** The Idaho law beginning with the original Idaho Rev. St. of 1887, Sec. 860 up to the adoption by the Idaho Legislature of Senate Bill No. 104 in 1953 which amended what was then codified as Idaho Code § 40-301, provided that: *By taking or accepting land for a highway, the public acquires only the right of way and the incidents necessary to enjoying and maintaining it. All trees within the highway, except only such as are requisite to make or repair the road or bridges on the same land, are for the use of the owner or occupant of the land.* Since 1953 the Idaho Law was amended to provide that: *By taking or accepting land for a highway, the public acquires the fee simple title to said property. The person or persons having jurisdiction of such highway may take or accept such lesser estate as they may deem requisite for their purposes.* In 1985, the Idaho Legislature re-codified this section as Idaho Code § 40-2302 (1); and
- 15.1.5.3** Commencing in 1985 until April 2, 2013, Idaho Law provided at Idaho Code § 40-2302(2)(3) as follows: *(2) In all cases where consent to use the right-of-way for a highway is voluntarily given, purchased, or condemned and paid for, either an instrument in writing conveying the right-of-way and incidents to it, signed and acknowledged by the party making it, or a certified copy of the decree of the court condemning it, must be made, filed and recorded in the office of the recorder of the county in which the land conveyed or condemned shall be particularly described. (3) No highway dedicated by the owner to the public shall be deemed a public highway, or be under the use or control of a county or highway district, unless the dedication shall be accepted and confirmed by the commissions of the county or highway district;* and
- 15.1.5.4** Commencing April 2, 2013 and currently, Idaho Law provides at Idaho Code § 40-2302 as follows:

- (1) *Where the width of a highway is stated in the plat, dedication, deed, easement, agreement, official road book, determination, or other document or by an oral agreement supported by clear and convincing evidence that effectively conveys, creates, recognizes or modifies the highway or establishes the width, that width shall control*
- (2) *Where no width is established as provided for in subsection (1) of this section and where subsection (3) of this section is not applicable, such highways, except bridges and those located within cities, shall be not less than fifty (50) feet wide.*
- (3) *Highways that at the time of a validation or judicial proceeding are not located on land owned by the United States or the state of Idaho or on land entirely surrounded by land owned by the United States or the state of Idaho, and that have not received maintenance at the expense of the public in at least three (3) years during the previous fifteen (15) years, shall be declared to be of such width, and none greater, as is sufficient to accommodate:*
  - (a) *The existing physical road surface;*
  - (b) *Existing uses of the highway;*
  - (c) *Existing features included within the definition of highways in section 40-109(5), Idaho Code;*
  - (d) *Such space for existing utilities as has historically been required for ongoing maintenance, replacement, and upgrade of such utilities; and*
  - (e) *Space reasonably required for maintenance, motorist, and pedestrian safety, necessary to maintain existing uses of the highway.*
- (4) *Nothing in this section shall diminish or otherwise limit the authority and rights of irrigation districts, canal companies or other such entities as provided in chapters 11 and 12, title 42, Idaho Code.*
- (5) *Nothing in this section shall diminish or otherwise limit any right of eminent domain as set forth in chapter 7, title 7, Idaho Code.*

- 15.1.5.5** Public right of way was granted in federal law for construction of highways across federal public lands which were not reserved for public uses under the Revised Statute 2477 (R.S. 2477) enacted by congress in 1866. This law remained valid until it was repealed on October 21, 1976 as a part of the Federal Land Policy and Management Act of 1976. Public Rights of way existed as of October 21, 1976 and created under R.S. 2477 were not terminated by the enactment of the Federal Land Policy and Management Act and continued in existence. A public right-of-way under this law was established under the state law of Idaho either by a positive act of the Highway Agency manifesting an acceptance of the right-of-way, or use by the public sufficient to establish a public right-of-way as provided by law at the time of establishment. Determinations of classifications of these types of rights-of-way will be processed by the Board of Commissioners in conjunction with a validation proceeding; and
- 15.1.5.6** The Idaho law at I.C. § 40-1313 and since 1911 [Formerly codified as I.C. § 40-1616] has also provided that: *The legal title to all property acquired under the provisions of this chapter shall immediately, and by operation of law, vest in such highway district, and shall be held by such district in trust for, and is hereby dedicated and set apart to the uses and purposes set forth in this chapter.*
- 15.1.6** The Highway District's obligation to maintain a public right-of-way depends upon the acceptance and status of that right-of-way in accordance with the laws of the state of Idaho as follows:
- 15.1.6.1** This Highway District may hold title to an interest in real property for public right-of-way purposes without incurring an obligation to construct or maintain a highway within the right-of-way until the Highway District determines that the necessities of public travel justify opening a highway within the right-of-way and the lack of an opening does not constitute an abandonment, and mere use by the public does not constitute an opening of the public right-of-way, as provided in Idaho Code § 40-202 (2) (b); and
- 15.1.6.2** There are "Public Rights-of-Way" within this Highway District's boundaries which are rights-of-way open to the public and under the jurisdiction of this Highway District, where this Highway District has no obligation to construct or maintain, but may expend funds for the maintenance of, said public right-of-way or post traffic signs for vehicular traffic on said public right-of-way, as provided in Idaho Code § 40-117 (5).
- 15.1.7** The Board of Commissioners has the power to establish and post speed and other regulatory signs, as provided in Idaho Code § 40-1310 (1); and

- 15.1.8 The Board of Commissioners has the exclusive general supervisory authority over all public streets and public rights-of-way within the boundaries of the Highway District and under its jurisdiction, with full power to pass resolutions and establish regulations in accordance with the provisions of Title 49, Idaho Code; and
- 15.1.9 The grant of powers provided in Chapter 13 of Title 40, Idaho Code by the Idaho Legislature to this Highway District and to its officers and agents shall be liberally construed as a broad and general grant of powers, to the end that the control and administration of this District may be efficient, as provided in Idaho Code § 40-1310.
- 15.1.10 The Board of Commissioners may by resolution declare its intention to reclassify a public highway as a public right-of-way, where doing so is in the public interest as provided in Idaho Code § 40-203(1)(a).
- 15.1.11 Due to the growth and development within the Highway District, and given the number and types of “Public Rights-of-Way” which are not within the Highway District’s highway system, it is determined necessary and desirable to establish by resolution and policy for the classification, regulation, and administration of “Public Rights-of-Way” within the Highway District which are not under the jurisdiction of the Idaho Transportation Department in order to:
  - 15.1.11.1 Provide for the Highway District’s stewardship of said “Public Rights-of-Way” in a manner which will facilitate their public travel and use where needed; and
  - 15.1.11.2 Provide for the protection of the Highway District’s property rights to the “Public Rights-of-Way” which are held in trust for future public travel use; and
  - 15.1.11.3 Protect against obstructions and nuisance conditions from existing within “Public Right-of-Way” which are not open to public travel; and
  - 15.1.11.4 Provide a ordinance which defines what are reasonable uses of “Public Right-of-Way” not open to public travel, either by subservient estate owners or adjacent property owners and which does not unreasonably interfere with the future public travel use of the “Public Right-of-Way”; and
  - 15.1.11.5 Provide standards, and an administrative process related thereto.

## **Chapter 2**

### **Public Right-of-Way Classification**

The Board of Commissioners has adopted the following Public Right-of-Way classifications:

**15.2.1 Public Highway Right-of-Way:** Public Right-of-Way is classified as “Public Highway Right-of-Way” when it contains a Highway which is accepted as part of the Highway District’s Highway System for perpetual maintenance and “Public Highway Right-of-Way”, and “Public Highway Right-of-Way” includes the Highway and all area within the Public Right-of-Way which lies under or adjacent to the Highway.

**15.2.1.1** Public Highway Right-of-Way is designated and included on the official map of the Highway District as a part of the “Public Highway”.

**15.2.1.2** The Public Right-of-Way must have existed as of the effective date of this Resolution as a Public Right-of-Way and in such a state that it will accommodate vehicular travel upon it and is presently being used for vehicular travel; or

**15.2.1.3** The Public Right-of-Way was classified as a Closed Public Right-of-Way and is reclassified by the Board of Commissioners as an Open Public Right-of-Way, as herein this Policy provided for.

**15.2.2 Open Public Right-of-Way:** Public Right-of-Way is classified as “Open Public Right-of-Way” established by order of the Board of Commissioners and is Public Right-of-Way which lies within this Highway District and is under its jurisdiction and not a part of its Highway System and which is open to the public for vehicular travel where this Highway District has no obligation to construct or maintain, but may expend funds for the maintenance or post traffic signs for vehicular traffic.

**15.2.2.1** “Open Public Right-of-Way” and “Open Public Right-of-Way--Restricted Use” shall be signed by the Highway District as follows:

**15.2.2.1.1 Open Public Right-of-Way:** A sign bearing the following with black 4” lettering on white background shall be erected in accordance with street name signage policy for Highways in the District System: “[Insert Designated Right-of-Way Name] PUBLIC RIGHT-OF-WAY - NOT MAINTAINED”

**15.2.2.1.2 Open Public Right-of-Way--Restricted Use:** A sign bearing the following with black 4” lettering on white background shall be erected at the limits of the Restricted Use Open Public Right-of-Way: “RESTRICTED USE [e.g. LOCAL TRAFFIC ONLY] PUBLIC RIGHT-OF WAY--NOT MAINTAINED--CONTACT NOTUS-PARAM HIGHWAY DISTRICT NO. 2 FOR INFORMATION AT (208) 722-5343”

15.2.2.2 Open Public Right-of-Way shall be designated on the official map of the Highway District as “Open Public Right-of-Way” and Open Public Right-of-Way with restricted use shall be designated as “Open Public Right-of-Way--Restricted Use.”

15.2.2.3 The Criteria for Open Public Right-of-Way classification are:

15.2.2.3.1 The Public Right-of-Way must have existed as of the effective date of this Resolution as a Public Right-of-Way and in such a state that it will accommodate vehicular travel upon it and is presently being used for vehicular travel; or

15.2.2.3.2 The Public Right-of-Way was classified as a Closed Public Right-of-Way and is reclassified by the Board of Commissioners as an Open Public Right-of-Way, as herein this Policy provided for.

15.2.2.4 The criteria for Open Public Right-of-Way--Restricted Use classification are:

15.2.2.4.1 The Public Right-of-Way was classified as a Public Highway Right-of-Way, Open Public Right-of-Way, or Closed Public Right-of-Way and is reclassified by the Board of Commissioners as an Open Public Right-of-Way--Restricted Use.

15.2.2.4.2 Reclassification of Public Right-of-Way to Open Public Right-of-Way Restricted Use shall be on the basis that the existing road of right-of-way conditions related to road condition, vertical and/or horizontal alignment, roadway section, intersection geometry, or other roadway design or safety parameters do not meet current standards and lack of right-of-way, topography and other constraints present hazards to unrestricted use as found in the discretion of the Board of Commissioners, and the elimination of the conditions is not reasonably economical and is not in the public’s interest.

**15.2.3 Closed Public Right-of-Way:** Closed Public Right-of-Way includes all Public Right-of-Way which lies within this Highway District and is under its jurisdiction which is not otherwise part of the Highway District’s Highway System or classified as an Open Public Right-of-Way or Public Right-of-Way Subject to Construction.

15.2.3.1 Closed Public Right-of-Way classified by the Board of Commissioners in this Policy shall be so designated on the official map of the Highway District as “Closed Public Right-of-Way”.

**15.2.4 Public Right-of-Way Subject to Construction:** Public Right-of-Way Subject to Construction is Public Right-of-Way within which a highway is being constructed which project has been approved by the Board of Commissioners.

**15.2.4.1** Public Right-of-Way Subject to Construction is not open for public vehicular and pedestrian uses except local traffic uses by neighboring properties as needed; and is under the control of the contractor of the highway improvements.

### **Chapter 3 Reclassification**

**15.3.1 Reclassification of Public Right-of-Way:** The criteria and application process for reclassification of public right-of-way is as follows:

**15.3.1.1** Application [on a form approved by the Highway District] for reclassification of a Public Right-of-Way may be filed with the district secretary together with the filing fee and the estimated cost of a survey of the affected Public Right-of-Way.

**15.3.1.1.1** Application [on a form approved by the Highway District Commissioners] for reclassification of a Public Right-of-Way may be filed by an adjacent property owner or property owners and/or a resident within the Highway District whose property is affected by the Public Right-of-Way classification status and/or seeks to construct highway improvements within the Public Right-of-Way. The application for reclassification shall be filed with the Highway District Secretary together with the filing fee and any costs of a survey of the Public Right-of-Way; and

**15.3.1.1.2** Highway District Director of Highways may initiate a process for the reclassification of a Public Right-of-Way; and

**15.3.1.1.3** The Public Right-of-Way shall then be inspected by the Highway District Engineer or Director of Highways, and the Highway District may then cause a survey of the Public Right-of-Way to be conducted, which survey will be reviewed by the Highway District Engineer; and

- 15.3.1.1.4 The Applicant and/or Highway District Director of Highways, as the case may be, must set forth facts to support a need for the reclassification of the Right-of-Way and/or for construction of highway improvements within the Right-of-way; and
- 15.3.1.1.5 In the case of the construction of highway improvements within a Public Right-of-Way, the Right-of-Way reclassification of any Public Right-of-Way to Public Right-of-Way Subject to Construction must follow the process set forth in this Section if initiated by a person who seeks to construct highway improvements within a Public Right-of-Way.
- 15.3.1.1.5.1 **Exception:** If the construction of highway improvements within a Public Right-of-Way is initiated by the Director of Highways and is part of the Highway District's plan for highway improvement projects the reclassification of any Public Right-of-Way to Public Right-of-Way Subject to Construction will be on order of the Director of Highways.
- 15.3.1.1.6 The Highway District Director of Highways or Engineer must then review the application and determine the circumstances of the application and whether or not the Applicant is required to present a Right-of-Way Improvement Plan as a condition of processing the application; and
- 15.3.1.1.7 If the Applicant is required by the Director of Highways or District Engineer to have prepared and to present a Public Right-of-Way Improvement Plan, the Applicant, at the Applicant's expense, shall submit a Public Right-of-Way Improvement Plan, which addresses the needed improvements to existing conditions within the Public Right-of-Way to provide for safe public use and vehicular travel, which Public Right-of-Way Improvement Plan must be approved by the Highway District Engineer.

- 15.3.1.2 Upon the Applicant satisfying the above requirements, the District Engineer and/or Director of Highways may then recommend Reclassification of the Closed Public Right-of-Way to the Board of Commissioners, who may then set a hearing date. Prior to the hearing, the Highway District Secretary shall provide fourteen (14) days prior written notice to show cause why the reclassification should not be ordered to the adjacent property owners and possessors and to law enforcement agency, School District and its bus transport carrier, U.S. Postal Service, Canyon County Ambulance District, and to the fire department and/or fire district jurisdiction.
  - 15.3.1.3 Any Reclassification Order under this Section may include reasonable conditions related to Improvement Plan and maintenance of the Public Right-of-Way to assure upon its opening that is then suitable for public vehicular travel uses.
  - 15.3.1.4 Reclassification of any Public Right-of-Way as Public Right-of-Way Subject to Construction may be made by Order of the Director of Highways.
- 15.3.2 A Closed Public Right-of-Way may be reclassified as an Open Public Right-of-Way by the Board of Commissioners upon their own initiative upon their receipt of a recommendation of the District Engineer and/or Director showing suitability and public use need and after Highway District Secretary provides fourteen (14) days prior written notice to show cause why the reclassification should not be ordered to the adjacent property owners.
- 15.3.3 Reclassification of Public Right-of-Way as Public Right-of-Way Subject to Construction may be made when an application is made to and granted by the Board of Commissioners for the Acceptance of Roadway Into Highway System for Continuous Maintenance in accordance with the *Highway Standards and Development Procedures* [January 2010 Revision] § 2110; or the Board of Commissioners has authorized a Highway Improvement Project for the Acceptance of Roadway Into Highway System for Continuous Maintenance within the Public Right-of-Way.
- 15.3.4 Reclassification of a Public Highway as Public Right-of-Way is pursued by the Board of Commissioners by resolution by declaration of intention to reclassify a public highway as a public right-of-way, where doing so is in the public interest and the Board of Commissioners shall then follow the procedures provided in Idaho Code Section 40-203 to complete this reclassification process.
- 15.3.5 **Public Highway Right-of-Way Uses:** Use of public highway Right-of-Way shall be in accordance with the currently adopted *Highway Standards and Development Procedures for the Association of Canyon County Highway Districts [ACCHD]*, adopted amendments thereto, and or permit/licenses entered into by the Board of Commissioners, and the following:

- 15.3.5.1 Public Highway Right-of-Way within the roadway [i.e. the travel way and shoulders] is open for public vehicular and pedestrian uses which may not be restricted or impeded by encroachment or installation of any obstruction or by the installation of signs or notices that might tend to restrict or prohibit public use.
  - 15.3.5.2 Public Highway Right-of-Way outside the roadway [i.e. the travel way and shoulders] is not open for public vehicular uses but pedestrian and vehicular uses may not be restricted or impeded by encroachment or installation of any obstruction or by the installation of signs or notices that might tend to restrict or prohibit public use.
  - 15.3.5.3 The use restrictions herein set forth in section do not apply to regulatory, advisory, informational, and/or other highway signage of the Highway District.
- 15.3.6 **Open Public Right-of-Way Uses:** Open Public Right-of-Way is open for public vehicular and pedestrian uses which may not be restricted or impeded by encroachment or installation of any obstruction restricting the public use, or by the installation of signs or notices that might tend to restrict or prohibit public use and otherwise the uses provided for under **Section 15.3.5** of this Policy, except:
- 15.3.6.1 **Public Right-of-Way--Restricted Use Uses:** Open Public Right-of-Way classified with Restricted Use will include those restricted uses as are established by the Board of Commissioners. Example of allowed restricted use may include any of the following: existing permitted access, agricultural uses, emergency vehicles, law enforcement, utilities, irrigation drainage or canal access and/or such uses as authorized by the Director of Highways as is reasonably needed for public health or safety.
- 15.3.7 **Closed Public Right-of-Way Uses:** Any uses other than as provided in this section are provided for under Section 15.3.1.
- 15.3.7.1 Closed Public Right-of-Way may be occupied by subservient real property owners [in the case Highway District's Public Right-of-Way is not held in fee simple title] in a manner that is not an unreasonable interference of the Public Right-of-Way, as herein this Policy set forth; and
  - 15.3.7.2 Closed Public Right-of-Way may be occupied by adjacent real property owners [in the case Highway District's Public Right-of-Way is held in fee simple title] in a manner that is not unreasonable interference of the Public Right-of-Way, as herein this Policy set forth; and

**15.3.7.3** Closed Public Right-of-Way is not open for public vehicular and pedestrian uses and is held in reserve for future use and development as a highway upon demonstrated need for public vehicular and pedestrian uses and in accordance with Highway District policy for the Acceptance of Highways for perpetual maintenance.

**15.3.7.4** **Allowed Uses without a Special Permit:** The following uses are allowed in Closed Public Right-of-Way without a HSDP Section 2120 Special Permit:

**15.3.7.4.1 Landscaping Uses**

**15.3.7.4.1.1** Landscaping rock, drain rock or Perma-Bark®, 8” or smaller in size.

**15.3.7.4.1.2** Bark, wood chips, or other organic materials for ground cover.

**15.3.7.4.1.3** Landscape irrigation piping not exceeding 2 inches in diameter and sprinkler/spray heads for the purpose of irrigation lawn or landscaping within the Closed Public Right-of-Way.

**15.3.7.4.1.4** Landscaping berms or buffers constructed of soil or dirt that do not exceed a height of 36 inches above the natural grade of the surround ground.

**15.3.7.4.2 Fencing Uses**

**15.3.7.4.2.1** Fencing of a semi-permanent nature constructed of wood, chain link fabric, or wire with concrete post backfill not exceeding 2 cubic feet per post are allowed. Fencing or walls constructed with concrete foundation are not permitted.

**15.3.7.4.2.2** Cattle guards incorporated at access points through the fencing are allowed.

**15.3.8 Interference/Encroachment Declared Public Nuisance:** The construction, maintenance, use, or occupancy of any of the following uses within a Public Right-of-Way by any person is interference and/or an encroachment and the same is herein declared to be a public nuisance:

- 15.3.8.1 Construction of a permanent foundation or footings for any structure;
- 15.3.8.2 Any well;
- 15.3.8.3 Walls or Landscaping walls including, but not limited to, precast concrete block products, rock, cast-in-place concrete, or wood timbers or landscape ties.
- 15.3.8.4 Concrete [not including removable blocks or small footings for fences];
- 15.3.8.5 The use and/or generation and/or process and/or generation and/or storage and/or disposed of, and/or release of, and/or discharged of, any Hazardous Substance;
- 15.3.8.6 Any other use other than residential lawn and/or farming and/or ranching and/or recreational and/or feed lot;
- 15.3.8.7 Any residential lawn and/or farming and/or ranching and/or recreational and/or feed lot, which include a structure within an intended life of more than 10 years, which cannot be easily removed using considering the use of standard highway construction equipment and/or its removal will then materially affect the suitability of the Public Right-of-Way for public vehicular and Right-of-Way use.
- 15.3.8.8 Any use or occupancy of Public Right-of-Way by any person who is not the owner or possessor of adjacent real property or subservient real property is interference and an encroachment and trespass.
- 15.3.8.9 Any other use or occupancy of a Public Right-of-Way not herein this policy provided for by any person is an interference and/or an encroachment and the same is herein declared to be a public nuisance unless permitted by Special Permit in accordance with HSDP § 2120.

## **Chapter 4**

### **Acceptance of Public Right-of-Way**

- 15.4.1 The Board of Commissioners has declared its acceptance of all public right-of-way, which have not otherwise been specifically accepted by this Highway District, and/or its predecessor, Canyon County, nunc pro tunc to the date of the recording of the deed and/or other written document of the conveyance.

- 15.4.1.1 The acceptance herein appertains to all deeds of record whether by deed of easement, quit claim deed, and/or warranty deed, and/or other deed, of the conveyance of a public right-of-way, which is within the territorial limits of the Highway District, and which has been recorded either by this Highway District and/or its processor, Canyon County, and/or by the grantor.
- 15.4.1.1.1 The acceptance does not apply to transfer and conveyance of any public right-of-way to the Idaho Transportation Department; and
- 15.4.1.1.2 The acceptance does not apply to transfer and conveyance of any public right-of-way within the territorial limits, of either the City of Notus and/or City of Parma at the time of transfer and conveyance was made by reason of the fact that said cities each have and have had functioning road and street departments and any such acceptance must be by the City; and
- 15.4.1.1.3 This acceptance policy does not apply to any purported conveyance and/or transfer of public right-of-way not specifically accepted by the Board of Commissioners of this Highway District and recorded after the effective date of this Resolution.
- 15.4.1.2 This acceptance also applies to the transfer of any public right-of-way transferred to this Highway District by action of the Canyon County Commissioners on December 8, 1980, pursuant to an election on November 4, 1980, County Local Option Secondary Highway Reorganization Act Election effected a name change of the Highway District to Notus-Parma Highway District No. 2 and established its current boundaries as of January 1, 1981.

## **Chapter 5**

### **Public Rights-of-Way Width Policy**

15.5.1 **Policy Title:** The following is the “Public Rights-of-Way Width Policy.

15.5.2 **Policy Application:** This policy shall apply to all rights-of-way and highways [public rights-of-way] located and established by recorded order of the board of county commissioners since 1887 and held by this Highway District.

**15.5.3 Legal History:** The Idaho Supreme Court in the case entitled *Halvorson v. North Latah County Highway District, et al*, Idaho Supreme Court 2011 Opinion No. 12. Docket No. 36825 filed February 2, 2011 has held at pages 11-12 that I.C. § 40-2312 establishes a mandatory public highway width of fifty feet for prescriptive rights-of-way and highways established by recorded order of the County Commissioners, which overrides the common-law and which mandatory highway width has been established in this state since 1887 when the predecessor statute to I.C. § 40-2312 was enacted. [See also *Meservey v. Gulliford*, 14 Idaho 133, 148, 93 P. 780, 785 (1908) and *Bentel v. Bannock Cnty.* 104 Idaho 130, 133, 656 P. 2d 1383 (1983) ) and *Sopatyk v. Lemhi County*, 151 Idaho 809 (2011). Then the Idaho Legislature approved with an emergency clause and the Governor signed, effective April 2, 2013, House Bill 321 which became effective immediately which in part amended I.C. § 40-2312 and the applicable provisions of which affect the width of public rights-of-way are incorporated into this Rights-of-Way Width Policy.

**15.5.3.1** The Idaho Legislature approved with an emergency clause and the Governor signed, effective April 2, 2013, House Bill 321 which became effective immediately in part amended I.C. § 40-2312 and the provisions of which are incorporated into this rights-of-way policy.

**15.5.4** There are numerous highways and rights-of-way which are open to the public within this Highway District which are established and maintained either as prescriptive rights-of-way or by recorded order of the County Commissioners, and there is a need for consistency in the administration of those rights-of-way, the protection of the public trust, and to facilitate purposes and duties of this Highway District, to establish a policy regarding administration of the same.

**15.5.5** The Board of Commissioners therefore establishes this policy for the administration of the width of public rights-of-way under the jurisdiction of this Highway District.

**15.5.6 Public Rights-of-Way Width:** For purposes of validation and or judicial proceedings all rights-of-way and highways [public rights-of-way] widths under the jurisdiction of this Highway District as they exist at the time the proceedings are commenced are as follows:

**15.5.6.1** Those Public Rights-of-Ways established by any of the following: plat, dedication, deed, easement, agreement, official road book, determination, or other document or by an oral agreement supported by clear and convincing evidence that effectively conveyed, created, recognized or modified the highway or established the width, width is in accordance with the width therein set forth.

15.5.6.2 Those Public Rights-of-Ways which are not located upon or surrounded by any land owned by the United States or the State of Idaho and which have been maintained, at the expense of the Highway District or other public entity, in less than three (3) years during the previous fifteen (15) years shall have a declared width as is sufficient to accommodate:

- The existing physical road surface;
- Existing uses of the highway;
- Existing features included within the definition of highways in section 40-109(5), Idaho Code;
- Such space for existing utilities as has historically been required for ongoing maintenance, replacement, and upgrade of such utilities; and
- Space reasonably required for maintenance, motorist, and pedestrian safety, necessary to maintain existing uses of the highway.

15.5.6.3 For all other public rights-of-ways where no width is established as provided for in subsection 15.5.6.2, such public rights-of-way, except bridges and those located within cities, shall be not less than fifty (50) feet in width.

15.5.7 All employees and/or duly authorized agents of this Highway District are to administer the Highway District's rights in accordance with this policy, and no employee, agent, commissioner, Board of Commissioners nor anyone else has any authority to enter into an oral agreement to convey, create, recognize or modify a highway or right-of-way or establish by oral agreement the width of a highway or public right-of-way under the jurisdiction of this Highway District.

## **Chapter 6**

### **Highway Project Progress and Cost Estimate Flow Charts**

15.6.1 The Board of Commissioners has adopted the following highway improvement project process and progress charts as a guideline for planning and organizational use:

**Highway/Street/Bridge [HSB] Project Progress Chart** [Forms Book]

**Highway Improvement Projects Cost Estimate Flow Chart** [Forms Book]

## **Chapter 7**

### **Placement of Political Signs on Controlled Roadways**

15.7.1 Pursuant to Idaho Code § 18-7029, The Notus-Parma Highway District No. 2 herewith grants permission for the placement of election posters or political material within the public rights-of-way under the District's jurisdiction.

- 15.7.2** The placement of the material is subject to the following conditions:
- 15.7.2.1** No election poster shall be located in a manner that interferes with or otherwise impedes driver visibility.
  - 15.7.2.2** No election poster shall be located within the forty (40) foot vision triangle located on the corner of any roadway intersection as defined by the intersection of the curb lines extended, or the intersection of the edge of pavement lines extended where curbs do not exist.
  - 15.7.2.3** No election poster shall be located within twelve (12) feet of the edge of pavement where there are no curbs and/or sidewalks.
  - 15.7.2.4** Where curb exists without sidewalks, election posters shall be located no closer than six (6) feet from the curb to allow for a pedestrian walkway;
  - 15.7.2.5** Where sidewalk exists, election posters shall be located on the property side of the sidewalk.
  - 15.7.2.6** No election poster shall be located on any sidewalk, traffic median, island, boulevard strip, or the area between the curb and separated sidewalk.
  - 15.7.2.7** Election posters shall not be placed on or attached to any post, pole, or traffic control facility within the right-of-way.
  - 15.7.2.8** Election posters shall be removed from the public right-of-way no later than two (2) days following the voting date.
- 15.7.3** Election poster placement found to be in violation of these conditions will be removed.
- 15.7.3.1** Posters that have been removed by the Notus-Parma Highway District No. 2 can be retrieved at 106 South 4th Street., Parma, Idaho between the hours of 9:00 a.m. and 3:00 p.m., Monday through Thursday.
- 15.7.4** The Notus-Parma Highway District No. 2 is unable to grant permission for the placement of posters on private property or on State or Federal Highways.
- 15.7.5** Canyon County and cities may have sign ordinances that are more restrictive than the Notus-Parma Highway District No. 2 policy. If so, the more restrictive policy standard applies. It is the responsibility of those placing election posters to be aware of those regulations.

# Title 16 Mapping

## Chapter 1 Public Rights-of-Way Map

**16.1.1 Definitions:** Wherever used herein, the following terms shall have the following meaning, unless the context indicates to the contrary:

**16.1.1.1 Highway District:** means and refers to the Notus-Parma Highway District No. 2, a Highway District organized and existing under and by virtue of the Laws of the State of Idaho, located in Canyon County, Idaho.

**16.1.1.2 Official Map:** means and refers to the “Official Map of the Notus-Parma Highway District No. 2 Highway System” as authorized by the Board of Commissioners from time to time pursuant to this Policy which depicts the general location of each highway and public right-of-way in its jurisdiction as classified by the Highway District policy and includes the updating of the same in accordance with this Policy.

**16.1.1.3 Public Right-of-Way Classification and Use Policy:** means and refers to the Public Right-of-Way Classification and Use Policy adopted by the Board of Commissioners and as adopted by the Board of Commissioners on and passed as Resolution No..

**16.1.2 Map Policy:** The Board of Commissioners does hereby adopt the following policy for the updating and publication of the Official Map of the Notus-Parma Highway District No. 2 Public Rights-of-Way:

**16.1.2.1** There is currently adopted a Map which has the following designation: “Official Map of the Notus-Parma Highway District No. 2 Highway System Resolution 2-2008”; and

**16.1.2.2** Pursuant to this policy and in order to provide for the continuous amendment and updating of the Official Maps of this Highway District, the Board of Commissioners will order the amendment the Official Maps at such time as:

**16.1.2.2.1** Public highway and/or right-of-way is accepted or validated; and

**16.1.2.2.2** Public right-of-way is vacated and abandoned; and

- 16.1.2.2.3 Public highway and/or right-of-way is annexed into a city; and
  - 16.1.2.2.4 There is a change in the connecting highway status; and
  - 16.1.2.2.5 There is a reclassification of public-right-of-way; and
  - 16.1.2.2.6 Any other action by the Board of Commissioners that involves a change of the public right-of-way or highway as it relates to its depiction considering the map designations or involves action in regard to the validation of any public right-of-way.
- 16.1.2.3 Prior to designating a new highway or public right-of-way on the official map, the Board of Commissioners shall confirm that no legal abandonment has occurred on the new highway or right-of-way to be added to the Official Map and shall in the order of update set forth in the findings the evidentiary basis for the order.
- 16.1.2.4 Notice to the land owner: In the event a highway or public right-of-way is proposed for inclusion on the Official Map and the public status of such highway or public right-of-way has not already been established by recording in the Canyon County Recorder's office or by other (public record) means, prior to inclusion, the Board of Commissioners shall first give advance notice of hearing, by U.S. mail, to any landowner upon or within whose land the highway or public right-of-way is located.
- 16.1.2.5 At such time as the Board of Commissioners makes an order to update the Official Maps of this Highway District, a copy of the order shall be provided to the Highway District Engineer who shall then update the Maps in accordance with the order.
- 16.1.2.6 The Official Maps adopted subsequent to July 1, 2007 shall be maintained in a professional manner with the following legend of identification:

**LEGEND NOTUS-PARMA HIGHWAY DISTRICT NO. 2  
PUBLISHED MAP [I.C. 40-202(6)]**

General Statement: Notus-Parma Highway District No. 2 has legal title to all real property acquired under the provisions of Chapter 13, Title 40 Idaho Code and by operation of law in the State of Idaho which is held in trust for and is dedicated and set apart to the uses and purposes of the District (Idaho Code § 40-1313). The adoption of this Map is not a vacation and or abandonment of any public right-of-way of this Highway District not herein shown.

Highway District Rights-of-Way: This map shows the general location of all public rights-of-way under the jurisdiction of this District which are classified under this District's Public Right-of-Way Classification and Use Policy [Public Highway Right-of-Way or Open Public Right-of-Way or Closed Public Right-of-Way].	
Other Public Rights-of-Way: Also shown on this map are connecting Public Highways under the Jurisdiction of or maintained by the Idaho Transportation Department, the Cities of Notus and Parma, or other adjoining highway districts, which Public Highways are either within or partially within the District's boundaries. Cities are separate divisions of the District and have the powers and duties of a highway district and are responsible for the construction, reconstruction, and maintenance of highways in their systems, except as provided in Idaho Code § 40-607 or by joint exercise of power road maintenance agreement with Notus-Parma Highway District No. 2 (I.C. §§ 40-1323 and 40-1333). Notus-Parma Highway District No. 2 has entered into joint exercise of power road maintenance agreements with adjoining highways districts for maintenance of shared or connecting public highways (I.C. § 40-1315).	
<b>PUBLIC RIGHT-OF-WAY MAP DESIGNATION</b>	
<b>Jurisdiction/Classification</b>	<b>Map Designation</b>
Public Highways (Public Highway Right-of-Way) under the Jurisdiction of Notus-Parma Highway District No. 2.	
Open Public Right-of-Way under the Jurisdiction of Notus-Parma Highway District No. 2.	
Closed Public Right-of-Way under the Jurisdiction of Notus-Parma Highway District No. 2.	
Public Highways under the Jurisdiction of the Idaho Transportation Department.	
Connecting Public Highway under the Jurisdiction of or maintained by adjoining highway districts or cities.	

16.1.2.7 The Official Highway District Maps shall be updated by the Highway District Engineer in accordance with the orders of the Board of Commissioners to update and amend the same.

16.1.2.7.1 The updated, amended and published Official Highway District Maps shall include the following:

This map includes updates and amendments to the Official Highway District Map through the \_\_ day of \_\_\_\_\_, 2\_\_ as ordered by the Board of Commissioners of Notus-Parma

Highway District No. 2. The original Official Highway District Map adopted by Resolution \_\_\_\_ and dated \_\_\_\_, 20\_\_, is on file at the Offices of Notus-Parma Highway District No. 2.

- 16.1.2.7.2** The Highway District Engineer shall then publish and distribute the same as needed and cause one copy of each to be posted in the Commissioners' meeting room and distributed to Highway District staff and other government entities as needed and made available for inspection and copying by the public upon request.
- 16.1.2.8** The Map shall be kept by the Highway District Engineer and published from time to time as requested by the Director of Highways and or the Board of Commissioners, the Secretary, or Attorney for the Highway District; and
- 16.1.2.9** At such time as new public right-of-way is accepted or validated by the Board of Commissioners and/or public right-of-way is vacated and abandoned or annexed into a city, the description and classification of said right-of-way accepted or validated and right-of-way vacated and abandoned or annexed into a city, a copy of the final action shall be provided to the Highway District Engineer by the Director of Highways with instructions to amend the Map accordingly.
- 16.1.2.10** The Map shall be drawn and maintained in a workman-like manner, with the identification and mapping of the public right-of-way under the jurisdiction of this Highway District indexed in accordance with its currently adopted Public Right-of-Way Classification and Use Policy.

  - 16.1.2.10.1** The indexing on the Map in accordance with the currently adopted Public Right-of-Way Classification and Use Policy may be initially accomplished within a reasonable time of the passage of this policy with the updating of the current Map and after presentation and acceptance of the Map with new indexing by the Commissioners; and in the meantime the existing Map and updates shall remain the Map of the Highway District and in accordance with this Policy.

## **Chapter 2**

### **Functional Classification Map**

**16.2.1** The Board of Commissioners has adopted for use by this Highway District the district's own Functional Classification Map generated by the GIS Technician, as set forth in the Functional Classification Map [District Office].

# **Title 17**

## **Vision Triangle & Sight Obstruction**

### **Chapter 1**

#### **Vision Triangle Policy**

- 17.1.1** The Board of Commissioners has adopted as a guideline for governing sight triangle obstructions upon or adjacent to highways. The Commissioners find:
- 17.1.1.1** The Highway District Board of Commissioners has the exclusive general supervisory authority over all public highways, public streets, and public rights-of-way under their jurisdiction as provided in Idaho Code § 40-1310; and
  - 17.1.1.2** The Highway District Board of Commissioners has the power to establish and post speed and other regulatory signs as provided in Idaho Code § 40-1310(1); and
  - 17.1.1.3** The Highway District Board of Commissioners has the exclusive general supervisory authority over all public streets and public rights-of-way under its jurisdiction, with full power to pass resolutions and establish regulations in accordance with the provisions of Title 49, Idaho Code; and
  - 17.1.1.4** The Highway District Board of Commissioners has the authority to determine that a traffic hazard exists and to establish policy and procedure for the giving of notice to owners of real property of such traffic hazards as provided in Idaho Code § 49-221 (2); and
  - 17.1.1.5** The Highway District Board of Commissioners has the authority to establish by resolution standards and procedures for protecting vision triangles at the intersections of local streets and roads as provided in Idaho Code § 49-221(4); and

17.1.1.6 It is the responsibility of the owner of real property to remove from his/her property any hedge, shrubbery, fence, wall or other sight obstructions of any nature, except public traffic or highway signs, buildings and trees, where these sight obstructions constitute a potential traffic hazard. The above sight obstructions shall not extend more than three (3) feet, or less than ten (10) feet, in height above the existing center line highway elevation within the vision triangle of vehicle operators. The boundaries of the vision triangle are defined by measuring from the intersection of the edges of two (2) adjacent highways forty (40) feet along each highway and connecting the two (2) points with a straight line. The sight distance obstruction restriction is also applicable to railroad-highway grade crossings with vision triangle defined by measuring forty (40) feet along the railroad property line when intersecting with a highway as provided in Idaho Code § 49-221 (1); and

17.1.1.7 The Board of Commissioners has the authority upon determination that a traffic hazard exists, to notify the owner and order that the hazard be removed within an appropriate time as determined by the authorized agent of this Highway District, considering the circumstances and conditions involved. The appropriate time may be specified in the notice. Such notice shall not obligate the Highway District to pursue removal or abatement until all legal remedies are exhausted. [See Idaho Code § 49-221 (2)]; and

17.1.1.8 The Board of Commissioners has determined that it shall exercise its authority and establish a policy for the standards and procedures for the protection of vision triangles and for determination of existence of traffic hazard and notification of real property owners and enforcement of the same.

17.1.2 **Vision Triangle Policy:** The following is the Vision Triangle Policy which standards the Board of Commissioners has adopted for the governing of sight triangle obstructions upon or adjacent to highways under the jurisdiction of Notus-Parma Highway District No. 2 and for the protection of vision triangle:

17.1.2.1 A vision triangle is established as commencing at three (3) feet and ending at ten (10) feet in height above the existing center line highway elevation within the vision triangle of vehicle operators.

17.1.2.1.1 The boundaries of a vision triangle are defined by measuring from the intersection of the edges of two (2) adjacent highways forty (40) feet along each highway and connecting the two (2) points with a straight line.

17.1.2.1.2 The boundaries of a vision triangle are also applicable to railroad-highway grade crossings with vision triangle defined by measuring forty (40) feet along the railroad property line when intersecting with a highway.

17.1.2.2 A property owner shall keep clear of and remove any sight obstruction of any nature within the boundaries of a vision triangle except for buildings and trees.

**17.1.3 Identification and Notice to Property Owner of a Sight Obstruction:** In the event it comes to the attention of an employee and agent of this Highway District that a sight obstruction exists within a vision triangle:

17.1.3.1 The Director of Highways shall be notified; and

17.1.3.2 The Director of Highways or designee shall inspect and document the sight obstruction and determine who the owner/s of the real property where the sight obstruction exists; and

17.1.3.3 The Director of Highways or designee shall determine the degree of hazard and urgency that the sight obstruction presents to users of the intersecting highways; and

17.1.3.4 **Urgent Circumstances:** In the case of urgent circumstances, the Director of Highways or designee shall take immediate reasonable action to attempt to notify the owner(s) verbally and in writing and demand immediate removal of the sight obstruction.

**17.1.4 Non-compliance:** In the event the owner(s) do not comply, the Director of Highways shall notify law enforcement and seek prosecution and consider initiation of civil action to seek removal of the sight obstruction.

**17.1.5 Non-urgent Circumstances:** In the case of non-urgent circumstances, the Director of Highways shall notify the owner(s) in writing to acquaint them with their responsibility under law to remove and request removal by a date specified in the notice.

17.1.5.1 **Non-compliance:** In the event the owner/s do not comply, the Director of Highways may in use discretion and, depending upon the emergent circumstance, send a reminder notice with a new specified date of removal; and

17.1.5.2 In the event the owner(s) fail(s) to comply, the Director of Highways may notify law enforcement and seek prosecution and consider initiation of civil action to seek removal of the sight obstruction.

## **Chapter 2 Sight Obstructions**

- 17.2.1 Sight Obstructions within the Public Right-of-Way:** In the event it comes to the attention of an employee and agent of this Highway District that a sight obstruction exists within a public right-of-way of the Highway District the following process will occur:
- 17.2.1.1** The Director of Highways shall be notified; and
  - 17.2.1.2** The Director of Highways or designee shall inspect and document the sight obstruction and determine if it is within the public right-of-way and that it presents a traffic hazard to users of the Highway; and
  - 17.2.1.3** In the event the Director of Highways determines that a sight obstruction exists and poses a traffic hazard and is within the right-of-way and is vegetation, the Director of Highways may cause the same to be removed; and
  - 17.2.1.4** In the event the sight obstruction is not vegetation, reasonable action to provide notice of the removal should be given to the apparent owner of the obstruction, and the Director of Highways may cause the source to be removed; and
  - 17.2.1.5** In the event the Highway District removes non-vegetation sight obstruction, the materials and/or item shall be retained for 30 days for return to the owner if any there be.

## **Chapter 3 Report to Commissioners**

- 17.3.1** The Director of Highways shall report to the Board of Commissioners at the regular monthly meeting or at other reasonable times of actions taken pursuant to this policy.

# Title 18

## Traffic Control and Guide Signs

### Chapter 1 Speed Limits

**18.1.1 Speed Limit Policy:** The following is the Speed Limit Policy for establishment of posted speed limits on highways under the jurisdiction of Notus-Parma Highway District No. 2:

**18.1.1.1** The posted speed limit on highways under the jurisdiction of Notus-Parma Highway District No. 2 shall be 50 mph or less, if a lesser speed limit is determined appropriate by an engineering study and approved by the Highway District Board of Commissioners.

**18.1.1.2** Highways accepted into the highway district system within platted subdivisions that primarily provide access to adjacent lots or parcels, do not serve as collector roads, and are not located on section lines or quarter section lines, which shall have a maximum posted speed limit of 25 mph unless a lesser speed limit is determined appropriate by an engineering study and approved by the Highway District Board of Commissioners.

### Chapter 2 Adoption of Traffic Control Devices

**18.2.1 Adoption of Form:** The following format and process is adopted for use in the placement of traffic control devices or other regulatory signage order for a new signage or the removal of existing signage and/or the placement of posted speed regulation which is outside of the standard speed limit policy provided for herein this Title.

**Traffic Control Device/Regulation Order** [Forms Book]

### Chapter 3 Guide Signs Policy

**18.3.1 Definitions:** Wherever used herein, the following terms shall have the following meaning, unless the context indicates to the contrary:

- 18.3.1.1 **Applicant:** means and is limited to an agency of the Federal Government, State of Idaho, or other political subdivision of the State of Idaho that makes an application for Special Use Permit HSDP § 2120 to the Highway District for installation of a guide or informational sign within the public road right-of-way.
- 18.3.1.2 **Highway District:** means the Notus-Parma Highway District No. 2, a Highway District organized and existing under and by virtue of the Laws of the State of Idaho, located in Canyon County, Idaho.
- 18.3.1.3 **HSDP:** means the Highway Standards and *Development Procedures for the Association of Canyon County Highway Districts [2022 Edition]* or revisions thereto adopted by the Notus-Parma Highway District No. 2 Board of Commissioners.
- 18.3.1.4 **MUTCD:** means the Manual on Uniform Traffic Control Devices for Streets and Highways published by the Federal Highway Administration and revisions thereto adopted for use upon highways with the State of Idaho.

18.3.2 **Guide and Informational Sign Policy:** The following is the Guide and Informational Sign Policy for installation of guide and informational signs on highways under the jurisdiction of Notus-Parma Highway District No. 2:

- 18.3.2.1 Guide and informational signs shall only be permitted within a public road right-of-way which provides direction to destinations which are owned or operated by the Federal Government, State of Idaho, or other political subdivisions of the State and are limited to the following sign types as designated in the MUTCD:
  - 18.3.2.1.1 Destination Signs (D1 Series)
  - 18.3.2.1.2 General Information Signs (I Series)
  - 18.3.2.1.3 Recreational and Cultural Interest Area Signs
- 18.3.2.2 Allowable guide and informational signs shall be permitted under a Special Use Permit HSDP § 2120 under the following conditions:
  - 18.3.2.2.1 All signs within the public right-of-way shall be installed by the Highway District.
  - 18.3.2.2.2 The applicant shall be responsible for all costs associated with the installation, maintenance, and replacement of the sign(s) and post(s).

**18.3.2.2.3** The following initial installation costs and permit fees shall be paid by the applicant at the time of Special Use Permit issuance:

**18.3.2.2.3.1** Special Use permit fee as established by the Highway District Board of Commissioners;

**18.3.2.2.3.2** A sign installation fee as established by the Highway District Board of Commissioners;

**18.3.2.2.3.3** Actual cost of signpost, sleeves, and any other installation hardware deemed necessary by the Highway District;

**18.3.2.2.3.4** Actual cost of sign from any vendor which the Highway District normally does business with for the procurement of signs, unless the applicant furnishes the sign. Signs furnished by the applicant shall meet the requirements of the Highway District and the MUTCD at the time of installation.

**18.3.2.3** In the event replacement of the sign or post is deemed necessary by the Highway District in its discretion due to degradation, damage, or other criteria determined by the Highway District, the following shall apply:

**18.3.2.3.1** The Highway District assumes no duty to but may notify the applicant in writing of the need and costs for the replacement of the sign or post, which may include any of the costs provided for under Section 18.3.2.2 as determined by the Director of Highways for the Highway District, except the Special Use Permit fee.

**18.3.2.3.2** The applicant shall have forty-five (45) calendar days from the date of notification by the Highway District to pay any costs and/or provide a replacement sign required under § 3.2.4.1.

**18.3.2.3.3** If payment and/or replacement sign(s) are not provided in the time frame set forth in Section 18.3.2.3.2, the Special Use Permit shall be deemed void, and the sign(s) and post(s) removed from the public road right-of-way.

- 18.3.2.3.4** Removed signs shall be held at the Highway District Administrative Offices or other location determined by the Board of Commissioners for a period of not less than 30 days, after which time the Highway District may dispose of the signs in a manner determined by the Highway District.
- 18.3.2.4** Any guide or informational signs located with the public road right-of-way not complying with the requirements set forth herein or otherwise creating a safety or maintenance concern as determined by the Highway District may be removed by the Highway District without prior notice.
- 18.3.2.5** Nothing in this policy shall preclude the Highway District from installing guide or informational signs within the public road right-of-way at the Highway District's discretion.

# Title 19

## Other Operational Policy

### Chapter 1

#### Snow Removal and Sanding

- 19.1.1** It is the general policy for the District’s Road Department to maintain the roads within the District’s highway system in as safe a condition as possible during the winter months depending upon available budget, manpower, and equipment. The adequacy of this policy is dependent upon variables not within the control of Notus-Param Highway District No. 2, such as weather conditions and the capabilities of the traveling public who must prepare for winter driving through prudent operating practices, use of winter tires or chains, and adequate vehicle maintenance.
- 19.1.2** This is intended as a general policy, and not to forbid exercise of judgment by field supervisors or personnel.
- 19.1.3** The order of priority for snow removal and sanding by the Notus-Parma Highway District No. 2 shall be as follows:
- 19.1.3.1 First Priority:** Heaviest traffic routes, steep grades, sharp curves with significant traffic levels, busy intersections, well-traveled bridges, arterials, and approaches traveled by school buses and most primary routes.
  - 19.1.3.2 Second Priority:** Medium to heavily traveled sections of highway on primary and collector systems, including routes traveled by commuters.
  - 19.1.3.3 Third Priority:** More lightly traveled sections of highway including collector and local roads and roads serving winter recreation areas.
    - 19.1.3.3.1** Snow removal operations will generally begin after a snowstorm has subsided with snow to be plowed from roadways to provide two-way traffic as soon as practicable. Additional clearing of roadway shoulders and intersections may be performed after the initial snow removal operations have been completed.
    - 19.1.3.3.2** The Highway District should place primary efforts on clearing travel ways and will not be responsible for the berm of snow left in driveways due to plowing actions of a snowblade.

- 19.1.3.3.3** Use of sand will be limited to steep roadway grades, at intersections, on overhead structures, and in other areas determined by the Highway District. It is not standard policy to sand straight stretches of highway because of a snow floor.

## **Chapter 2 Canal Right-of-Way**

- 19.2.1** When there exists a visible ditch, canal or conduit which will affect the maintenance and or improvement of a highway within the highway system of the Highway District and or is affected by the use of a right-of-way for access to a highway within the highway system of this District the Director of Highways shall follow and require that the Highway District not cause or permit any encroachments onto the canal, ditch or conduit right-of-way, utilities, fences, gates, pipelines, structures, or other construction or placement of objects, without permission of the owner of the canal, ditch or conduit right-of-way, in order to ensure that any such encroachments will not unreasonably or materially interfere with the use and enjoyment of the established right-of-way.

## **Title 20**

### **Agreements - Cities/Other Public Highway Jurisdictions**

#### **Chapter 1**

#### **Highway Work Agreements**

- 20.1.1 This Highway District has authority to make agreements with cities for their highway work, or a portion of it, subject to fair compensation for the work performed as specifically provided in Idaho Code § 40-1333.
- 20.1.2 The form of Work Agreement for use under this Chapter is as set forth in the **Highway Work Agreement** [see Forms Book] and any subsequent Form attached hereto which by this reference is incorporated herein this definition.

#### **Chapter 2**

#### **Exchange Maintenance Agreements with Other Highway Jurisdictions**

- 20.2.1 This Highway District has authority where its highway traverses another highway jurisdiction that the costs or burden would be inequitably distributed with that other jurisdiction if each highway jurisdiction assumed the costs of laying out, alteration, construction, improvement, maintenance, or repair of that portion of the highway lying wholly within that jurisdiction. The Commissioners have the power to enter into an agreement with the other highway jurisdiction in order to establish an equitable division and apportionment of the costs of such work, as provided in I.C. § 40-1315 [also see I.C. § 40-1406].
- 20.2.2 The form of Exchange Maintenance Agreement for use under this Chapter is as set forth in the Forms Book and any subsequent Form attached hereto which by this reference is incorporated herein this definition. See **Exchange Maintenance Agreement** [Forms Book]

# Title 21 Planning Policy

## Chapter 1 Public Right-of-Way Planning and Improvement Policy

- 21.1.1 Title:** This Policy shall be known and referred to as the “Public Right-of-Way Planning and Improvement Policy.”
- 21.1.2 Guideline Policy:** Improvement of Public Rights-of-Way is under the sole discretion of the Highway District Board of Commissioners and is subject to the financial constraints of the Highway District. The Board of Commissioners reserves the right to amend this policy without notice at any time and to otherwise exercise its discretion in these matters when it determines it is in the best interests of the Highway District to do so.
- 21.1.3 Public Right-of-Way Classification:** Improvement of Public Right-of-Way considered under this policy shall be “Public Rights-of-Way” which are not in the Highway District’s Highway System and as such are classified as “Open Public Right-of-Way” or “Closed Public Right-of-Way” in accordance with the Highway District’s “Public Right-of-Way Classification and Use Policy” effective at the time of consideration. “Public Highway Rights-of-Way” shall not be subject to this policy. Open Public Rights-of-Way or Closed Public Right-of-Way proposed for improvement under the provisions herein shall be subject to the reclassification procedures set forth in the Highway District’s currently adopted “Public Right-of-Way Classification and Use Policy” at the time of consideration.
- 21.1.4 Existing Public Right-of-Way:** The Public Right-of-Way must have existed as of the effective date of this Resolution to be considered for improvement under this policy.
- 21.1.5 Budget Planning:** Improvement of Public Right-of-Way contemplated herein shall be considered annually as part of the District’s budget process and may be included in the Highway District’s Annual Budget as determined by the Highway District Board of Commissioners. The improvement of public rights-of-way during the fiscal year will be dependent upon budgeted amounts and actual construction costs and modifications of budgeted improvements may be made by the Board of Commissioners upon recommendation of the Director.
- 21.1.5.1 Director Budget Request:** Annually the Director shall include within the Director’s requested budget for the next fiscal year a report of public right-of-way improvement funding requests, which request shall be prepared in accordance with the priorities of this policy.

**21.1.6 Public Right-of-Way Improvement Limitations:** Improvement of public rights-of-way will not occur when:

**21.1.6.1** Such improvements cannot be constructed within the existing public right-of-way subject to:

**21.1.6.1.1** Acceptance of additional or alternate public right-of-way may be considered by the Highway District to facilitate improvement of the existing public right-of-way subject to the policies and practices of the Highway District with regard to public right-of-way conveyance.

**21.1.6.1.2** A determination by the Highway District Board of Commissioners to be necessary and in the public interest, and following such finding the Highway District may acquire additional right-of-way or easements to facilitate public right-of-way improvements.

**21.1.6.1.3** The improvement “half” right-of-way, being half or a similar portion of a typical public right-of-way width at the time of conveyance may be considered for improvement at the discretion and upon the order of the Board of Commissioners.

**21.1.6.2 Public Highway Non-contiguity:** The public right-of-way is not contiguous with and does not provide a connection to a public highway.

**21.1.6.3 Budget and Cost Effectiveness:** The Highway District determines that the cost for improvement of a public right-of-way exceeds the budgeted amount for the Public Right-of-Way Improvement program or the benefit of the public right-of-way improvement does not justify the cost.

**21.1.7 Public Right-of-Way Improvement Standards:** Improvement of public right-of-way shall be to the Highway District Standards effective at the time of consideration, unless otherwise approved by the Highway District Board of Commissioners. Those public rights-of-way whose width and locations the Highway District determines constitute a “half” right-of-way, being half or a similar portion of a typical public right-of-way width at the time of conveyance, and are considered for improvement as set forth in Section 21.1.6.1.3 herein, may otherwise be improved as provided for in Highway District Standards in effect at the time of consideration, or as otherwise approved by the Highway District Board of Commissioners.

**21.1.8 Prioritization**

**21.1.8.1 Initial Planning:** The planning for and implementation of the improvement of Public Rights-of-Way shall be prioritized according to the following criteria:

**21.1.8.1.1 Highway District Parcels:** Public right-of-way dedicated, deeded, or otherwise conveyed to the Highway District prior to August 8, 1991.

**21.1.8.1.2 Parcels without Other Access:** In those circumstances where there are parcels which have no other means of access to the public highway system other than:

**21.1.8.1.2.1** Frontage on a Public Highway Right-of-Way.

**21.1.8.1.2.2** A private road located within a commonly owned private road lot or easement benefiting the parcel.

**21.1.8.1.2.3** A private driveway located within a recorded ingress/egress easement benefiting the parcel.

**21.1.8.1.3 Developed Parcels:** The public right-of-way would serve more developed parcels meeting the requirements of Section 21.1.8.1.2.

**21.1.8.1.4 Undeveloped Parcels:** The public right-of-way would serve more undeveloped parcels meeting the requirements of Section 21.1.8.1.2.

**21.1.8.2 Owner Participation:** The Highway District may give higher priority to public right-of-way improvement, which is the subject of property owner participation, based on the amount of participation as a percentage of the anticipated improvements costs. Property owners may participate through a Local Improvement District, financial contribution, or donation of property or materials subject to the Highway District's approval or acceptance.

**21.1.8.3 Public Safety:** The Highway District may give higher priority where public safety is involved.

**21.1.9 Petition of Property Owners:** Owners of property that would benefit from the improvement of a public right-of-way may submit a petition to the Highway District Board of Commissioners requesting consideration for improvement of a public right-of-way and proposing any participation by property owners.

## Title 22

### Local Improvement Districts

#### Chapter 1 Authority

- 22.1.1 The Board of Commissioners has authority to create Local Improvement Districts for construction, reconstruction and maintenance of highways and accompanying curbs, gutters, culverts, sidewalks, paved medians, bulkheads and retaining walls within the boundaries of this Highway District as provided in I.C. § 40-1322; and
- 22.1.2 The organization and operation of local improvement districts by this Board of Commissioners shall be as nearly as practicable as prescribed in chapter 17, title 50, Idaho Code.

#### Chapter 2 Valuation of Property

- 22.2.1 The local improvement district law in Chapter 17, title 50 Idaho Code, provides at I.C. § 50-1711 that the [council] Board of Commissioners shall provide, by ordinance, the method of determining the actual value of the real property including the improvements thereon in a proposed Local Improvement District; and
- 22.2.2 It is found for purposes of establishing value for local improvement district purposes that in most instances the most current assessed valuation established for property tax purposes by the Canyon County Assessor's Office is reliable unless the Highway District Engineer determines that there are circumstances that said valuation is not reliable in which case a real estate appraisal is needed.
- 22.2.3 **Method:** The Board of Commissioners establishes the following method of determining the actual value of real property including improvements thereon for purposes of the creation of local improvement districts as provided in this Chapter:
  - 22.2.3.1 Unless otherwise requested by the Highway District Engineer, the most current assessed valuation established for property tax purposes by the Canyon County Assessor's Office shall be used.
  - 22.2.3.2 In the event the Highway District Engineer determines that there are circumstances that the current assessed valuation is not reliable for any parcel or parcels to be included within a proposed local improvement district, the following method and process shall be followed:

22.2.3.2.1 In the event the proposed local improvement district is initiated pursuant to petition of property owners, then the Board of Commissioners shall require the Petitioners to secure [at the Petitioners' expense] a real estate appraisal by a licensed real estate appraiser of the parcel or parcels which the Highway District Engineer has determined that the current assessed valuation is not reliable.

22.2.3.2.2 In the event the proposed local improvement district is initiated pursuant to action of the Board of Commissioners, then the Board of Commissioners shall secure [at Highway District expense] a real estate appraisal by a licensed real estate appraiser of the parcel or parcels which the Highway District Engineer has determined that the current assessed valuation is not reliable.

### **Chapter 3**

#### **Procedure for Creating an L.I.D.**

##### **22.3.1 Step 1 - Petition for Organization [I.C. § 50-1706]**

22.3.1.1 **By Landowners:** The organization of an L.I.D. can be initiated by a petition signed by sixty percent [60%] of the resident owners or two-thirds [2/3] of the owners of the property subject to assessment with the proposed L.I.D.

22.3.1.2 **By Commission Action:** Adopted by a majority vote of the Board of Commissioners at a regular or special meeting.

22.3.2 **Step 2 - Staff Review:** Petition and/or Commissioners action is reviewed by the District Engineer and District Secretary [and may include attorney review as needed] for completeness of petition/s and/or Commissioners' action. This process includes the Engineer's Report to the Board of Commissioners. In the event it is recommended that the process continue, a Resolution of Intent to Create an L.I.D. is prepared and submitted with the Engineer's Report to the Commissioners. The petition is to include:

22.3.2.1 Verification of payment of filing fee;

22.3.2.2 Verification that proposed improvements are the proper subject of an L.I.D.;

22.3.2.3 Ownership verification;

- 22.3.2.4 Verification of the description of the boundaries of the L.I.D.;
- 22.3.2.5 Estimated costs of those improvements;
- 22.3.2.6 The method of assessment;
- 22.3.2.7 A determination as to whether or not there is a proposal to have a modified district and determination of sufficient number of petitioners for area to be included within L.I.D.; and
- 22.3.2.8 Value of land to be assessed.

**22.3.3 Step 3 - Action by Commissioners [I.C. § 50-1707]**

- 22.3.3.1 Receive Staff Report
- 22.3.3.2 Set Date for Hearing
- 22.3.3.3 **Resolution of Intent to Create L.I.D.:** Unless the petition seeks to create an illegal L.I.D., a resolution must be adopted by the Commissioners which gives notice of intention to create the district, make improvements, and levy assessments to pay for those improvements. The notice must contain a description of the boundaries of the L.I.D., general description of contemplated improvements, estimated costs of those improvements, a statement that the costs and expense of the improvements will be levied against the land benefited by a method agreed upon by the effected property owners, a statement that the district is to be a modified district within the meaning of the act, and a statement of the time within which and the place at which protests may be lodged. There also must be a statement of the time and place the hearing. Ownership of property will be determined as of the date of the adoption of the resolution of intent to create the L.I.D.

**22.3.4 Step 4 - Notice of Intention Published and Mailed Prior to Hearing [I.C. §§ 50-1708, 50-1727]:** The resolution of intention shall, no less than 10 days before the hearing, be:

- 22.3.4.1 Published in three (3) consecutive issues of the Idaho Press-Tribune; and
- 22.3.4.2 Posted for five (5) days in three (3) public places within the proposed boundaries of the L.I.D.; and
- 22.3.4.3 Mailed to each property owner within the L.I.D. or his agent.

All items noticed in this manner, including resolutions, which are not contested within thirty (30) days of publication are conclusively presumed to be valid will be held.

**22.3.5 Step 5 - Protests and Hearing** [I.C. § 50-1709]: Owners of property within the L.I.D. shall have the opportunity to file a written protest or objection to the creation of the L.I.D. in advance of hearing. All protests shall be heard at the hearing. If all protests cannot be heard at one time, the hearing may be adjourned and continued at a later date. The commissioners must issue a conclusive determination on all protests, and may add or delete provisions from the statement of intention as necessary. If two-thirds [2/3 of the effected property owners protest, the L.I.D. shall not proceed unless approved by a majority of the full board of commissioners. Any property owner who fails to file a protest within the time set forth in the notice of intention is deemed to have waived all protests. This waiver does not preclude the right to protest the amount of prior assessment at a later hearing.

**22.3.5.1 Protests on Commissioner Initiated L.I.D.s** [I.C. § 50-1709]: Where the L.I.D. is introduced by vote of the Commissioners, and where sixty percent [60%] of the resident owners or two thirds [2/3] of the owners of lots and lands subject to assessment have signed protests, the Commissioners will not be allowed to proceed with the creation of the district for 180 days. During this period, the city council if the L.I.D. is situated within a city or the county commissioners if the L.I.D. is not situated in a city shall act as a review board and approve, modify, or reject the proposal.

**22.3.5.2 Limitation on Assessment against Property:** [I.C. § 50-1711] No assessment shall be made where the assessment of the proposed improvement, together with other assessments against the property shall exceed the actual value of the property. The commissioners shall provide the method of property valuation by resolution.

**22.3.6 Step 6 - Resolution Creating the L.I.D.** [I.C. § 50-1710]: If after the hearing the Commissioners find that:

**22.3.6.1** The L.I.D. is in the best interests of the property affect and the Highway District; and

**22.3.6.2** There is a reasonable probability the obligations incurred will be repaid; and

**22.3.6.3** The value of the property, including improvements, within the L.I.D. is sufficient,

The Commissioners enact an resolution creating the L.I.D., setting forth boundaries, improvements to be made, and stating that the total costs of the assessment shall be levied from benefited properties.

**22.3.7 Step 7 - Construction of Improvements – Bidding** [I.C. § 50-1710]: After creating the L.I.D., the Commissioners may purchase, acquire, or construct the improvements. The council should appoint an engineer, and, if the improvements are to be constructed the engineer should prepare plans for their construction. An invitation for construction bids should be published once a week for three weeks in the Idaho Press Tribune and state:

**22.3.7.1** The general description of the kind and amount of work to be done;

**22.3.7.2** Where the plans and specifications for the work are kept on file; and

**22.3.7.3** The date, hour, and place of bid opening.

The bid must be accompanied by a five percent (5%) security. The award shall be made to the lowest responsible bidder. The contract shall be made in the highway district and signed pursuant to a resolution authorizing the signing commissioner to bind the highway district. The resolution must make reference to the fact that there is a copy of the contract on file in the district office where it can be viewed by the public.

**22.3.8 Step 8 - Preparation of Assessment Roll** [I.C. § 50-1712]: The engineer shall prepare a certified report to the board of commissioners showing in detail the total cost and expense of the improvement. The report should contain a form of assessment roll, numbering each assessment, giving the name of the owner if known, and showing the amount chargeable to each parcel of property determined according to the benefit derived from the improvement of each property, calculated according to the method set forth in the Notice of Intent. The engineer's assessment shall be filed with the clerk of the Highway District where it shall be available for public inspection. Once the assessment is filed, the commissioners shall set a time and place to consider the assessment in open session and here all objections to the assessment by L.I.D. property owners.

**22.3.9 Step 9 - Notice of Hearing on Assessment Roll** [I.C. § 50-1713]: Notice of the time and place of hearing on the assessment roll must be published in three consecutive issues of the Idaho Press Tribune. The notice must state the date, time, and place of hearing. Notice of hearing shall be mailed to all property owners within the L.I.D. at least 15 days before hearing. In addition to the above hearing information, the mailed notice shall also state the amount of the proposed assessment. The notice must also state that once the assessment has been approved at the hearing, the Commissioners may revise the amount of the assessment up to 20% without giving further notice to the property owner. The property owners may file a written notice of objection to the assessment with the clerk of the Highway District.

**22.3.10 Step 10 - Hearing on Assessment Roll** [I.C. § 50-1714]: The Commissioners shall consider the assessment roll and hear all objections to the assessments at the hearing. During this process the Commissioner shall have the power to:

**22.3.10.1** Adjourn the hearing to revise, correct, or set aside any assessment, ordering that the assessment be redone; and

**22.3.10.2** Exclude any parcel from assessment which the Commissioners find will not be benefit by the L.I.D. If assessment increases in an amount greater than 20% then a new notice of hearing must be given, and a new hearing held.

**22.3.11 Step 11 - Confirmation of Assessment Roll** [I.C. §§ 50-1715, 50-1755]: Commissioners shall pass a resolution certifying that the assessment roll is correct, which shall be the final determination of the correctness of the assessment roll. Once the resolution is passed, the clerk shall certify the assessment roll and file it with the treasurer of the municipality. Immediately on passage of the confirmatory resolution the clerk should file a notice of the assessments with the county recorder, referencing the real property that is subject to assessment. All duties in chapter 17, title 50 may be carries out by the clerk rather than the treasurer on resolution of the board of commissioners.

**Appeal Procedure – Judicial Review** [I.C. § 50-1718]: An appeal may be undertaken by filing as notice of appeal with the clerk of the Highway District and the Clerk of the Canyon County District Court. The appellant must also file a bond with the court. No pleadings are necessary. The judgment of the court will confirm, modify, or annul the assessment. Appeal can be taken from there to the Idaho Supreme Court. If the assessment is confirmed fees and costs will be taxed against the appellant

**22.3.12 Step 12 - Payment of Assessments** [I.C. §§ 50-1715 and 50-1717]

**22.3.12.1** The assessments are due and payable within 30 days of adoption by the treasurer. Failure to pay within that time period is presumed consent to an installment plan, allowing the commissioners to sell installment bonds or registered warrants on the unpaid installments if stated in the confirmatory ordinance. The ordinance which confirms the assessments rolls shall set forth the number of years for installment payments, not to exceed 30 years. The treasurer shall mark paid assessments paid in the assessment roll, and enter the others in an installment docket.

**22.3.12.2 Interest/Penalties** [I.C. §§ 50-1715 and 50-1722]: If the assessment is not paid within the initial 30-day period, the Highway District may issue bonds or warrants against the indebtedness. Interest may be assessed on the installment payment in an amount at least greater than the interest on bonds and warrants. A reasonable interest rate may be set by the Board of Commissioners. The installments shall come due yearly on original due date. Any installment paid more than twenty [20] days after the due date shall be subject to a 2% penalty.

**22.3.13 Step 13 - Notice of Payments/Assessments** [I.C. § 50-1716]: Once the assessment is approved the treasurer shall mail a postcard or letter to all parties assessed, setting forth the amount of the assessment and all payment terms. An affidavit of mailing should be kept on file with the treasurer. Failure to give notice under this provision does not affect liability for payment of the assessment, but will subject the Highway District to liability for any damage suffered as a result of the failure of notice.

**Additional Improvements** [I.C. § 50-1719]:

Subsequent improvement assessments made under title 50, or any other law of the state will be junior to those previously assessed.

**Reassessment of Benefits** [I.C. § 50-1720]

Where an assessment is found to be invalid, or is found to be insufficient to cover the value of the improvement, the Board of Commissioners may reassess and collect the assessment in accordance with the law existing at the time of the assessment.

**Foreclosure:** Assessment liens are superior to all other liens, and are not extinguished by conveyance of the property. The lien exists until paid in full. To foreclose, the Highway District must bring a foreclosure suit in Canyon County. The Highway District may bring suit against multiple property owners in the same action. Such property may be sold for non-payment and the Highway District may recover attorneys' fees and costs of the sale [I.C. § 50-1721 and 50-1738].

**Segregation of Assessments:** When land subject to assessment is sold in part or subdivided the Highway District may reply the assessment to a smaller parcel of the land/or divide it among the several parcels by resolution. A party wishing the segregation may apply to the Highway District, and may have to bear the necessary costs engineering and clerical costs to affect segregation. The segregation does not have to be made if the Commissioners find that segregation would jeopardize security for the lien. Once segregation is made a certified copy of the segregation ordinance must be filed with the County Recorder.

**Liability of the District:** The district is only liable on any bonds issued to the extent of assessment actually collected from within the L.I.D. Bond holders are entitled to enforcement of all assessments made for the payment of bonds issued [I.C. § 50-1723]. This provision should be on the face of all bonds issued.

**Bond and Interest Funds:** All money collected from assessments should be placed in a fund for payment of bonds or warrants if issued and all interest collected should be placed in an interest fund. All money received by the treasurer for the benefit of the L.I.D. shall be credited to the interest or bond fund. After all assessments have been paid for the L.I.D. any residual funds shall be transferred to the Highway District General Fund [I.C. §§ 50-1724, 50-1753].

**Reissue of Bonds:** If bonds are declared invalid or void by court decree which may be legally reissued, the board of the commissioners shall reissue bonds by resolution which will cover the balance and interest remaining due on those bonds. Interest in the underlying assessment is not waived by reissue of bonds [I.C. § 50-1725].

**Rights against Assessment:** Issuance of bonds transfers the district's rights in the assessment to the bondholder. The district shall act on the bondholder's behalf in the collection of assessments. The district may also accelerate the payment of a delinquent assessment by resolution, declaring the entire amount of the assessment due and payable; however, such a resolution may only be passed upon written request of half of the bondholders [I.C. § 50-1726].

**Consolidation of L.I.D.s:** If more than one L.I.D. exists within a highway district, they may be consolidated by resolution of the commissioners. If consolidation is made, all L.I.D. funds must be consolidated [I.C. § 50-1728].

**Delinquent Installments:** If an installment payment is not made on time it is delinquent, and a delinquency certificate should be issued. The treasurer shall add a 2% penalty to the delinquent assessment and issue a delinquency certificate within 10 days. The delinquency certificate has the effect of a sale to the Highway District. The certificate should include: 1) description of the property, 2) name of the person assessed, 3) the amount assessed plus penalty, 4) the assessment number and name of the L.I.D., and 5) the date when the certificate may be converted to deed. The certificate will also bear interest on the delinquent amount at an annual rate of 10%. The certificates should be issued in duplicate, and one copy should be kept in a bound certificate book, numbered, and kept on file in the treasurer's office. A delinquent certificate register shall also be kept, and all certificates issued should be entered in the register within 20 days of issue. The register should contain all information on the certificate, along with spaces for assignee, date of assignment, amount paid on assignment, redemptioner, amount paid by redemptioner, and date of redemption. Delinquency certificates may be assigned to a party that pays the redemption amount, using a form set forth in § 50-1742. The certificates may not be assigned during the pendency of an action questioning the validity of an assessment. If subsequent installments are also delinquent, the treasurer may cancel the previous certificate and issue a new one which reflects the current delinquency [I.C. §§ 50-1738 through 1742 and § 50-1748 and § 50-1754].

**Redemption:** A delinquent assessment may be redeemed at any time within two years of the date of issuance of a delinquency certificate. A redemption certificate shall be issued containing the:

- 1) name of the redemptioner,
- 2) date of redemption,
- 3) number of the certificate redeemed,
- 4) description of the property, and
- 5) name of the L.I.D.

Redemption shall be noted in the certificate register and certificate book. If the certificate has been assigned the redemption funds should be deposited to the credit of any delinquency certificate assignees who will be paid once the certificate of assignment has been surrendered to the treasurer [I.C. § 50-1743].

**Notice of Issuance of Deed:** From 1-3 months before a deed is issued on a delinquent assessment, written notice must be given to the landowner or person in actual occupancy of the land in question, which notice should contain all information contained in the delinquency certificate. Similar notice shall all be sent to all lien holders of record who have filed a request for notice with the treasurer. The fact that the property owner does not receive the notice does not affect its validity as long as it can be shown that an attempt to give notice was made. An affidavit setting forth full compliance with the notice requirement should be filed with the treasurer [I.C. §§ 50-1745, 50-1746].

**Deed Foreclosure:** If property for which a delinquency certificate has been issued has not been redeemed within 2 [two] years of issuance, the treasurer may issue a deed for the property, either to the Highway District, or to any party that has been assigned a delinquency certificate on presentation of that certificate. The deed shall recite the same information contained in the certificate of delinquency, shall be executed and acknowledged by the treasurer, and recorded with the Canyon County Recorder. The deed serves as evidence of compliance with the provisions of title 50, chapter 17 [I.C. §§ 50-1744, 50-1747].

**Treasurer's Fees:** For carrying out the above functions, the treasurer may collect the following fees, which should be placed in the general fund [I.C. § 50-1749]:

<b>Issuance of Delinquency Certificate</b>	\$ 0.25	Included in delinquency amount
<b>Issuance of Deed</b>	\$ 1.00	Collected from person deed is issued to, when deed is issued to Highway District, it is included in the delinquency amount.
<b>Issuance of Notice to Lien Holder</b>	\$ 0.50	Collected from the lien holder
<b>Issuance of Notice of Expiration of Perfection Period</b>	\$ 1.00	Included in delinquency amount

**Quiet Title Action:** Whenever fees are advanced by an interest party, the Highway District shall instruct its attorney to commence suit to quiet title in the Highway District and obtain possession of the property described in any tax deeds issued by the Highway District [I.C. § 50-1750]

**Sale of the Property:** The property may be sold after obtaining title and possession of the property. The purchaser takes the property subject to any unpaid taxes and assessments. Such sales must be approved by ½ plus 1 members of the board of commissioners. The deed to the property must be executed by the board of commissioners [I.C. § 50-1751].

# **Title 23**

## **Application and Petition Filing and Process Policy**

### **Chapter 1**

#### **Application and Petition Filing Policy**

- 23.1.1** Any application, petition for any approvals, permits, validation, abandonment and vacation, variances etc. which are provided for by law, or by Highway District policy or by the Highway Standards and Development Procedures of the District or otherwise shall be filed with the Highway District in accordance with the following:
- 23.1.1.1** In paper form and on an application or petition form as the case may be that has been approved or provided by the Highway District or by law; and
  - 23.1.1.2** With complete information; and
  - 23.1.1.3** Delivered to the Secretary or the Secretary's designee in the Secretary's absence at the administrative offices of the Highway District; and
  - 23.1.1.4** During regular office hours; and
  - 23.1.1.5** Together with the filing fee.
- 23.1.2** The Secretary shall review any application or petition delivered and shall determine whether or not the requirements for filing as provided in Section 23-1-1 have been completed.
- 23.1.3** In the event the Secretary determines that a delivered application or petition has not met the requirements for filing, the Secretary shall notify the applicant or petitioner, as the case may be, in writing of requirements which have not been complied with and that the application or petition has not yet been accepted as filed.
- 23.1.4** At such time as the requirements for filing have been met as determined by the Secretary, the Secretary shall file stamp the application or petition with the date and time of filing and the acceptance of the application, notify the applicant or petitioner and deliver the application to the proper District Officer or Commissioners, as the case may be, for processing.

**APPENDIX A Acknowledgment of Receipt of Policy Code**

Notus-Parma Highway District No. 2 Policy Code, adopted on April 12, 2022.

- I understand that it is my responsibility to read and review this Policy Code.
- I understand that this Policy Code is not a contract and cannot create a contract.
- I understand that I am obligated to perform my duties of employment in conformance with the provisions of this Policy Code and any additional rules, regulations, policies or procedures imposed by the department in which I work whether or not I choose to read the new Policy.
- I understand that this Policy Code may be modified without prior notice to me.
- I understand that should this Policy Code be modified that I will be provided with a copy of the modifications.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Employee)

I, Genia Watkins, provided a copy of the District of Notus-Parma Highway District No. 2 Policy Code, as adopted by the governing board on April 12, 2022 to \_\_\_\_\_, on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Genia Watkins, District Secretary/Clerk  
Notus Parma Highway District No. 2